

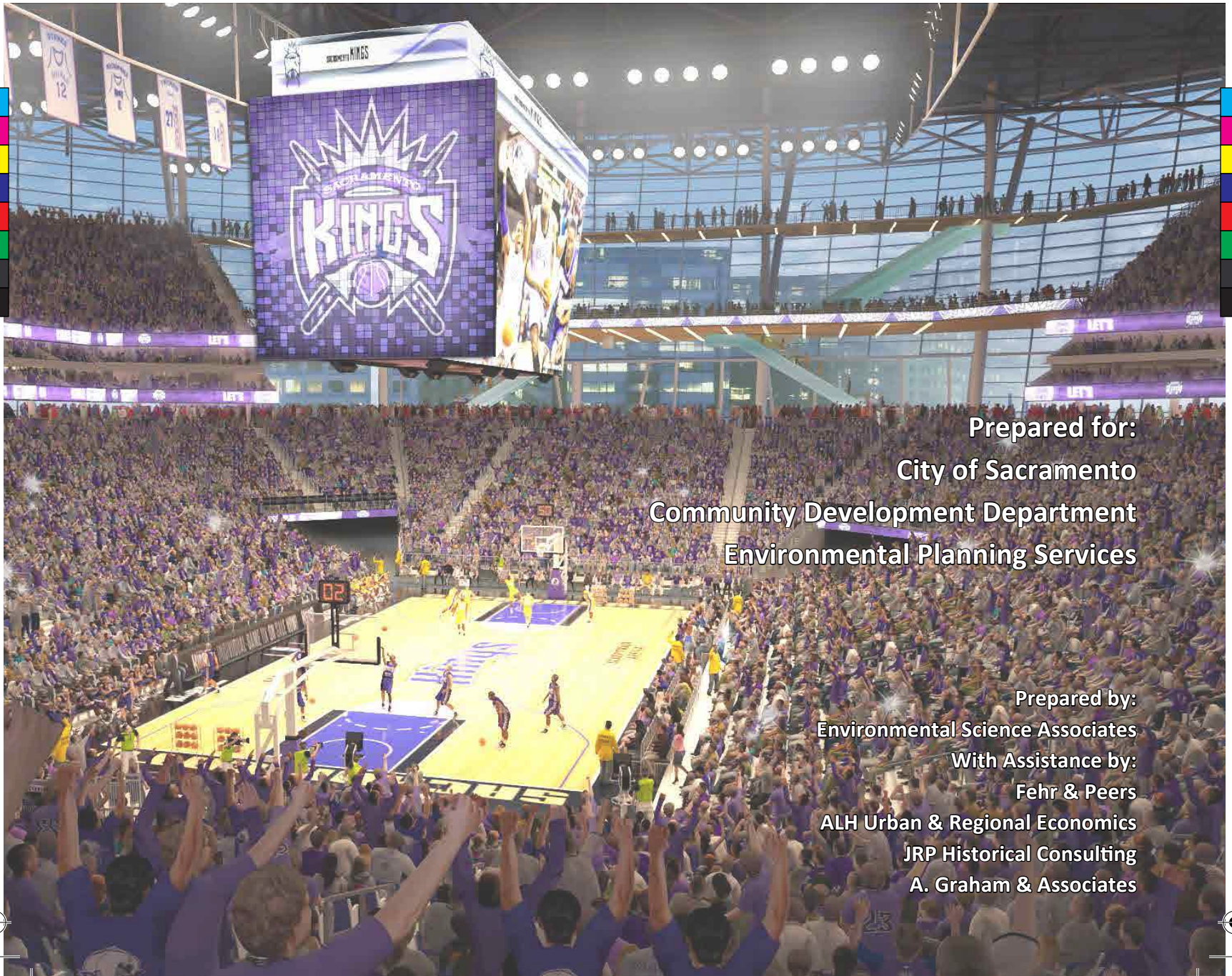


# Sacramento Entertainment and Sports Center & Related Development

## Volume II: EIR Supplemental Materials

Project Number: P13-065  
State Clearinghouse Number: SCH 2013042031

Certified May 20, 2014



Prepared for:  
City of Sacramento  
Community Development Department  
Environmental Planning Services

Prepared by:  
Environmental Science Associates  
With Assistance by:  
Fehr & Peers  
ALH Urban & Regional Economics  
JRP Historical Consulting  
A. Graham & Associates





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**Cover art provided by: AECOM**





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Resolution No. 2014-0127



## **RESOLUTION NO. 2014-0127**

Adopted by the Sacramento City Council

May 20, 2014

### **CERTIFYING THE ENVIRONMENTAL IMPACT REPORT AND ADOPTING THE MITIGATION MONITORING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT PROJECT (P13-065) (SCH No. 2013042031)**

#### **BACKGROUND**

- A. On April 10, 2014, the City Planning and Design Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the Sacramento Entertainment and Sports Center & Related Development.
- B. On May 20, 2014, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.812.010(2)(b) and received and considered evidence concerning the Sacramento Entertainment and Sports Center & Related Development.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City Council finds that the Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development project which consists of the Draft EIR, Final EIR (Response to Comments), and EIR Errata (collectively the "EIR") has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures. The City Council further finds that the EIR Errata does not include significant new information and recirculation is not required pursuant to CEQA Guidelines section 15088.5.
- Section 2. The City Council certifies that the EIR was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures, and constitutes an adequate, accurate, objective and complete Final Environmental Impact Report in full compliance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures.

- Section 3. The City Council certifies that the EIR has been presented to it, that the City Council has reviewed the EIR and has considered the information contained in the EIR prior to acting on the proposed Project, and that the EIR reflects the City Council's independent judgment and analysis.
- Section 4. Pursuant to CEQA Guidelines sections 15091 and 15093, and in support of its approval of the Project, the City Council adopts the attached Findings of Fact and Statement of Overriding Considerations in support of approval of the Project as set forth in the attached Exhibit A of this Resolution.
- Section 5. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its approval of the Project, the City Council adopts the Mitigation Monitoring Program to require all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program as set forth in Exhibit B of this Resolution.
- Section 6. The City Council directs that, upon approval of the Project, the City Manager shall file a notice of determination with the County Clerk of Sacramento County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of CEQA section 21152.
- Section 7. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

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- Exhibit A: CEQA Findings of Fact and Statement of Overriding Considerations for the Sacramento Entertainment and Sports Center & Related Development
- Exhibit B: Mitigation Monitoring Program for the Sacramento Entertainment and Sports Center & Related Development



Adopted by the City of Sacramento City Council on May 20, 2014, by the following vote:

Ayes: Members Ashby, Cohn, Hansen, Pannell, Schenirer, Warren and Mayor Johnson

Noes: Members Fong and McCarty

Abstain: None

Absent: None

Attest:

**Shirley A. Concolino**

Digitally signed by Shirley A. Concolino  
DN: cn=Shirley A. Concolino, o=City of Sacramento, ou=City  
Clerk, email=sconcolino@cityofsacramento.org, c=US  
Date: 2014.05.28 11:33:16 -0700

---

Shirley Concolino, City Clerk

## Exhibit A

### CEQA Findings of Fact and Statement of Overriding Considerations for the Sacramento Entertainment and Sports Center & Related Development

#### Description of the Project

The Sacramento Entertainment and Sports Center (ESC) and Related Development project involves the development of the ESC and mixed-use development at the Downtown project site, and six offsite digital billboards at locations around the City. The Project includes the following key elements:

- Development of a 17,500-seat regional sports and entertainment center that would serve as the home of the NBA Sacramento Kings and as a venue for numerous sporting, musical, family, and civic events. The ESC would be approximately 697,000 square feet (sf) of space including the main performance and seating bowl, food service and retail space, and concourse areas. An integrated practice facility of approximately 82,000 sf would include practice courts and team facilities as well as administrative offices and a small amount of retail/restaurant space. The main ESC structure would be approximately 150-feet in height, with rounded corners and multi-faceted facades clad in panels that would be made of a variety of materials, including glass with tinting, metal and/or perforated metal, and precast concrete with stone aggregate. An approximately 50-foot high metal canopy may define the northern edge of an event plaza area around the ESC;
- Development of up to 1.5 million square feet of retail, restaurant, office, hotel, and residential space; and
- The reconstruction and/or reconfiguration of below- and above-grade off-street parking on the project site, with the result that the current on-site parking supply of 3,700 spaces would be reduced to no more than 3,418 spaces.

The Project would replace approximately 858,000 of office and retail space on the Downtown project site. In addition, the existing 17,317-seat, 480,000-square foot Sleep Train Arena and adjacent practice facility in Natomas would be closed pending future determinations and City action related to any potential re-use.

### **Senate Bill 743/Public Resources Code 21168.6.6**

On September 27, 2013, Governor Brown signed Senate Bill 743 (SB 743), adding Section 21168.6.6 to the Public Resources Code. Section 21168.6.6 modifies certain CEQA procedures as they apply to qualifying projects.

In order to meet the definition of “Downtown arena” under section 21168.6.6, the ESC must receive Leadership in Energy and Environmental Design (LEED) Gold certification for new construction within one year of completion of the first NBA season. Strategies to qualify for LEED Gold certification are described in Chapter 2 (Project Description) of the Draft EIR. The “Downtown arena” also must take the following steps to minimize operational traffic congestion and reduce global climate change impacts:

1. Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases from private automobile trips (automobiles and light vehicles) to the Sacramento ESC as compared to the baseline, and as verified by the Sacramento Metropolitan Air Quality Management District (SMAQMD);
2. Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035 achieved in the Sacramento Area Council of Governments (SACOG) sustainable communities strategy; and
3. Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the ESC that is no more than 85 percent of the baseline.

The relationship of the Sacramento ESC to steps 1 and 2 is discussed in the Draft EIR in Chapter 4.5, Global Climate Change, and step 3 is discussed in Section 4.10, Transportation and Circulation. Further discussion is provided in the Final EIR in response to comments. The City Council has placed the highest priority on feasible measures that will reduce greenhouse gas emissions on the downtown ESC site and in the neighboring communities of the downtown ESC. Mitigation measures have been considered and implemented, to the extent feasible and necessary, to achieve the standards set forth in Public Resources Code section 21168.6.6. As shown in the EIR and as the City Council finds below, the Sacramento ESC would perform better than each of these criteria and

qualifies as a “Downtown arena” under Public Resources Code section 21168.6.6.

### **Findings Required Under CEQA**

#### **1. Procedural Findings**

The City Council of the City of Sacramento finds as follows:

The EIR for the Sacramento Entertainment and Sports Center & Related Development (SCH # 2013042031) was prepared, noticed, published, circulated, reviewed, and completed in full compliance with the California Environmental Quality Act (Public Resources Code §21000 *et seq.* (“CEQA”), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, as follows:

a. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research and each responsible and trustee agency and was circulated for public comments from April 12, 2013 through May 13, 2013.

b. A scoping meeting to solicit input on the scope and contents of the Draft EIR was held on April 24, 2013.

c. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the Office of Planning and Research on December 16, 2013 to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies were sought through January 31, 2014.

d. An official 45-day public comment period for the Draft EIR was established by the Office of Planning and Research (OPR). The official OPR public comment period began on December 16, 2013 and ended on January 29, 2014. The City accepted and considered comments submitted after the official comment period.

e. A Notice of Availability (NOA) of the Draft EIR was mailed to all interested groups, organizations, and individuals who had previously requested notice in writing on December 16, 2013. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Community Development Department, 300 Richards



Boulevard, Third Floor, Sacramento, California 95811. The comments of such groups, organizations, and individuals were sought through January 31, 2014.

f. A public notice was placed in the Daily Recorder on December 16, 2013, which stated that the Draft EIR was available for public review and comment.

g. A public notice was posted in the office of the Sacramento County Clerk on December 16, 2013.

h. A public workshop to inform the public of key analyses and conclusions of the Draft EIR was held on December 18, 2013.

i. A public hearing to take comments on the Draft EIR was held by the City Planning and Design Commission on January 23, 2014. A transcript of the hearing is included as an appendix to the Final EIR.

j. The City made documents available to the public in a readily accessible electronic format, including the Draft EIR, all documents submitted to or relied on in the preparation of the Draft EIR, comments and the Final EIR, as required by Public Resources Code section 21168.6.6. Documents were posted in a timely manner on the City's Community Development Department EIR web page at <http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports.aspx>.

k. The City's written responses to the significant environmental points raised in comments on the Draft EIR and additional information added by the City were added to the Draft EIR to produce the Final EIR and EIR Errata.

l. In certifying the Final EIR with the EIR Errata, the City Council finds that the Final EIR with EIR Errata does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA because the Final EIR and EIR Errata contain no information revealing (1) any new significant environmental impact that would result from the Project (including the variants to the project proposed for adoption) or from a new or revised mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible project alternative or mitigation measures considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project but that was rejected by the Project Applicant, or (4) that the Draft EIR was so fundamentally

and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

m. The City Council has placed the highest priority on feasible measures that will reduce greenhouse gas emissions on the downtown arena site and in the neighboring communities of the Downtown arena. Mitigation measures have been considered and implemented, to the extent feasible and necessary, to achieve the standards set forth in Public Resources Code section 21168.6.6. The City Council finds, based on the analyses in the EIR and substantial evidence in light of the whole record, that the Sacramento ESC would perform better than each of the statutory criteria and qualifies as a “Downtown arena” under Public Resources Code section 21168.6.6.

## **2. Record of Proceedings**

The contents of the record of proceedings shall be as set forth in subdivision (e) of Public Resources Code section 21167.6. In particular, the following information is incorporated by reference and made part of the record supporting these findings:

- a. The Draft and Final EIR and all documents relied upon or incorporated by reference.
- b. The City of Sacramento 2030 General Plan adopted March 3, 2009, and all updates.
- c. The Master Environmental Impact Report for the City of Sacramento 2030 General Plan certified on March 3, 2009, and all updates.
- d. Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento 2030 General Plan adopted March 3, 2009, and all updates.
- e. Planning and Development Code of the City of Sacramento, adopted on April 9, 2013, effective September 30, 2013.
- f. Blueprint Preferred Scenario for 2050, Sacramento Area Council of Governments, December, 2004.
- g. Central City Community Plan.

- h. Sacramento City Code, Chapter 17.400 – Special Planning Districts Generally.
- i. Central City Urban Design Guidelines.
- j. The Mitigation Monitoring Program (MMP) for the Project.
- l. All records of decision, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project.

### 3. Findings

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines section 15364 includes another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors (Goleta II)* (1990) 52 Cal.3d 553, 565.)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*).) “[F]easibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (Ibid.; see also *Sequoiah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoiah Hills*); see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 [after weighing “economic, environmental, social, and technological factors’ ... ‘an agency may

conclude that a mitigation measure or alternative is impracticable or undesirable from a policy standpoint and reject it as infeasible on that ground”].)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an “acceptable” level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California (“Laurel Heights I”)* (1988) 47 Cal.3d 376, 400-403.)

In these findings, the City first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures. Only after determining that, even with the adoption of all feasible mitigation measures, an effect is significant and unavoidable does the City address the extent to which alternatives described in the EIR are (i) environmentally superior with respect to that effect and (ii) “feasible” within the meaning of CEQA.

In cases in which a project’s significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the “benefits of the project outweigh the significant effects on the environment.” (Public Resources Code,

Section 21081, subd. (b); see also, CEQA Guidelines, Sections 15093, 15043, subd.(b).) In the Statement of Overriding Considerations found at the end of these findings, the City identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the Project will cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II* (1990) 52 Cal.3d 553 at 576.)

The City Council’s findings in support of its approval of the Project are set forth below for each of the significant environmental effects of and alternatives to the Project identified in the EIR pursuant to Section 21080 of CEQA and section 15091 of the CEQA Guidelines. These findings provide the written analysis and conclusions of the City Council regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the City Council as part of the Project. To avoid duplication and redundancy, and because the City Council agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR, but instead incorporates them by reference in these findings and relies upon them as substantial evidence supporting these findings.

In making these findings, the City Council has considered the opinions of staff and experts, other agencies and members of the public. The City Council finds that the determination of significance thresholds is a judgment decision within the discretion of the City Council; the significance thresholds used in the Final EIR are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and City staff; and the significance thresholds used in the Final EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the City Council is not bound by the significance determinations in the EIR (see Pub. Resources Code, § 21082.2(e)), the City Council finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR and

these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the impacts of the Project and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the City Council adopts and incorporates all of the mitigation measures set forth in the Final EIR and the attached MMP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The City Council intends to adopt each of the mitigation measures proposed in the Final EIR to reduce or eliminate significant impacts resulting from the Project. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMP fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

**A. Impacts Found to be Less Than Significant and Thus Requiring No Mitigation.**

Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), 15091.) Based on substantial evidence in the whole record of this proceeding, the City Council finds that implementation of the Project will not result in any significant impacts in the following areas and that these impact areas, therefore, do not require mitigation.

**Aesthetics, Light and Glare**

4.1-4: The Proposed Project could contribute to cumulative impacts related to changes in the visual character of the project vicinity.

4.1-5: The Proposed Project, in conjunction with other cumulative development in the City, could create substantial new sources of light.

4.1-6: The Proposed Project, in conjunction with other cumulative development in the project vicinity, could create new sources of glare.

### **Air Quality**

4.2-1: The Proposed Project could conflict with or obstruct implementation of an applicable air quality plan.

4.2-5: The Proposed Project would increase CO concentrations.

4.2-6: Implementation of the Proposed Project could create objectionable odors.

4.2-7: Implementation of the Proposed Project could result in short-term and long-term exposure to Toxic Air Contaminants (TACs).

4.2-11: The Proposed Project would contribute to cumulative increases in short- and long-term exposures to Toxic Air Contaminants.

### **Global Climate Change**

4.5-1: Implementation of the Proposed Project could conflict with the City's Climate Action Plan.

### **Hazards and Hazardous Materials**

4.6-2: Demolition of existing structures could expose people to asbestos-containing materials, lead-based paint and/or other hazardous materials.

4.6-5: The Proposed Project could increase the risk of exposure of site occupants to inadvertent or accidental releases of hazardous substances transported on adjacent roadways or rail lines near the site.

4.6-7: The Proposed Project could contribute to cumulative risk of exposure of people due to inadvertent or accidental releases of hazardous substances transported on local or regional roadways or rail lines.

### **Hydrology and Water Quality**

4.7-1: The Proposed Project could degrade water quality.



4.7-3: The Proposed Project could substantially deplete groundwater supplies.

4.7-4: The Proposed Project could contribute to the cumulative degradation of water quality.

4.7-6: The Proposed Project could contribute to cumulative depletion of groundwater supplies.

### **Noise**

4.8-5: The Proposed Project would expose adjacent residential and commercial buildings, and persons within, to significant vibration due to rail operations.

### **Public Services**

4.9-1: The Proposed Project would increase demand for police protection services within the City of Sacramento.

4.9-2: The Proposed Project would contribute to cumulative increases in demand on police protection services in the City of Sacramento.

4.9-3: The Proposed Project would increase demand for fire protection services within the City of Sacramento.

4.9-4: The Proposed Project would contribute to cumulative increases in demand for fire protection services in the City of Sacramento.

4.9-5: The Proposed Project would increase enrollment at SCUSD schools.

4.9-6: The Proposed Project would contribute to cumulative increases in school enrollment in SCUSD schools.

4.9-7: The Proposed Project would increase the use of existing parks and recreational facilities within the City of Sacramento.

4.9-8: The Proposed Project would contribute to cumulative increases in demand on City parks and recreational facilities in the City of Sacramento.

### **Transportation**

4.10-4: The Proposed Project would adversely affect the transit system's ability to accommodate the projected ridership demand.

4.10-5: The Proposed Project would cause inadequate access to bus transit.

4.10-7: The Proposed Project would adversely affect existing or planned bicycle facilities or fail to provide for access by bicycle.

4.10-9: The Proposed Project would result in inadequate emergency access.

4.10-15: The Proposed Project would adversely affect the transit system's ability to accommodate the projected ridership demand under cumulative conditions.

4.10-18: The Proposed Project would adversely affect existing or planned bicycle facilities or fail to provide for access by bicycle.

4.10-20: The Proposed Project would result in inadequate emergency access.

#### **Utilities and Service Systems**

4.11-1: The Proposed Project would increase demand for potable water.

4.11-2: The Proposed Project could require additional water conveyance and treatment.

4.11-4: The Proposed Project would contribute to cumulative increases in demand for water conveyance in the vicinity of the Downtown project site.

4.11-6: The Proposed Project would discharge additional wastewater to the SRWWTP.

4.11-8: The Proposed Project would contribute to cumulative increases in demand for wastewater treatment capacity at the SRWWTP.

4.11-9: The Proposed Project would generate additional solid waste.

4.11-10: The Proposed Project would contribute to cumulative increases in solid waste.

4.11-11: The Proposed Project would increase demand for energy, specifically electricity and natural gas.

4.11-13: The Proposed Project would contribute to cumulative increases in demand for energy.

**B. Significant or Potentially Significant Impacts Mitigated to a Less Than Significant Level.**

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are being mitigated to a less than significant level and are set out below. Pursuant to section 21081(a)(1) of CEQA and section 15091(a)(1) of the CEQA Guidelines, as to each such impact, the City Council, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project by means of conditions or otherwise, mitigate, avoid or substantially lessen to a level of insignificance these significant or potentially significant environmental impacts of the Project. The basis for the finding for each identified impact is set forth below.

**Aesthetics, Light and Glare**

**Impact 4.1-2: The Project could create substantial new sources of light. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.1-2(a) (ESC/SPD)

*The project applicant shall require construction contractors to ensure that all lighting related to construction activities shall be shielded or directed to restrict any direct illumination onto property located outside of the Downtown project site boundaries that is improved with light-sensitive uses.*

4.1-2(b) (ESC/SPD)

*Exterior lighting included within the ESC or SPD area shall incorporate fixtures and light sources that focus light on-site to minimize spillover light.*

4.1-2(c) (ESC/SPD)

*The project applicant shall submit a conceptual signage and lighting design plan for the ESC to the Department of City Planning to establish lighting design standards and guidelines.*

4.1-2(d) (ESC/SPD)

*Prior to issuance of a building permit for the ESC signage displays, the project applicant shall retain a lighting design expert who shall develop plans and specifications for the proposed lighting displays, establish maximum luminance levels for the displays, and review and monitor the installation and testing of the displays, in order to insure compliance with all City lighting regulations and these mitigation measures.*

4.1-2(e) (ESC/SPD)

*Project lighting shall not cause more than two foot-candles of lighting intensity or direct glare from the light source at any residential property. This would preclude substantial spillover light from bright lighting sources.*

4.1-2(f) (ESC/SPD)

*The project applicant shall comply with City Code Section 8.072.010, which establishes regulations regarding the use of searchlights.*

4.1-2(g) (ESC/SPD)

*At the Downtown project site, all light emitting diodes used within the integral electronic display shall have a horizontal beam spread of maximum 165 degrees wide and 65 degrees vertically, and shall be oriented downwards to the plaza/street, rather than upwards.*

4.1-2(h) (DB – I-5 at Water Tank and I-5 at San Juan Road)

*The maximum ambient light output level for any digital billboard shall be two (2) foot- candles at the closest residential property line from the billboard.*

**Finding:** Mitigation Measures 4.1-2(a) through 4.1-2(h) would ensure that new nighttime light from elements of the Project would be sufficiently reduced to avoid disturbance of sensitive receptors or activities in homes and yards of nearby residences.

**With implementation of the mitigation measures, this impact is reduced to a less than significant level.**

**Air Quality**

**Impact 4.2-2: Construction of the Project would result in short-term emissions of NOx. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.2-2(a) (ESC/SPD/DB)

*City approval of any grading or improvement plans shall include the following SMAQMD Basic Construction Emission Control Practices, including:*

- *All exposed surfaces shall be watered two times daily. Exposed surfaces include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads.*
- *Cover or maintain at least two feet of free board space on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways shall be covered.*
- *Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited.*
- *Limit vehicle speeds on unpaved roads to 15 miles per hour.*
- *All roadways, driveways, sidewalks, parking lots shall be paved as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.*
- *Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes (as required by the state airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site.*
- *Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment shall be checked by a certified mechanic and determine to be running in proper condition before it is operated.*

4.2-2(b) (ESC/SPD/DB)

*City approval of any grading or improvement plans shall include the following SMAQMD Enhanced Exhaust Control Practices, including:*

- *Provide a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the Project to the City and the SMAQMD. The inventory shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment. The construction contractor shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman. This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment. The inventory shall be updated and submitted monthly throughout the duration of the Project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.*
- *Provide a plan in conjunction with the equipment inventory, approved by the SMAQMD, demonstrating that the heavy-duty (50 horsepower or more) off-road vehicles to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project wide fleet-average 20% NOx reduction and 45% particulate reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.*
- *Emissions from all off-road diesel powered equipment used on the project site shall not exceed 40% opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately, and the City and SMAQMD shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey. The SMAQMD and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this measure shall supercede other SMAQMD or state rules or regulations.*
- *If at the time of granting of each building permit, the SMAQMD has adopted a regulation applicable to construction emissions, compliance with the regulation may completely or partially replace this mitigation. Consultation with the SMAQMD prior to construction will be necessary to make this determination.*

4.2-2c (ESC/SPD/DB)

*The project applicant shall coordinate with SMAQMD to determine and ensure payment of off-site mitigation fees to offset the significant NOx emissions associated with the Project.*

**Finding:** With implementation of the above mitigation measures, fugitive dust would be controlled, exhaust emissions would be reduced on-site, and mitigation fees would be provided to SMAQMD for project NOx emissions that exceed the SMAQMD significance threshold. SMAQMD uses the fees to fund off-site projects and programs that would offset the project's NOx emissions.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.2-4: The Project would generate construction emissions of PM10. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.2-4 (ESC/SPD/DB)

*Implement Mitigation Measure 4.2-2(a).*

**Finding:** Implementation of the Basic Construction Emission Control Practices would ensure that the Project would not result in significant PM10 concentrations during construction.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.2-8: The Project would contribute to cumulative increases in short-term (construction) emissions. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.2-8 (ESC/SPD/DB)

*Implement Mitigation Measures 4.2-2(a) through 4.2-2(c).*



**Finding:** Implementation of the above mitigation measures would reduce on-site exhaust emissions and mitigation fees would be provided to SMAQMD for project NOx emissions that exceed the SMAQMD significance threshold. SMAQMD uses the fees to fund off-site projects that would offset the project's NOx emissions. Although cumulative NOx emissions in the SVAB would be significant due to existing violations in the region, with implementation of Mitigation Measures 4.2-2(a) through 4.2-2(c), the Project would result in a less than considerable contribution to the significant cumulative impact.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.2-10: The Project would contribute to cumulative increases in PM10 concentrations. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.2-10 (ESC/SPD/DB)

*Implement Mitigation Measure 4.2-2(a).*

**Finding:** Localized PM10 concentrations generated by the Project and cumulative development in the vicinity would not be cumulatively considerable or significant with implementation of the SMAQMD Basic Construction Emission Control Practices.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

### **Biological Resources**

**Impact 4.3-1: Construction of the Project could disturb or harm listed wildlife species and/or destroy or degrade their habitat. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.3-1(a) (DB – Business 80 at Sutter's Landing Regional Park)



*Prior to construction at the Business 80 at Sutter's Landing Regional Park digital billboard site, the site shall be surveyed for the presence of the valley elderberry longhorn beetle and its elderberry host plant by a qualified biologist in accordance with USFWS protocols. If elderberry plants with one or more stems measuring 1.0 inch or greater in diameter at ground level occur on or adjacent to the project site, or are otherwise located where they may be directly or indirectly affected by the Project, minimization and compensation measures, which include transplanting existing shrubs and planting replacement habitat (conservation plantings), are required (see below). Surveys are valid for a period of two years. Elderberry plants with no stems measuring 1.0 inch or greater in diameter at ground level are unlikely to be habitat for the beetle because of their small size and/or immaturity. Therefore, no minimization measures are required for removal of elderberry plants with all stems measuring 1.0 inch or less in diameter at ground level.*

- (1) For shrubs with stems measuring 1.0 inch or greater, the City shall ensure that elderberry shrubs within 100 feet of proposed development be protected and/or compensated for in accordance with the "U.S. Fish and Wildlife Services' (USFWS) Conservation Guidelines for the Valley Elderberry Longhorn Beetle and the Programmatic Formal Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle Within the Jurisdiction of the Sacramento Field Office."*

#### **4.3-1(b) (DB – I-5 at San Juan Road)**

*(1) No more than 24-hours prior to the commencement of construction activities at the I- 5 at San Juan Road digital billboard site, a preconstruction survey shall be conducted to survey for giant garter snakes by a USFWS-approved biologist. The biologist shall provide the USFWS with a written report that adequately documents the monitoring efforts within 24-hours of commencement of construction activities. The project site shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.*

*(2) Construction activity within giant garter snake habitat (e.g., riverine and fresh emergent wetland) shall be conducted between May 1 and September 30. This is the active period for the snake and direct mortality is lessened as snakes are expected to actively move and avoid danger. If it appears that construction activity may go beyond September 30, the City shall contact the USFWS as soon as possible, but not later than September 15 of the year in question, to determine*

*if additional measures are necessary to minimize take. Construction activities within 200 feet from the banks of aquatic snake habitat will be avoided during the snake's inactive season. If this is not feasible, the City shall consult with USFWS to determine measures to avoid impacts to giant garter snake. If project activities are approved to continue into the inactive season, a USFWS-approved biologist shall inspect construction-related activities daily during this period for unauthorized take of federally listed species or destruction of their habitat. The biologist shall be available for monitoring throughout all phases of construction that may result in adverse effects to the giant garter snake.*

(3) *Any dewatered habitat shall remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling the dewatered habitat.*

(4) *A Worker Environmental Awareness Training Program for construction personnel shall be conducted by the USFWS-approved biologist for all construction workers, including contractors, prior to the commencement of construction activities. The program shall provide workers with information on their responsibilities with regard to the snake, an overview of the life-history of this species, information on take prohibitions, protections afforded this animal under FESA, and an explanation of the relevant terms and conditions of project permits. Written documentation of the training shall be submitted to the Sacramento Fish and Wildlife Office within 30 days of the completion of training. As needed, training shall be conducted in Spanish for Spanish language speakers.*

(5) *Prior to the commencement of construction activities, high visibility fencing shall be erected around the habitats of giant garter snake to identify and protect these designated areas from encroachment of personnel and equipment. These areas shall be avoided by all construction personnel. The fencing shall be inspected by the Contractor before the start of each work day and maintained by the Contractor until completion of the project. The fencing may be removed only when the construction of the project is completed. Fencing shall be established in upland habitat immediately adjacent to aquatic snake habitat and extending up to 200 feet from construction activities. Silt fencing, if properly installed and maintained, may serve as suitable snake exclusion fencing.*

(6) *Signs shall be posted by the Contractor every 50 feet along the edge of the GGS habitat, with the following information: "This area is habitat of federally-threatened and/or endangered species, and must not be disturbed. These species are protected by the Endangered Species Act of 1973, as amended.*

*Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable from a distance of 20 feet, and shall be maintained by the Contractor for the duration of construction.*

(7) *The Contractor shall minimize the potential for harm, harassment, and direct mortality of the snake resulting from project-related activities by implementation of the project. The Contractor shall ensure that the temporary loss of giant garter snake habitat is confined to the Project site.*

(8) *Movement of heavy equipment to and from the project site shall be restricted to established roadways to minimize habitat disturbance.*

(9) *Temporary impacts shall be restored to pre-project conditions. Areas subject to temporary impacts shall be limited to one season (the calendar year period between May 1 and October 1) and be restored within two seasons. Permanent impacts to giant garter snake habitat shall be replaced at a 3:1 ratio which must include both upland and aquatic habitat components. A portion of the mitigation for permanent loss of wetlands at a ratio no less than 1:1 may fulfill a portion of the 3:1 mitigation obligation for permanent impacts to giant garter snake habitat. This mitigation may be fulfilled through in-kind, onsite or off-site, out-of-kind mitigation as approved by the U.S. Fish and Wildlife Service and the Corps.*

**Finding:** With the implementation of Mitigation Measures 4.3- 1(a) and 4.3-1(b), the Project would not cause a substantial reduction in local population size, reduce reproductive success, or create habitat fragmentation to federally or State listed species.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.3-2: Construction of the Project could disturb nesting raptors, migratory birds, and/or maternity roosts for special-status bat species. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.3-2(a) (ESC/SPD/DB – I-5 at Water Tank, Business 80 at Sutter’s Landing Regional Park, Business 80 at Del Paso Regional Park/Haggin Oaks, and Business 80 at Sutter’s Landing Regional Park/American River)

*The project applicant shall conduct any tree removal activities required for project construction outside of the migratory bird and raptor breeding season (February 1 through August 31) where feasible. For any construction activities that will occur between February 1 and August 31, the applicant shall conduct preconstruction surveys in suitable nesting habitat within 500 feet of the construction area for nesting raptors and migratory birds. Surveys shall be conducted by a qualified biologist. In addition, all trees slated for removal during the nesting season shall be surveyed by a qualified biologist no more than 48-hours before removal to ensure that no nesting birds are occupying the tree. For Swainson's hawk nesting habitat, surveys shall be conducted in accordance with the Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley).*

*If active nests are found during the survey, the applicant shall implement appropriate mitigation measures to ensure that the species will not be adversely affected, which will include establishing a no-work buffer zone as, approved by CDFW, around the active nest.*

*Measures may include, but would not be limited to:*

*(1) Maintaining a 500-foot buffer around each active raptor nest. No construction activities shall be permitted within this buffer. For migratory birds, a no-work buffer zone shall be established, approved by CDFW, around the active nest. The no-work buffer may vary depending on species and site specific conditions as approved by CDFW.*

*(2) Depending on conditions specific to each nest, and the relative location and rate of construction activities, it may be feasible for construction to occur as planned within the buffer without impacting the breeding effort. In this case (to be determined on an individual basis), the nest(s) shall be monitored by a qualified biologist during construction within the buffer. If, in the professional opinion of the monitor, the project would impact the nest, the biologist shall immediately inform the construction manager. The construction manager shall stop construction activities within the buffer until the nest is no longer active.*

*4.3-2(b) (DB – Business 80 at Del Paso Regional Park/Haggin Oaks)  
Pre-construction surveys for burrowing owls shall be conducted by a qualified biologist (as approved by CDFW) within 30-days prior to the start of work*

*activities at the Business 80 at Del Paso Regional Park/Haggin Oaks billboard site where land construction is planned in known or suitable habitat. If construction activities are delayed for more than 30 days after the initial preconstruction surveys, then a new preconstruction survey shall be required. All surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation.*

*(1) If burrowing owls are discovered in the Project site vicinity during construction, the CDFW-approved project biologist shall be notified immediately. Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by the CDFW verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.*

*(2) Occupied burrows during the nesting season shall be avoided by establishment of a no-work buffer of 250-foot around the occupied/active burrow. Where maintenance of a 250-foot no-work buffer zone is not practical, the City shall consult with the CDFW to determine appropriate avoidance measures. Burrows occupied during the breeding season (February 1 to August 31) will be closely monitored by the biologist until the young fledge/leave the nest. The onsite biologist shall have the authority to stop work if it is determined that construction related activities are disturbing the owls.*

*(3) If approved by CDFW, the biologist may undertake passive relocation techniques by installing one-way doors in active and suitable burrows (that currently do not support eggs or juveniles). This would allow burrowing owls to escape but not re-enter. Owls should be excluded from the immediate impact zone and within a 160-foot buffer zone by having one-way doors placed over the entrance to prevent owls from inhabiting those burrows.*

4.3-2(c) (DB – Business 80 at Del Paso Regional Park/Haggin Oaks and Business 80 at Sutter’s Landing Regional Park)

*If tree removal activities commence on the project site during the breeding season of special-status bat species (April 1 to August 31), then a field survey shall be conducted by a qualified biologist to determine whether active roosts are*



*present on site or within 50 feet of the project boundaries. Field surveys shall be conducted early in the breeding season before any construction activities begin, when bats are establishing maternity roosts but before pregnant females give birth (April through early May). If no roosting bats are found, then no further mitigation is required.*

*If roosting bats are found, then disturbance of the maternity roosts shall be avoided by halting construction until the end of the breeding season or a qualified bat biologist excludes the roosting bats in consultation with CDFW.*

**Finding:** With the implementation of Mitigation Measures 4.3- 2(a), 4.3-2(b), and 4.3-2(c), the Project would not cause a substantial reduction in local population size or reduce reproductive success to raptors, migratory birds, and special-status bat species.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.3-3: The Project could remove, fill, interrupt or degrade protected wetlands. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-3 (DB – I-5 at San Juan Road and SR 99 at Calvine Road)

*(a) The City shall require that the applicant(s) for the I-5 at San Juan Road and SR 99 at Calvine Road proposed billboard site (if the project encroaches into the detention basin) conduct a formal wetland delineation of wetlands and other waters of the U.S. within those project sites. The wetland delineation shall be submitted to the Corps for verification. If jurisdictional wetlands or other waters of the U.S. are not present, no further action is required.*

*(b) If jurisdictional wetlands or other waters of the U.S. are present, the applicant shall avoid them if feasible. The Project shall minimize disturbances and construction footprints near avoided wetlands and other waters of the U.S to the extent feasible.*

*(c) If avoidance is not feasible, then the applicant shall demonstrate that there is no net loss of wetlands through compensation. This measure may be satisfied by obtaining a Section 404 permit. To ensure that there is no net loss of wetland habitat and no significant impact to potential jurisdictional features, the project*

*shall compensate for impacted wetlands at a ratio no less than 1:1. Compensation shall take the form of wetland preservation, enhancement or creation in accordance with Corps and CDFW mitigation requirements, as required under project permits. Preservation and creation may occur on-site (through a conservation agreement) or off-site (through purchasing credits at a Corps approved mitigation bank).*

*(d) At the I-5 at San Juan Road proposed billboard site, the project applicant shall compensate for loss of habitat in the Natomas Basin at a 0.5-to-1.0 ratio, per the requirements of the NBHCP.*

**Finding:** State and federal regulations require that the project applicant avoid or minimize impacts on wetlands and waters and develop appropriate protection for wetlands. Wetlands that cannot be avoided must be compensated to result in “no net loss” of wetlands to ensure that the project would maintain the current functions and values of onsite wetland habitats. If it is determined that the project will impact waters of the U.S., the project would obtain all required permit approvals from the Corps, RWQCB, CDFW and any other agencies with permitting responsibilities for construction activities within jurisdictional features. With the implementation of Mitigation Measure 4.3-3, there would be a no net loss of wetlands and potential indirect impacts to wetlands would be avoided or mitigated to the extent feasible.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.3-4: The Project could require removal of street trees and/or heritage trees. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-4 (ESC/SPD)

*The applicant for any project within the Downtown project site that would remove street and/or heritage trees shall submit a tree removal permit application for the removal of protected trees, as defined by City Codes 12.56 and 12.64. The application shall include proposed mitigation measures to protect retained trees and proposed replacement measures to mitigate for the loss of tree resources (replacement measures may be determined in consultation with the City's Director of the Department of Public Works). Several standard tree protection measures for retained trees are listed below; these measures may be revised in*

*consultation with the City's Director of the Department of Transportation as appropriate.*

- A Tree Protection Zone (TPZ) shall be established around any tree or group of trees to be retained. The formula typically used is defined as 1.5 times the radius of the dripline or 5 feet from the edge of any grading, whichever is greater. The TPZ may be adjusted on a case-by-case basis after consultation with a certified arborist.*
- The TPZ of any protected trees shall be marked with permanent fencing (e.g., post and wire or equivalent), which shall remain in place for the duration of construction activities in the area. Post "keep out" signs on all sides of fencing.*
- Construction-related activities, including grading, trenching, construction, demolition, or other work shall be prohibited within the TPZ. No heavy equipment or machinery shall be operated within the TPZ. No construction materials, equipment, machinery, or other supplies shall be stored within a TPZ. No wires or signs shall be attached to any tree. Any modifications must be approved and monitored by a certified arborist.*
- Prune selected trees to provide necessary clearance during construction and to remove any defective limbs or other parts that may pose a failure risk. All pruning shall be completed by a certified arborist or tree worker and adhere to the Tree Pruning Guidelines of the International Society of Arboriculture.*
- The TPZs of protected trees shall be monitored on a weekly basis.*
- A certified arborist shall monitor the health and condition of the protected trees and, if necessary, recommend additional mitigations and appropriate actions. This shall include the monitoring of trees adjacent to project facilities in order to determine if construction activities (including the removal of nearby trees) would affect protected trees in the future.*

**Finding:**

With the implementation of Mitigation Measure 4.3-4, the project would not conflict with local policies or ordinances that protect locally significant biological resources, including heritage and street trees. The loss of heritage and street



trees would be replaced at a ratio determined in consultation with the City's Director of the Department of Transportation and construction-related impacts to retained trees would be reduced or mitigated to the extent feasible.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.3-5: The Project could install a digital billboard within a habitat mitigation area, resulting in a net loss in restorable area. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-5 (DB – Business 80 at Sutter's Landing Regional Park/American River)  
*To mitigate for potential temporary and permanent impacts to Sutter's Landing Regional Park's "Triangle" mitigation area, the applicant shall restore all temporary project- related impacts immediately following the completion of installation of the digital billboard. The applicant shall implement additional site restoration and enhancement within the "Triangle" mitigation area to ensure no net loss of habitat values. Restoration and enhancement activities may include the planting of additional oak trees and other vegetation (native shrubs, vines, forbs, and/or grasses) consistent with the 28<sup>th</sup> Street Landfill Tree Removal Mitigation Committee Report.*

**Finding:**

With the implementation of Mitigation Measure 4.3-5, the project would not conflict with the mitigation goals of the 28<sup>th</sup> Street Landfill Tree Removal Mitigation Committee or Resolution No. 2011-609, adopted by the Sacramento City Council on November 8, 2011. Additionally, implementation of Mitigation Measure 4.3-5 would ensure that the project would not result in the loss of habitat values at the "Triangle" mitigation area.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.3-6: The Project would contribute to the cumulative harm to special-status species or species of concern and/or degradation and of their habitat. Without mitigation, this is a *significant cumulative impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-6 (ESC/SPD/DB)

*Implement Mitigation Measures 4.3-1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c), and 4.3-5.*

**Finding:** With the implementation of Mitigation Measures 4.3- 1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c) and 4.3-5 and compliance with applicable federal, State, and local policies and regulations, the Project's contribution to the regional cumulative impact on special-status species and their habitats would not be cumulatively considerable.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.3-7: The Project would contribute to the cumulative loss and degradation of wetlands. Without mitigation, this is a *potentially significant cumulative impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-7 (DB – I-5 at San Juan Road and SR 99 at Calvine Road)

*Implement Mitigation Measure 4.3-3.*

**Finding:** With the implementation of Mitigation Measure 4.3-3 and compliance with applicable federal, State, and local policies and regulations, the Project's contribution to the regional cumulative impact on wetland habitat would be less than significant. The loss of this habitat would be fully mitigated in accordance with federal policies and regulations (through the CWA Section 404 permit process), in addition to applicable State and local water quality regulations. Loss of wetlands would be mitigated at a minimum of 1:1 replacement ratio to ensure no net loss of wetland habitat and the project- related impact on wetlands would not contribute considerably to the cumulative loss.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.3-8: The Project would contribute to the cumulative loss of street trees and heritage trees. Without mitigation, this is a *potentially significant cumulative impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.3-8 (ESC/SPD)

*Implement Mitigation Measure 4.3-4.*

**Finding:** With the implementation of Mitigation Measure 4.3-4, the Project's contribution to cumulative impact on tree resources within the City would be less than significant. The loss of protected trees would be fully mitigated in accordance with local ordinances; removed trees would be replaced at a ratio determined in consultation with the City's Director of the Department of Transportation to ensure no net loss of the ecological, physical, and other benefits provided by the existing trees. Additionally, retained trees would be protected by standard tree protection measures. Project impacts thus would not contribute considerable to the cumulative loss of trees within the City of Sacramento.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

### **Cultural Resources**

**Impact 4.4-1: The Project could damage, degrade and/or destroy historic resources. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

Mitigation Measure 4.4-1(a) (ESC/SPD)

*The Project applicant shall protect the Hotel Marshall from physical damage during demolition to ensure that the building's historic integrity of material is not significantly diminished and the Project Proponents will be responsible for repairs to the Hotel Marshall for damage caused by the demolition of the loading dock. If necessary, repairs shall be conducted in compliance with the "Treatment of Preservation" under the Secretary of Interior's Standards for the Treatment of*

*Historic Properties (SOI Standards).<sup>32</sup> The Project Proponents shall provide the City Preservation Director for review and approval of work plans for documenting the pre-construction condition of the Marshall Hotel, for protocols as to determining damage from demolition work, for the means and methods of protecting the Marshall Hotel during demolition, and for the means and methods of the demolition work itself alongside the Marshall Hotel, for the means and methods for making any of the repairs to be undertaken as a result of construction damage, and a completion report to ensure compliance with the SOI Standards. The Project Proponents shall be responsible for repairs related to project impacts and not for general rehabilitation or restoration activities on the Hotel Marshall.*

4.4-1(b) (ESC/SPD)

*Implement Mitigation Measure 4.8-3(a).*

**Finding:** Mitigation Measures 4.4-1(a) and 4.4-1(b) would ensure that damage to the Hotel Marshall from demolition is minimized, and that any damage that does occur is identified and rectified promptly and in a manner that does not alter the historic character of the building. Mitigation Measure 4.8-3(a) addresses vibration related impacts to both historic and non-historic buildings, including the development of a Noise and Vibration Reduction Plan to identify construction techniques that avoid exceeding the vibration threshold for historic buildings. The plan will include pre-construction documentation, vibration monitoring during construction, and post- construction reporting and repair requirements.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.4-3: Construction of the Project could damage and/or destroy paleontological resources. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.4-3(a) (ESC/SPD/DB)

*The project applicant shall retain a qualified paleontologist to carry out all actions related to paleontological resources. Prior to the start of any ground disturbing activities, the qualified paleontologist shall conduct a Paleontological Resources*

*Sensitivity Training for all construction personnel working on the project. The training shall include an overview of potential paleontological resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified paleontologist for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of paleontological resources.*

4.4-3(b) (ESC/SPD/DB)

*If discovery is made of items of paleontological interest, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery. After cessation of excavation the contractor shall immediately contact the City. The contractor shall not resume work until authorization is received from the City. Any inadvertent discovery of paleontological resources during construction shall be evaluated by a qualified paleontologist. If it is determined that the project could damage a unique paleontological resource (as defined pursuant to the CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the CEQA Guidelines. If avoidance is not feasible, the paleontologist shall develop a treatment plan in consultation with the City.*

**Finding:** Mitigation Measures 4.4-3(a) and (b) would ensure that paleontological resources would be identified before being damaged or destroyed, and then properly evaluated and treated.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.4-4: The Project would contribute to cumulative losses of historical resources. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.4-4 (ESC/SPD/DB)

*Implement Mitigation Measure 4.4-1.*

**Finding:** Mitigation Measure 4.4-1(a) and (b) would ensure that the Hotel Marshall and other historic properties adjacent to the Downtown project site are protected from damage during project construction.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.4-6: The Project would contribute to cumulative losses of paleontological resources. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.4-6 (ESC/SPD/DB)

*Implement Mitigation Measure 4.4-3.*

**Finding:** Mitigation Measure 4.4-3 would lessen the project contribution toward the loss of paleontological resources by requiring that work stop if such resources are discovered until the resource can be evaluated and properly treated. The project's contribution to cumulative losses therefore would not be cumulatively considerable.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

### **Hazards and Hazardous Materials**

**Impact 4.6-1: The Project could expose people to previously unidentified contaminated soil during construction activities. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

4.6-1(a) (ESC/SPD/DB)

*If unidentified or suspected contaminated soil or groundwater evidenced by stained soil, noxious odors, or other factors, is encountered during site preparation or construction activities at the Downtown project site and/or digital billboard site, work shall stop in the area of potential contamination, and the type and extent of contamination shall be identified by a Registered Environmental Assessor (REA) or qualified professional. The REA or qualified professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant*



*concentrations, and recommendations for appropriate handling and disposal. Site preparation or construction activities shall not recommence within the contaminated areas until remediation is complete and a “no further action” letter is obtained from the appropriate regulatory agency.*

4.6-1(b) (DB – US 50 at Pioneer Reservoir, I-80 at Roseville Road, and I-5 at Sacramento Railyards)

*Prior to final project design and any earth disturbing activities at the US 50 at Pioneer Reservoir, I-80 at Roseville Road, and I-5 at Sacramento Railyards billboard sites, the City shall require that the applicant conduct a Phase I Environmental Site Assessment. The Phase I Site Assessment shall be prepared by a REA or other qualified professional to assess the potential for contaminated soil or groundwater conditions at the project site. The Phase I Site Assessment shall include a review of appropriate federal and State hazardous materials databases, as well as relevant local hazardous material site databases for hazardous waste on-site and off-site locations within a one-quarter mile radius of the subject project site. The Phase I Site Assessment shall also include a review of existing or past land uses and aerial photographs, summary of results of reconnaissance site visit(s), and review of other relevant existing information that could identify the potential existence of contaminated soil or groundwater. If no contaminated soil or groundwater is identified or the Phase I ESA does not recommend any further investigation than no further action is required.*

*The Phase 1 ESA for the Sacramento Railyards shall include contacting DTSC to obtain information to identify any remediation infrastructure within the vicinity of the proposed billboard site. No remediation system, monitoring well network, extraction wells, associated conveyance piping or treatment systems shall be altered, disturbed or destroyed without prior approval by DTSC. No excavation and/or removal of soil at the Sacramento Railyards billboard site, except as allowed pursuant to section 3.01.C of the 1994 covenant, shall occur without prior written approval of DTSC. Excavated soil must be tested for those compounds noted in the preamble of the 1994 covenant and properly used, treated and/or disposed of as required by law and DTSC.*

4.6-1(c) (DB -- US 50 at Pioneer Reservoir, I-80 at Roseville Road, and I-5 at Sacramento Railyards)

*If existing soil or groundwater contamination is identified and the Phase I ESA recommends further review, the applicant shall retain a REA to conduct follow-up sampling to characterize the contamination and to identify any required*

*remediation that shall be conducted consistent with applicable regulations prior to any earth-disturbing activities. The environmental professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant concentrations at the proposed construction site, and recommendations for appropriate handling of any contaminated materials during construction. These recommendations shall be implemented and the site shall be deemed remediated by the appropriate agency (e.g., DTSC, Sacramento County EMD) prior to earth disturbance continuing in the vicinity of the contamination.*

**Finding:** Mitigation Measure 4.6-1(a) would minimize risk of exposure to previously unidentified soil contamination by requiring that work stop and the appropriate analysis occur to identify the type and extent of the contamination. Depending on the results, appropriate remediation would be completed prior to resuming construction activities in the affected area. The handling, storage, transportation and disposal of any contaminated soil would be accomplished with applicable federal, state and local laws.

Mitigation Measures 4.6-1 (b) and (c) would further reduce the risk at the US 50 at Pioneer Reservoir, I-80 at Roseville Road, and I-5 at Sacramento Railyards billboard sites by requiring additional review of those sites, which are in the vicinity of known contamination, prior to construction activities commencing. If contaminated soils are found, they would be identified, characterized and remediated, as appropriate, limiting potential exposure of construction workers to associated health risks. The handling, storage, transportation and disposal of any contaminated soil would be accomplished with applicable federal, state and local laws.

**With implementation of the mitigation measures, this impact is reduced to a *less than significant* level.**

**Impact 4.6-3: The Project could expose people to existing contaminated groundwater during dewatering activities. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.6-3 (DB – US 50 at Pioneer Reservoir and I-80 at Roseville Road)

*Implement Mitigation Measure 4.6-1(a) through (c).*



**Finding:** Mitigation Measures 4.6-1 (a) through (c) would ensure that contaminated groundwater that could be encountered during installation of a digital billboard at these locations is identified, characterized and remediated, as appropriate thus limiting potential exposure of construction workers to associated health risks. The handling, storage, transportation and disposal of any contaminated groundwater would be accomplished in compliance with applicable federal, state and local laws.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**Impact 4.6-4: Dewatering activities associated with the Project could interfere with remediation of the Railyards South Plume. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.6-4 (ESC/SPD)

*Prior to initiating dewatering activities for the ESC and/or SPD development, the project applicant shall demonstrate that dewatering activities would adequately protect construction workers and minimize interference with remediation activities subject to approval from DTSC. If, during project dewatering, monitoring data indicate that the remediation of the groundwater plume is being adversely affected, dewatering activities shall cease until measures are developed and implemented subject to DTSC approval. Measures might include: (1) limiting the duration of pumping during periods of high groundwater flow; (2) relocating dewatering wells; or (3) equally effective measures to be developed in consultation with DTSC which eliminate demonstrated adverse effects to on-going remediation.*

**Finding:** Mitigation Measure 4.6-4 would ensure that approval from DTSC would be obtained prior to dewatering activities and that the appropriate steps would be taken to limit adverse effects of dewatering activities on the existing South Plume.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**Impact 4.6-6: The Project would contribute to cumulative dewatering activities that could interfere with remediation of the existing South Plume. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.6-6 (ESC/SPD)

*Implement Mitigation Measure 4.6-4.*

**Finding:** Mitigation Measure 4.6-4 would ensure that approval from DTSC would be obtained prior to dewatering activities and that the appropriate steps were taken to limit adverse effects of dewatering activities on the existing South Plume.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

#### **Hydrology and Water Quality**

**Impact 4.7-2: Implementation of the Project could increase the risk of flooding on- or off-site. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.7-2 (ESC/SPD)

*Implement Mitigation Measure 4.11-5.*

**Finding:** With implementation of Mitigation Measure 4.11-5, the onsite drainage system would be designed so that during storm events, impacts to the CSS and Storm Drainage Basin 52 would be avoided.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**Impact 4.7-5: The Project could contribute to cumulative increases in the risk of flooding. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

#### 4.7-5 (ESC/SPD)

*Implement Mitigation Measure 4.7-2.*

**Finding:** Implementation of Mitigation Measure 4.7-2 would ensure that the onsite drainage system could accommodate project flows so that they would not be considerable.

**With implementation of the mitigation measure, this impact is reduced to a less than significant level.**

#### **Noise**

**Impact 4.8-2: The Project could result in residential interior noise levels of 45 dBA Ldn or greater caused by noise level increases due to project operation. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measures have been adopted to address this impact:**

#### 4.8-2(a) (SPD)

*Prior to the issuance of building permits, the City shall require project applicants for residential development to submit a detailed noise study, prepared by a qualified acoustical consultant, to identify design measures necessary to achieve the City interior standard of 45 Ldn in the proposed new residences. The study shall be submitted to the City for review and approval. Design measures such as the following could be required, depending on the specific findings of the noise study: double-paned glass windows facing noise sources; solid-core doors; increased sound insulation of exterior walls (such as through staggered- or double-studs, multiple layers of gypsum board, and incorporation of resilient channels); weather-tight seals for doors and windows; or sealed windows with an air conditioning system installed for ventilation. This study can be a separate report, or included as part of the Noise and Vibration Reduction Plan for the SPD. The building plans submitted for building permit approval shall be accompanied by certification of a licensed engineer that the plans include the identified noise-attenuating design measures and satisfy the requirements of this mitigation measure.*

#### 4.8-2(b) (ESC)

*Implement Mitigation Measure 4.8-1(b) to minimize noise from outdoor amplified sound systems.*

**Finding:** Implementation of the Mitigation Measure 4.8-2 (a) and (b) would ensure that future SPD residences are designed such that interior noise levels would not exceed the City standard of 45 Ldn.

**With implementation of the mitigation measures, this impact is reduced to a less than significant level.**

**Impact 4.8-7: Implementation of the Project would contribute to cumulative increases in residential interior noise levels of 45 dBA Ldn or greater. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.8-7 (ESC/SPD)

*Implement Mitigation Measures 4.8-2(a) and 4.8-2(b).*

**Finding:** Implementation of Mitigation Measure 4.8-7 would ensure that future SPD residences are designed such that interior noise levels would not exceed the City standard of 45 Ldn.

**With implementation of the mitigation measure, this impact is reduced to a less than significant level.**

### **Transportation**

**Impact 4.10-1: The Project would worsen conditions at intersections in the City of Sacramento. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-1 (ESC)

*The applicant shall be required to prepare and implement an Event Transportation Management Plan (TMP) that would provide a range of transportation management strategies designed to address the travel associated with various events at the ESC, and to improve operations in downtown before, during, and after ESC events. The TMP will be subject to review and approval of*

*City of Sacramento Traffic Engineer, in consultation with affected agencies such as Caltrans and Regional Transit.*

**Finding:** Because the TMP would improve and/or manage other parts of the transportation system within the project vicinity, once approved by the City, the Project would meet the intent of Policy M 1.2.2(a) of the City's General Plan, which allows for LOS F during peak hours in the Core Area under certain conditions.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-5: The Project would cause inadequate access to bus transit. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-5 (ESC)

*The project applicant, in coordination with the City of Sacramento, Regional Transit, and other transit providers within the project vicinity, shall identify new bus stop locations and cause replacement bus stop facilities to be constructed. Service providers should then collaborate/agree on which bus routes should use which relocated stops. The proposed bus stop location would be located on the north side of Capitol Mall between 8<sup>th</sup> Street and 7<sup>th</sup> Street.*

The bus stop location on the north side of Capitol Mall, between 8<sup>th</sup> Street and 7<sup>th</sup> Street, would extend for approximately 210 feet measured from the limit line on the west side of 8<sup>th</sup> Street. A site visit, which included RT staff and a civil engineer, identified the need for various improvements to support a bus stop, including curb/gutter modifications, removal, regrading, and replacement of the existing Capitol Mall sidewalk within the limits of the bus stop, paving of portions of the planted grass landscape strip between the sidewalk and the curb, addition of two bus shelters, reconstruction and strengthening of portions of the pavement immediately adjacent to the bus stop. The resulting bus stop could simultaneously load three (3) buses and provide queuing for one to two buses.

**Finding:** This mitigation measure would be required as part of the ESC construction and/or operation.

With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.

**Impact 4.10-8: The Project would adversely affect existing or planned pedestrian facilities or fail to provide for access for pedestrians. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-8 (ESC)

*The project applicant, in coordination with the City and subject to the City's Traffic Engineer approval, shall implement pedestrian system enhancements consistent with the Project's TMP to accommodate pedestrian access before and after special events at the ESC. Potential improvements may include, but are not limited to, the following:*

a) *Upgrade traffic signals (if necessary) at the following locations to include pedestrian countdown heads (i.e., displays number of seconds remaining in "flashing don't walk" phase) and other required enhancements (e.g., special signage or signal control equipment for temporary closures) subject to the review and approval by the City Traffic Engineer:*

- *L Street/4th Street  J Street/5th Street*
- *L Street/5th Street  J Street/6th Street*
- *L Street/6th Street  J Street/7th Street*
- *L Street/7th Street  K Street/7th Street*
- *Capitol Mall/5th Street*

b) *Increase the width of the following crosswalks from 10 to 15 feet:*

- *L Street/4<sup>th</sup> Street – crossing of L Street on the east side*
- *J Street/5<sup>th</sup> Street Intersection - crossing of J Street on the east side*
- *L Street/5<sup>th</sup> Street Intersection - crossing of L Street on the east side*
- *J Street/6<sup>th</sup> Street Intersection - crossing of J Street on the west side*
- *L Street/6<sup>th</sup> Street Intersection – crossing of L Street on the west side*
- *L Street/7<sup>th</sup> Street Intersection – crossing of L Street on the west side*
- *J Street/7<sup>th</sup> Street Intersection – all crossings of both J Street and 7<sup>th</sup> Street*

- *Capitol Mall/5<sup>th</sup> Street Intersection - crossing of Capitol Mall on the east side*

*c) Position traffic control personnel, as determined in the TMP, at intersections on L Street, 7<sup>th</sup> Street, and J Street to monitor/assist with pedestrian travel during events that generate large pedestrian volumes (i.e. NBA games, concerts, major community events).*

*d) Modify traffic signal timings for the pre-event and post-event peak hours at each of the intersections listed in part a) above to provide longer WALK intervals for north-south travel, while maintaining signal coordination along each corridor.*

**Finding:** The effect of wider crosswalks and more favorable signal timings for pedestrians during the pre-event and post-event peak hours would be improved pedestrian LOS at these crosswalks. The crosswalk widening would provide an approximate 33 percent reduction in the pedestrian flow rate, which would improve the LOS. Due to the uncertainty of the exact types of signal timing changes, detailed analysis of such changes is not provided here. However, the combined effects of mitigations a) through d) would be improved pedestrian access. This mitigation measure is required as part of the ESC construction and/or operation.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-10: The Project would cause construction-related traffic impacts. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-10 (ESC/SPD)

*The applicant shall be required to implement the following mitigation measures.*

*a) Before issuance of demolition permits for the project site, the project applicant shall prepare a detailed Construction Traffic Management Plan that will be subject to review and approval by the City Department of Public Works, in consultation with Caltrans, affected transit providers, and local emergency service providers including the City of Sacramento Fire and Police*



departments. The plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained. At a minimum, the plan shall include:

- The number of truck trips, time, and day of street closures
  - Time of day of arrival and departure of trucks
  - Limitations on the size and type of trucks, provision of a staging area with a limitation on the number of trucks that can be waiting
  - Provision of a truck circulation pattern
  - Identification of detour routes and signing plan for street closures
  - Provision of driveway access plan so that safe vehicular, pedestrian, and bicycle movements are maintained (e.g., steel plates, minimum distances of open trenches, and private vehicle pick up and drop off areas)
  - Maintain safe and efficient access routes for emergency vehicles
  - Manual traffic control when necessary
  - Proper advance warning and posted signage concerning street closures
  - Provisions for pedestrian and bicycle safety A copy of the construction traffic management plan shall be submitted to local emergency response agencies and transit providers, and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways.
- b) The project applicant, in coordination with the City of Sacramento, Regional Transit, and other transit providers within the project vicinity and subject to their approval, shall identify temporary bus stop locations and cause ADA-compliant replacement bus stop facilities to be constructed. Potential bus stop locations include (but are not limited to): J Street to the west of 4<sup>th</sup> Street, J Street to the west of 5<sup>th</sup> Street, and J Street to the east of 6<sup>th</sup> Street. The relocation of bus stops may have a secondary impact related to the loss/relocation of a small number of on- street parking spaces and/or loading zones. This secondary impact would not be significant.
- c) The project applicant shall implement the planned conversion of 3<sup>rd</sup> Street, from Capitol Mall to L Street, from its current one-way (southbound-only) configuration to a two-way configuration prior to the closure of 5<sup>th</sup> Street. This project will provide an alternative travel route during the 5<sup>th</sup> Street closure. This shall include the installation of lane/intersection restriping, signing, and traffic signal modifications. It may include the elimination of on-street parking on the east side of 3<sup>rd</sup> Street. The improvements shall include the provision for eastbound buses on Capitol Mall to turn left on 3<sup>rd</sup> Street and travel along 3<sup>rd</sup> Street to J Street.



**Finding:** This mitigation measure would be required as part of the ESC construction and/or operation. Parts of it may also be required for phased development of a non-ESC land use, at the discretion of the City of Sacramento.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-11: The Project would contribute to cumulatively unacceptable intersection operations in the City of Sacramento. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-11 (ESC/SPD)

*Implement Mitigation Measure 4.10-1.*

**Finding:** Because the TMP would improve and/or manage other parts of the transportation system within the project vicinity, once approved by the City, the Project would meet the intent of Policy M 1.2.2(a) of the City's General Plan, which allows for LOS F during peak hours in the Core Area under certain conditions. Because the TMP would be implemented during operation of the project, it would effectively mitigate impacts under cumulative conditions.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-16: The Project would cause inadequate access to bus transit under cumulative conditions. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-16 (ESC)

*Implement Mitigation Measure 4.10-5.*

**Finding:** Because replacement bus stops will be provided prior to the elimination of existing bus stops, and will be in place during cumulative conditions, this impact would be avoided.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-19: The Project would adversely affect existing or planned pedestrian facilities or fail to provide for access for pedestrians under cumulative conditions. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-19 (ESC)

*Implement Mitigation Measure 4.10-8.*

**Finding:** This mitigation measure would be required as part of the ESC construction and/or operation. Parts of it may also be required for phased development of a non-ESC land use, at the discretion of the City of Sacramento. Because these measures would be in place during cumulative conditions, the impact would be mitigated.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Impact 4.10-21: The Project would cause construction-related traffic impacts under cumulative conditions. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.10-21 (ESC/SPD)

*Implement Mitigation Measure 4.10-10.*

**Finding:** This mitigation measure would be required as part of the ESC construction and/or operation. Parts of it may also be required for phased development of a non-ESC land use, at the discretion of the City of Sacramento, and, thus, would effectively mitigate impacts under cumulative conditions.  
**With implementation of the mitigation measure, this impact is reduced to a *less than significant* level.**

**Utilities and Service Systems**

**Impact 4.11-5: The Project would discharge additional flows to the City's sewer and drainage systems, which could exceed existing infrastructure capacity. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.11-5 (ESC/SPD)

*The project applicant shall manage wastewater, drainage and dewatered groundwater from the Project such that they shall not exceed existing CSS and Basin 52 system capacity by implementing one or more of the following or equally effective methods to be designed according to City standards and approved by the City Department of Utilities:*

- a. Install one or more tanks to hold wastewater, stormwater and/or construction period groundwater dewatering flows for a period of time and incrementally release flows at a rate that would not exceed existing capacity;*
- b. Suspend construction period dewatering activities during storm events; and/or*
- c. Design and implement off site improvements to increase capacity to accommodate project flows.*

**Finding:** Mitigation Measure 4.11-5 would require the implementation of measures to manage wastewater, drainage and dewatered groundwater flows in a manner that would not exceed existing capacity of the CSS and Basin 52 systems.

Implementation of Mitigation Measure 4.11-5 could result in additional environmental effects, particularly if offsite improvements are constructed to upgrade the existing CSS or Basin 52 system. Because they would occur during construction, these impacts would be of short duration, and would be similar to the construction impacts identified in the Draft EIR, such as closure of traffic lanes, generation of air emissions and construction noise. Impacts resulting from installation of holding tanks within the Downtown project site are addressed throughout the Draft EIR. Suspension of groundwater pumping would not have adverse environmental effects.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**Impact 4.11-7: The Project would contribute to cumulative increases in demand for wastewater and stormwater facilities. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.11-7 (ESC/SPD)

*Implement Mitigation Measure 4.11-5.*

**Finding:** Mitigation Measure 4.11-5 would fully offset the project contribution to the sewer and wastewater systems by requiring that the applicant construct appropriate facilities to delay discharge of wastewater, groundwater and/or stormwater.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**Impact 4.11-12: Project construction could interfere with buried, existing 115-kV power line. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact:**

4.11-12 (ESC/SPD)

*Prior to the initiation of construction, the project applicant shall work with SMUD to identify the location of the 115-kV, and shall implement measures to avoid the use of heavy machinery or the placement of heavy objects on or in the immediate vicinity (i.e., within 10 feet on either side of the line) of the line during construction. The applicant shall work with SMUD to identify maximum weight limits within the 10-foot buffer area prior to the initiation of construction activities on site.*

**Finding:** Mitigation Measure 4.11-12 would protect the 115-kV from damage.

**With implementation of the mitigation measure, this impact is reduced to a *less than significant level*.**

**C. Significant and Unavoidable Impacts.**

The following significant and potentially significant environmental impacts of the Project, including cumulative impacts, are unavoidable and cannot be mitigated in a manner that would substantially lessen the significant impact.

Notwithstanding disclosure of these impacts, the City Council elects to approve the Project due to overriding considerations as set forth below in Section F, the Statement of Overriding Considerations.

### **Aesthetics, Light and Glare**

**Impact 4.1-1: The Project could substantially degrade the existing visual character or quality of the site and its surroundings. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact to the extent feasible:**

4.1-1(a) (DB – I-5 at Water Tank; I-5 at San Juan Road)

*At the I-5 at Water Tank and I-5 at San Juan Road sites, the digital billboard shall be oriented and designed, including the addition of screening and shielding features, to minimize the visibility of the lighted northern billboard face to homes on El Morro Court and El Rito Way and to minimize the visibility of the lighted southern billboard face to homes on San Juan Road, Almoneti Avenue, and Tice Creek Way. Once the precise location and design of the digital billboard at this location has been proposed, the visibility of the LED face from windows and backyards of nearby homes shall be assessed and screening of the billboard face from view at nearby homes and yards shall be confirmed through a visibility study prepared by the applicant to the satisfaction of the Planning Director.*

4.1-1(b) (DB – Business 80 at Sutter's Landing Regional Park/American River)  
*At the Business 80 at Sutter's Landing Regional Park/American River site, the digital billboard pole shall be located to eliminate the visibility of the billboard from the Jedediah Smith Memorial Trail and from the level of the river. Once the precise location and design of the digital billboard at this location has been proposed, the visibility of the billboard shall be assessed and compliance with the requirements of Policy 7.24 of the American River Parkway Plan shall be confirmed through a visibility study prepared by the applicant to the satisfaction of the Planning Director.*

**Finding:** By locating and designing the digital billboards at the I-5 at Water Tank and I-5 at San Juan Road sites as directed in Mitigation Measure 4.1-1(a), the visibility of the billboard face from nearby homes and yards would be eliminated.

However, it is currently not possible to determine with certainty that this measure could fully screen the illuminated billboard face at these sites. Thus, the impacts at these sites may remain significant. At the Business 80 at Sutter's Landing Regional Park/American River site the implementation of Mitigation Measure 4.1-1(b) may not be able to eliminate the visibility of the billboard from the Jedediah Smith Memorial Trail and from the river level. Further, the billboard would remain visible from Sutter's Landing Regional Park, from the American River Parkway, and could be visually inconsistent with the planned natural area designated in the Sutter Landing Park Master Plan. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

### **Air Quality**

**Impact 4.2-3: The Project would result in long-term (operational) emissions of NOx or ROG. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.2-3 (ESC/SPD)

*The Project shall join and maintain membership in the Sacramento Transportation Management Association (TMA).*

**Finding:** The trip and daily VMT reduction beneficial variables that are built into the design and location of the Project would result in substantial emission reductions that would meet the requirements of an AQMP. Implementation of Mitigation Measure 4.2-3 would further reduce air emissions by providing support to the Sacramento TMA programs that enhance non-single occupant vehicle use in downtown Sacramento. Nevertheless, on non-event days, if fully developed, the Project mixed use development would result in significant ozone precursor emissions, even with implementation of TMA membership mitigation. The City Council finds that there are no additional feasible mitigation measures or

alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains significant and unavoidable.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.2-9: The Project would contribute to cumulative increases in long-term (operational) emissions of NOx or ROG. Without mitigation, this is a significant impact.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.2-10 (ESC/SPD/DB)

*Implement Mitigation Measure 4.2-3.*

**Finding:** Implementation of the above mitigation measure would result in additional traffic trip and associated ozone precursor reductions, but the Project would continue to exceed the SMAQMD thresholds on non-event days. Cumulative ozone emissions in the SVAB would be significant and the Project would result in a considerable contribution to the significant cumulative impact. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains significant and unavoidable.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

### **Cultural Resources**

**Impact 4.4-2: Construction of the Project could damage or destroy archaeological resources. Without mitigation, this is a significant impact.**



**The following mitigation measures have been adopted to address this impact to the extent feasible:**

4.4-2(a) (ESC/SPD/DB)

*The project applicant shall retain a qualified archaeologist (i.e., defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology) to carry out all actions related to archaeological and historical resources. Prior to the start of any ground disturbing activities, the qualified archaeologist shall conduct a Cultural Resources Sensitivity Training for all construction personnel working on the project. The training shall include an overview of potential cultural resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources. The project applicant shall inform the City Preservation Director prior to ground disturbing activities. During ground disturbing activities, archaeological monitoring shall be undertaken by the qualified archaeologist and Native American monitor as approved by the City Preservation Director.*

4.4-2(b) (ESC/SPD/DB)

*If items of historic or archaeological interest are discovered, the construction contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, baked clay fragments, or faunal food remains (bone and shell); stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and/or battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include the remains of stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. After cessation of excavation the contractor shall immediately contact the City. The contractor shall not resume work until authorization is received from the City.*

*Any inadvertent discovery of cultural resources during construction shall be evaluated by a qualified archaeologist. If deemed appropriate by the qualified archaeologist, an Archaeological Testing and Recovery Plan shall be prepared and implemented for the area subject to excavation. The qualified archaeologist*

*shall determine whether monitoring is appropriate when construction activities resume.*

*If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and section 15126.4 of the CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City and appropriate Native American representatives (if the find is of Native American origin).*

#### 4.4-2(c) (ESC/SPD/DB)

*If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.*

#### 4.4-2(d) (DB-I-5 at Bayou Road)

*Prior to project construction at the I-5 at Bayou Road digital billboard site, on-site construction personnel shall attend a mandatory pre-project training led by a Secretary of the Interior-qualified archaeologist. The training will outline the general archaeological sensitivity of the area (without providing site specifics) and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered.*

*Prior to installation of the billboard, a Secretary of the Interior-qualified archaeologist shall establish an Archaeologically Sensitive Area (ASA) that shall remain in place during construction activities within and adjacent to the ASA. The ASA will include the electrical box and a 15-foot radius around the electrical box,*

*as well as a 10-foot buffer around that radius. No personnel associated with project activities would be allowed access within the ASA without an archaeologist present. The archaeologist shall also monitor any activities within the ASA to ensure that ground disturbing activities do not adversely affect the known archaeologically-sensitive resources within the ASA.*

*Monitoring shall be required during all earthmoving activities associated with the installation of the billboard including, but not limited to site preparation, excavation of the footing for the billboard, and utility trenching.*

*If archaeological materials are encountered during billboard construction, all soil disturbing activities within 25 feet in all directions of the find shall cease until the resource is evaluated. The monitor shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource. If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines section 15064.5), mitigation shall be implemented in accordance with PRC Section 21083.2 and section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City. At the conclusion of construction activities, the archaeological monitor shall submit a memorandum to the City describing what, if any, archaeological resources were encountered during construction activities.*

**Finding:** Mitigation Measures 4.4-2(a) through 4.4-2(d) would avoid and/or lessen the above impact by ensuring that any existing archaeological resources are appropriately identified, documented, evaluated, and treated promptly, so they are not inadvertently damaged or destroyed. However, if a substantial archaeological resource is discovered, evaluation and recovery may not fully offset its removal from the project site. Additionally, while these mitigation measures would address impacts resulting from ground disturbance and construction relating to utility construction, the City cannot compel other services providers (such as SMUD or PG&E) to implement such measures. It is not known at this time what, if any, archaeological resources are present. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a

less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.4-5: The Project would contribute to cumulative losses of archaeological resources. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.4-5 (ESC/SPD/DB)

*Implement Mitigation Measure 4.4-2.*

**Finding:** Mitigation Measure 4.4-2 would ensure that existing archaeological resources are identified, evaluated and treated promptly before they can be damaged or destroyed during construction. However, as noted above, archaeological resources are finite. As such, the loss of this material record cannot be completely mitigated. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

### **Noise**

**Impact 4.8-1: The Project could result in a substantial permanent increase in ambient exterior noise levels in the project vicinity. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact to the extent feasible:**

#### 4.8-1(a) (ESC/SPD)

*On-site mechanical equipment (e.g., HVAC units, compressors, generators) and area-source operations (e.g., loading docks) shall be located as far as possible and/or shielded from nearby noise sensitive land uses to meet City noise standards.*

#### 4.8-1(b) (ESC)

*The project applicant shall retain a qualified acoustical consultant to verify that the architectural and outdoor amplified sound system designs incorporate all acoustical features in order to comply with the City of Sacramento Noise Ordinance.*

**Finding:** No feasible mitigation strategies have been identified to reduce the on-road transportation noise impacts to less than significant. Alternative modes of transportation (i.e., walking, biking, and transit) are already accounted for in the above traffic noise estimates. The reduction in vehicular use needed to mitigate these roadway noise impacts is not feasible for the Project. In addition, typical measures to reduce roadway noise impacts, such as noise walls, setbacks, and rubberized asphalt, are not considered feasible mitigation for development in the urban core of the City. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.8-3: Construction of the Project could result in noise levels that temporarily exceed the City standards. Without mitigation, this is a *significant impact*.**

**The following mitigation measures have been adopted to address this impact to the extent feasible:**

#### 4.8-3 (ESC/SPD)



*Prior to the issuance of any building permit for each phase of project development, the project applicant shall develop a Noise and Vibration Reduction Plan in coordination with an acoustical consultant, geotechnical engineer, and construction contractor, and submit the Plan to the City Chief Building Official for approval. The Plan shall include the following elements:*

- *To mitigate noise, the Plan shall include measures such that off-road equipment will not exceed interior noise of 45 dBA Leq (between 10 p.m. and 7 a.m.) and 75 dBA Leq (between 7 a.m. and 10 p.m.) at nearby receptors.*
- *To mitigate vibration, the Plan shall include measures such that surrounding buildings will be exposed to less than 80 VdB and 83 VdB where people sleep and work, respectively, and less than 0.2 PPV for historic buildings and 0.5 PPV for non-historic buildings to prevent building damage. Measures and controls shall be identified based on project-specific final design plans, and may include, but are not limited to, some or all of the following:*
  - *Buffer distances and types of equipment selected to minimize noise and vibration impacts during demolition/construction at nearby receptors in order to meet the specified standards.*
  - *Haul routes that affect the fewest number of people shall be selected and subject to preapproval by the City.*
  - *Construction contractors shall utilize equipment and trucks equipped with the best available noise control techniques, such as improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible.*
  - *Impact tools (i.e., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used to lower noise levels from the exhaust by up to about 10 dBA. External jackets shall be used on impact tools, where feasible, in order to achieve a further reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.*
  - *Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.*

- *Erection of a six-foot or greater solid plywood construction/noise barrier, where feasible, around the outside perimeter of the project site where the demolition or construction activity area faces occupied uses (i.e., excluding parking garages). The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.*
- *Use of “quiet” pile driving technology (such as auger displacement installation), where feasible in consideration of geotechnical and structural requirements and conditions.*
- *Erection of a scaffold with reinforced noise blankets to completely block the line of sight of the Jade Apartments and accessible faces of the Hotel Marshall prior to commencement of demolition, and shall extend the scaffold to screen the Hotel Marshall incrementally as access is provided by demolition of the adjacent Macy’s building. Alternatively, residents of these two buildings could be temporarily relocated during demolition, excavation, and construction activities that could result in noise and vibration levels that exceed the above listed thresholds.*
- *Implement a vibration, crack, and line and grade monitoring program at existing historic and non-historic buildings located within 20 feet and 10 feet of demolition/construction activities, respectively. The following elements shall be included in this program:*
  - *Pre-Demolition and Construction:*
    - *To assist with measures regarding impacts to historical resources, the project applicant and construction contractor shall solicit input and review of plan components from a person(s) who meets the SOI Professional Qualification Standards for Architectural History, and, as appropriate, an architect that meets the SOI Professional Qualification Standard for Historic Architect. These qualification standards are defined in Title 36 Code of Federal Regulations Part 61.*
    - *Photos of current conditions shall be included as part of the crack survey that the construction contractor will undertake. This includes photos of existing cracks and other material conditions present on or at the surveyed buildings. Images of interior conditions shall be included if possible. Photos in the report shall be labeled in detail and dated.*
    - *The construction contractors shall install crack gauges on cracks in the walls of the historical and non-historical buildings to measure changes in existing cracks during project activities. Crack gauges shall be installed on multiple representative cracks, particularly on sides of the building facing the project.*



- *The construction contractor shall determine the number and placement of vibration receptors at the affected historic and non-historic buildings in consultation with the consulting architectural historian and/or architect. The number of units and their locations shall take into account proposed demolition and construction activities so that adequate measurements can be taken illustrating vibration levels during the course of the project, and if/when levels exceed the established threshold.*
- *A line and grade pre-construction survey at the affected historic and non-historic buildings shall be conducted.*
- *During Demolition and Construction:*
  - *The construction contractor shall regularly inspect and photograph crack gauges, maintaining records of these inspections to be included in post-construction reporting. Gauges shall be inspected every two weeks, or more frequently during periods of active project actions in close proximity to crack monitors, such as during demolition of the Macy's Men's and Furniture Department Building near the Hotel Marshall.*
  - *The construction contractor shall collect vibration data from receptors and report vibration levels to the City Chief Building Official on a monthly basis. The reports shall include annotations regarding project activities as necessary to explain changes in vibration levels, along with proposed corrective actions to avoid vibration levels approaching or exceeding the established threshold.*
  - *With regards to historic structures, if vibration levels exceed the threshold and monitoring or inspection indicates that the project is damaging the building, the historic building shall be provided additional protection or stabilization. If necessary and with approval by the City Chief Building Official, the construction contractor shall install temporary shoring or stabilization to help avoid permanent impacts. Stabilization may involve structural reinforcement or corrections for deterioration that would minimize or avoid potential structural failures or avoid accelerating damage to the historic structure. Stabilization shall be conducted following the Secretary of Interior Standards Treatment of Preservation. This treatment shall ensure retention of the historical resource's character-defining features. Stabilization may temporarily impair the historic integrity of the building's design, material, or setting, and as such, the stabilization must be conducted in a manner that will not*

*permanently impair a building's ability to convey its significance. Measures to shore or stabilize the building shall be installed in a manner that when they are removed, the historic integrity of the building remains, including integrity of material.*

- *Post-Construction*
  - *The applicant (and its construction contractor) shall provide a report to the City Chief Building Official regarding crack and vibration monitoring conducted during demolition and construction. In addition to a narrative summary of the monitoring activities and their findings, this report shall include photographs illustrating the post-construction state of cracks and material conditions that were presented in the pre-construction assessment report, along with images of other relevant conditions showing the impact, or lack of impact, of project activities. The photographs shall sufficiently illustrate damage, if any, caused by the project and/or show how the project did not cause physical damage to the historic and non-historic buildings. The report shall include annotated analysis of vibration data related to project activities, as well as summarize efforts undertaken to avoid vibration impacts. Finally, a post-construction line and grade survey shall also be included in this report.*
  - *The project applicant (and its construction contractor) shall be responsible for repairs from damage to historic and non-historic buildings if damage is caused by vibration or movement during the demolition and/or construction activities. Repairs may be necessary to address, for example, cracks that expanded as a result of the project, physical damage visible in post-construction assessment, or holes or connection points that were needed for shoring or stabilization. Repairs shall be directly related to project impacts and will not apply to general rehabilitation or restoration activities of the buildings. If necessary for historic structures, repairs shall be conducted in compliance with the Secretary of Interior Standards Treatment of Preservation. The project applicant shall provide the City Chief Building Official and City Preservation Officer for review and comment both a work plan for the repairs and a completion report to ensure compliance with the SOI Standards.*
  - *Designate a disturbance coordinator and conspicuously post this person's number around the project site, in adjacent public spaces, and in construction notifications. The disturbance coordinator shall be responsible for responding to any local complaints about*

*construction activities. This disturbance coordinator shall receive all public complaints about construction noise disturbances and be responsible for determining the cause of the complaint and implementation of feasible measures to be taken to alleviate the problem. The disturbance coordinator shall have the authority to halt noise- or vibration-generating activity if necessary to protect public health and safety.*

- *Adjacent noise-sensitive residents and commercial uses (i.e., educational, religious, transient lodging) within 200 feet of demolition and pile driving activity shall be notified of the construction schedule, as well as the name and contact information of the project disturbance coordinator.*

**Finding:** Implementation of these mitigation measures would reduce construction noise at the Downtown project site to the extent feasible. Restricting heavy-duty equipment operations in close proximity to buildings would substantially reduce exterior and interior noise at adjacent buildings. Auger displacement pile installation could reduce associated noise by 17 dBA (compared to impact pile driving) and intervening noise barriers (i.e., fences or noise blankets) could reduce noise exposure at the nearest receptors by 10 to 15 dBA. These measures would minimize interior noise and associated sleep disturbance and any potential hearing loss effects at nearby receptors during demolition, excavation, and construction. However, even with implementation of these mitigation measures, it is likely that construction activities would result in increased levels of annoyance, interruption of conversation, and potential sleep disturbance at surrounding receptors during the day and occasionally at night. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains significant and unavoidable.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.8-4: Construction of the Project would expose existing and/or planned buildings, and persons within, to significant vibration that could**

**disturb people and damage buildings. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.8-4 (ESC/SPD)

*Implement Mitigation Measure 4.8-3.*

**Finding:** These measures would ensure that demolition/construction activities at the Downtown project site would not result in building damage at the nearest historic and non-historic building structures, and would reduce human disturbance to the extent feasible. However, the Project would still result in infrequent but substantial vibration during demolition and construction that would likely result in disturbance impacts at the nearest receptors that operate during the daytime hours (such as the 630 K Street building, and nearby commercial and office uses) and at residential receptors if demolition/construction activities were to occur within 50 feet of receptors at night. While implementation of the mitigation measures described above would avoid vibration-caused building damage and would reduce vibration impacts to surrounding receptors, it is likely that construction activities would still adversely affect surrounding receptors at times during construction on the Downtown project site. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.8-6: The Project would contribute to cumulative increases in ambient exterior noise levels in the project vicinity. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

#### 4.8-6 (ESC/SPD)

*Implement Mitigation Measures 4.8-1(a) and 4.8-1(b).*

**Finding:** Mitigation Measure 4.8-6 would reduce noise from stationary sources and exterior amplified sound systems associated with the Project to the extent feasible. In regards to cumulative traffic, no feasible mitigation strategies have been identified to reduce the on-road transportation noise impact to less than significant. Alternative modes of transportation (i.e., walking, biking, and transit) are already accounted for in the above traffic noise estimates. In addition, typical measures to reduce roadway noise impacts, such as noise walls, setbacks, and rubberized asphalt, are not considered feasible mitigation for development in the urban core of the City. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.8-8: The Project would result in exposure of people to cumulative increases in construction noise levels. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

#### 4.8-8 (ESC/SPD)

*Implement Mitigation Measure 4.8-3.*

**Finding:** Implementation of Mitigation Measure 4.8-8 would reduce construction noise to the extent feasible. However, even with implementation of these mitigation measures, it is likely that construction activities would still result in impacts at surrounding receptors during the day and occasionally at night. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this

impact to a less-than-significant level. **For these reasons, the impact remains significant and unavoidable.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

### **Transportation**

**Impact 4.10-2: The Project would worsen conditions on freeway facilities maintained by Caltrans. Without mitigation, this is a significant impact.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

#### 4.10-2 (ESC/SPD)

*Prior to the issuance of each building permit for the project, the project applicant shall pay its fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project. The payment shall cover the fair-share portion allocable to the portion of the project subject to the building permit. This mitigation measure is required with each phase of development, regardless of whether it is the ESC or a non-ESC land use.*

**Finding:** Although payment of the fair share contribution would assist in mitigating the Project's mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Payment of the fee does not ensure that the Project's impacts on the I-5 freeway would be fully mitigated. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains significant and unavoidable.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the



Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-3: The Project would worsen queuing on the J Street freeway off- ramps from I-5. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.10-3 (ESC/SPD)

*The City shall coordinate with Caltrans, as necessary, to implement the following measures to benefit operations at the J Street/3<sup>rd</sup> Street/I-5 off-ramps intersection:*

*a) AM Peak Hour: Street/3 Street/I-5 off-ramps Intersection – Revise the traffic signal green splits for the 3<sup>rd</sup> Street north-south, southbound off-ramp, and northbound off- ramp phases. The applicant shall be required to pay a fair share contribution to the City Traffic Operation Center (TOC) to revise the signal timing at this intersection.*

*b) Pre-Event Peak Hour (for large events): Implement Mitigation Measure 4.10-1 (Prepare/Implement TMP which includes potential traffic management strategies at the J Street/3<sup>rd</sup> Street/I-5 off-ramps intersection for pre-event conditions).*

*c) Pre-Event Peak Hour (for large events): The City shall coordinate with Caltrans to use existing changeable message signs (CMS) located on southbound I-5 (south of West El Camino Ave.), northbound I-5 (at Sutterville Road), and westbound Capital City Freeway (at 9<sup>th</sup> Street) to broadcast real-time information to travelers regarding preferred travel routes to access the ESC. These broadcasts would operate in conjunction with City, State, and ESC Traffic Management Centers.*

**Finding:** The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or “no project” levels. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific



economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-6: Access to light rail transit would be inadequate. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.10-6 (ESC)

*The project applicant, the City of Sacramento, and Regional Transit shall identify and implement feasible operational strategies to improve access to light rail transit before and after events at the ESC. These strategies, which shall be documented in the TMP, may include, but are not limited to, the following:*

*a) 7<sup>th</sup> Street Closure (City/Applicant responsibility): Close 7<sup>th</sup> Street between J Street and L Street to vehicular traffic (buses and LRT trains would be permitted on 7<sup>th</sup> Street) prior to the completion of an evening event and extending for a certain period after the event ends (events warranting closure and duration of closures to be identified in the TMP).*

*b) Train Boarding/Queuing at 7<sup>th</sup>/K Station (City/RT responsibility): During post-event conditions, permit pedestrians to board trains at the 7<sup>th</sup>/K (St. Rose of Lima Park) stop from both the left and right sides of the train. This measure would increase pedestrian staging space, and provide improved access to trains. Also implement strategies (wayfinding, barriers, personnel) that would enable transit riders to “queue” (stand in line) while waiting for post-game trains.*

*c) Alternative Station Loading Strategies (City/RT/Applicant responsibility): To better distribute passenger loadings, consider loading the Gold line and Blue line (to Meadowview) from different stations (i.e., one would load only at 7<sup>th</sup>/K and the other would load only at 7<sup>th</sup>/Capitol). Also consider a mid-block loading location for the Gold line on the closed portion of 7<sup>th</sup> Street from J to K Streets.*

*d) Enhanced LRT Service (City/RT/Applicant responsibility): As warranted, operate the first post-event trains (i.e., after the game ends) in each direction with four cars (versus current two-car capacity) to provide a spike in transit system capacity in response to demand.*

e) *Enhanced LRT Ticket Purchasing (City/RT/Applicant responsibility): Consider approaches such as selling LRT passes inside the ESC, special passes (valid for use on trains until midnight) sold at the box office, smartphone applications, and/or special transit ticket provisions.*

**Finding:** While some of these strategies and programs in Mitigation Measure 4.10-6 are within the City and applicant's control, others require approval by and implementation from Regional Transit. The City cannot guarantee that all needed improvements would be implemented in a reasonable period of time. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-12: The Project would contribute to cumulatively unacceptable intersection operations in the City of West Sacramento. Without mitigation, this is a *significant impact*.**

**No mitigation is available to avoid or lessen this impact.**

**Finding:** No feasible mitigation is available to avoid or lessen this impact, because both affected intersections are currently constructed to provide as much capacity as is physically possible. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-13: The Project would contribute to cumulatively unacceptable operations on freeway facilities maintained by Caltrans. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.10-13 (ESC/SPD) *Implement Mitigation Measure 4.10-2.*

**Finding:** Although payment of the fair share contribution would assist in mitigating the Project's mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Payment of the fee does not ensure that the Project's impacts on the I-5 freeway would be fully mitigated. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-14: The Project would worsen cumulatively unacceptable queuing on the J Street freeway off-ramps from I-5. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.10-14 (ESC/SPD)

*Implement Mitigation Measure 4.10-3.*

**Finding:** The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or "no project" levels. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-

significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

**Impact 4.10-17: Access to light rail transit would be inadequate under cumulative conditions. Without mitigation, this is a *significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.10-17 (ESC)

*Implement Mitigation Measure 4.10-6.*

**Finding:** While some of these strategies and programs in Mitigation Measure 4.10-6 are within the City and applicant's control, others require approval by and implementation from Regional Transit. The City cannot guarantee that all needed improvements would be implemented in a reasonable period of time. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

### **Utilities and Service Systems**

**Impact 4.11-3: The Project would contribute to cumulative increases in demand for water supply. Without mitigation, this is a *potentially significant impact*.**

**The following mitigation measure has been adopted to address this impact to the extent feasible:**

4.11-3 (ESC/SPD)

*To ensure that sufficient capacity would be available to meet cumulative demands, the City shall implement, to the extent needed in order to secure sufficient supply, one or a combination of the following:*

*(a) Maximize Water Conservation*

Chapter 6 of the 2010 UWMP outlines an array of Demand Mitigation Measures (DMMs). In order to further reduce water demands, the City could require the Project to implement additional DMMs, which would support water conservation on site, and a partial offset of anticipated water demand for the Project. DMMs discussed in the 2010 UWMP include the following:

- Water Survey Programs for Single Family and Multiple Family Residential Customers
- Residential Plumbing Retrofit
- System Water Audits, Leak Detection, and Repair
- Metering with Commodity Rates for all New Connections and Retrofit of Existing Connections
- Large Landscape Conservation Programs and Incentives
- High Efficiency Washing Machine Rebate Program
- Public Information Programs
- School Education Programs
- Conservation Programs for Commercial, Industrial, and Institutional Accounts
- Wholesale Agency Programs
- Conservation Pricing
- Water Conservation Coordinator
- Water Waste Prohibition
- Residential Ultra-Low Flush Toilet Replacement Program

*(b) Implement New Water Diversion and/or Treatment Infrastructure*

The 2010 UWMP proposes implementation of three potential additional projects that would support additional surface water diversion and/or treatment capacity within the City. Potential projects include:

1. Installation of a new WTP – Install a new WTP along the Sacramento or American River to support additional diversion and treatment;
2. Expansion of the SRWTP – Use existing water entitlements and expand design and treatment capacity of the SRWTP; and
3. Construction of a raw water line to the FWTP in order to take advantage of available and existing treatment capacity at the FWTP.

Consistent with these approaches, the City is currently exploring an additional potential surface water intake along the Lower American River, downstream of the FWTP. Water would be piped to the FWTP for treatment prior to distribution. Under another alternative, raw water would be piped from the existing Sacramento River intake to the FWTP for treatment. These projects would be initiated by or before 2023, and would be completed by or before 2028. These projects would supplement the City's supply during Hodge Flow conditions, because the proposed facilities would not be restricted by Hodge Flow limitations as is the City's current diversion infrastructure.

Each of these projects, if implemented, would require its own environmental review, as well as compliance with all applicable regulatory requirements and restrictions. Construction and operation of these facilities could result in the following categories of potentially significant impacts:

- Exposure of soils to erosion and loss of topsoil during construction;
- Surface water quality degradation;
- Changes to natural drainage courses and hydrology;
- Construction-related air emissions;
- Construction and operations-related noise impacts;
- Visual and/or light and glare impacts;
- Loss of protected species and degradation or loss of their habitats;
- Conversion of existing agricultural lands or resources;
- Degradation of fisheries habitat; and
- Exposure to pre-existing listed and unknown hazardous materials contamination.

Any such project would be subject to CEQA review. The CEQA document would identify mitigation measures to reduce any potentially significant impacts to the extent feasible. Due to the timing uncertainties associated with the long-term water supply infrastructure necessary to overcome the cumulative maximum day demands deficit in 2030, project-specific mitigation measures would need to be tailored to the selected project. The following are

illustrative of the types of mitigation measures that could be implemented to avoid or reduce those impacts listed above:

- Reduction in operational and construction air emissions as required by SMAQMD;
- Avoidance of surface water pollution through control of on-site stormwater flows, protection of top soils or stock piles from wind and water erosion, and implementation of related BMPs;
- Minimization of operational and construction noise through the use of noise attenuation measures;
- Avoidance and/or implementation of appropriate measures to restore, create, preserve or otherwise compensate for effects to biological resources;
- Avoidance of effects to buried cultural resources through investigation and pre-testing, and/or on-site archaeological monitoring and implementation of appropriate steps if cultural resources are discovered during earth moving activities;
- Avoidance of hazardous materials effects through appropriate investigation and remediation of any on-site hazards; and
- Avoidance, preservation or other appropriate compensation for loss of or adverse effects to important farmlands.

The City, as a lead or responsible agency, would be required to implement environmental review and mitigation measures identified for each individual project. The City would not be responsible for the actions taken by other local jurisdictions or agencies.

*(c) Implement Additional Groundwater Pumping*

As discussed in the 2010 UWMP, in order to meet demands under Hodge Flow restrictions, the City could also construct new groundwater production capacity and employ a conjunctive use program in order to meet future demands. The implementation of this mitigation measure would require environmental analysis to assess if the construction or operation of new wells would have any adverse environmental consequences; its implementation would require environmental evaluation. Any new wells, appurtenances and/or infrastructure could result in the following potentially significant environmental impacts:

- Exposure of soils to erosion and loss of topsoil during construction;
- Construction-related air emissions;



- Destruction of buried archeological or paleontological resources;
- Changes in natural drainage courses and hydrology;
- Construction and operations-related noise impacts;
- Visual and/or light and glare impacts;
- Conversion of existing agricultural lands or resources;
- Drawdown of groundwater in the North American Subbasin; and
- Exposure to pre-existing listed and unknown hazardous materials contamination.

**Finding:** Mitigation Measure 4.11-3 would result in implementation of action for increasing diversion and treatment capacity. The timing and location of any such improvements are unknown. Nor can the effectiveness of the mitigation be known with certainty. The City Council finds that there are no additional feasible mitigation measures or alternatives that the City Council could adopt at this time which would reduce this impact to a less-than-significant level. **For these reasons, the impact remains *significant and unavoidable*.**

To the extent that this adverse impact will not be eliminated or lessened to an acceptable (less-than-significant) level, the City Council finds that specific economic, legal, social, technological, and other considerations identified in the Statement of Overriding Considerations support approval of the Project as modified, despite unavoidable residual impacts.

#### **D. Mitigation Measures and Project Modifications Proposed by Commenters**

Several commenters on the EIR suggested additional mitigation measures and/or modifications to the project. In considering specific recommendations from commenters, the City has been cognizant of its legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. The City recognizes, moreover, that comments frequently offer thoughtful suggestions regarding how a commenter believes that a particular mitigation measure can be modified, or perhaps changed significantly, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. The City is also cognizant, however, that the mitigation measures recommended in the EIR reflect the professional judgment and experience of the City's expert staff and environmental consultants as well as extensive consultation with the expert staff and consultants of responsible and trustee agencies. In considering commenters' suggested changes or additions to the mitigation measures as set forth in the EIR, the City, in determining whether to

accept such suggestions, either in whole or in part, considered the following factors, among others:

- (i) Whether the suggestion relates to a significant and unavoidable environmental effect of the Project, or instead relates to an effect that would already be mitigated to less than significant levels by proposed mitigation measures in the EIR;
- (ii) Whether the proposed mitigation represents a clear improvement, from an environmental standpoint, over the proposed mitigation measures in the EIR;
- (iii) Whether the proposal may have significant environmental effects, other than the impact the proposal is designed to address, such that the proposal is environmentally undesirable as a whole;
- (iv) Whether the suggestion is sufficiently clear as to be easily understood by those who will implement the mitigation as finally adopted;
- (v) Whether the suggestion might be too inflexible to allow for pragmatic implementation;
- (vi) Whether the suggestions are feasible from an economic, technical, legal, or other standpoint; and
- (vii) Whether the proposal is consistent with the Project objectives.

Where feasible, the mitigation measures were revised or clarified in response to comments. Staff also initiated changes to the text of the Draft EIR, including mitigation measures. In some cases, suggested measures are not feasible and/or lack the requisite nexus and rough proportionality to the anticipated significant adverse impacts of the Project on the physical environment. With respect to the suggestions by commenters that were not added to the Final EIR, the City hereby adopts and incorporates by reference the reasons set forth in the responses to comments contained in the Final EIR as its grounds for rejecting those suggestions.

#### **E. Project Alternatives.**

The City Council has considered the Project alternatives presented and analyzed in the final EIR and presented during the comment period and public hearing process. Some of these alternatives have the potential to avoid or reduce certain significant or potentially significant environmental impacts, as set forth below. The City Council finds, based on specific economic, legal, social, technological, or other considerations, that these alternatives are infeasible. Based on the impacts identified in the Final EIR and other reasons summarized below, and as supported by substantial evidence in the record, the City Council finds that approval and implementation of the Project as proposed is the most desirable, feasible, and appropriate action and hereby rejects the other alternatives and other combinations and/or variations of alternatives as infeasible based on consideration of the relevant factors set forth in CEQA Guidelines section 15126.6, subdivision (f). (See also CEQA Guidelines, § 15091, subd. (a)(3).)

### **Alternatives Considered and Dismissed from Further Consideration**

In identifying alternatives to the Project, primary consideration was given to alternatives that could reduce significant unavoidable impacts resulting from the Project. Certain impacts that are identified as being significant and unavoidable under the Project (e.g., increase in air pollutants from project construction and operation) are due primarily to intensifying development activity in an area that is currently underutilized. These impacts would not be possible to eliminate, but could be reduced by limiting the size of the project. Alternatives that reduce the intensity of development on the project site or change the location of the project are addressed later in this chapter.

The following alternatives were considered but dismissed from further analysis because they would not fulfill most of the project objectives, would not eliminate or substantially lessen environmental effects, and/or would otherwise be infeasible:

- **No Entertainment and Sports Center:** The primary objectives of the Project are to construct an entertainment and sports center in downtown Sacramento to serve as a long-term home to the NBA Sacramento Kings and provide a community-wide resource that could serve as a venue for an array of entertainment and sporting events. As is described below, for nearly 15 years there has been increasing awareness and discussion that the existing Sleep Train Arena is inadequate to meet the long-term needs of the Kings and is increasingly limited in its ability to attract premier sports and entertainment events. Thus, the City eliminated from further consideration any alternative

that did not involve the construction and operation of a new entertainment and sports center.

- **Substantially Smaller Facility:** At the time of its opening in 1988, Sleep Train Arena was the smallest arena in the NBA in square feet and the second smallest in terms of seating capacity. By virtue of its small size and the current conditions of the facility, Sleep Train Arena lacks many of the features needed to successfully support an NBA basketball team and attract front-line sporting and entertainment events. In order to avoid or materially reduce the environmental effects of the Project that are affected by the size of the proposed ESC (such as construction air pollutant emissions), an alternative would need to include a substantially smaller entertainment and sports center, either in terms of seating capacity or in terms of patron and user amenities, or both. Such a facility would fail to achieve the basic objectives of the project in that it would fail to be a state-of-the-art ESC with 17,500 seats that could serve as the long-term home of the Kings, meet the applicant's commitments to the City and the NBA, or be able to accommodate major entertainment and sporting events. Therefore, a facility smaller than Sleep Train Arena would not be able to accommodate demand for seats as well as other amenities. Finally, reducing the square footage of the facility would not in and of itself substantially reduce project impacts or reduce them to insignificance.
- **Alternative ESC Sites:** A number of sites for a new entertainment and sports center have been considered over the years. Those that the City has determined to be infeasible for financial, political, environmental, or practicability reasons (e.g., Cal Expo, the Docks, Lot G) were not considered further in the EIR.
- **SPD-Only Alternative:** An alternative to certain components of the project would be to construct the SPD portion only, which includes residential, hotel, retail and office uses. The ESC would not be constructed under this alternative. While this alternative would avoid all of the impacts specific to the ESC, it would not meet most of the objectives of the Project, which involve construction of a new state-of-the-art entertainment and sports facility. For the reasons described above, any alternative that did not include the construction and operation of a new entertainment and sports center was dismissed from further analysis.
- **Alternative Digital Billboard Sites:** The offsite digital billboard locations included in the Project were selected because they would potentially meet

Caltrans standards and would be visible from major freeways making them potentially economically viable and feasible under the City's Sign Ordinance (see Chapter 15.148.800). A total of ten sites were evaluated, although no more than six (6) sites would ultimately be selected under the terms of the Preliminary Nonbinding Term Sheet approved by the City Council in March 2013. It is currently unclear that there are other City-owned properties that would potentially meet Caltrans standards and would provide the visibility from major freeways to be economically feasible. Because the number of sites evaluated was greater than the actual number of billboards and represent a variety of locations throughout the Sacramento community, the ten identified sites represent a range of reasonable alternatives for the offsite digital billboards and no additional billboard locations were considered.

- **Smaller Billboards:** The impacts of the digital billboards are due primarily to their visibility and advertising surface, which is largely affected by height and orientation. Signs with a smaller area but still large enough to be easily seen would not substantially reduce significant impacts relating to, for example, light and glare. In addition, advertising on digital billboards is most often contracted on a regional and national basis. The companies that purchase advertising space on digital billboards design their advertisements to fit a standard sized digital billboard face and would be unlikely to go to the cost of designing advertisements for a uniquely sized billboard face, thus altering the size of the billboard face as part of an effort to reduce the size or visibility of a digital billboard is not considered feasible.

Lastly, the height of a digital billboard is largely dictated by the physical characteristics of the light emitting diodes (LEDs) that comprise the billboard face. The LEDs are designed to be seen from straight on, and the visibility rapidly diminishes as the view angle to the LED becomes more oblique. If the face is too high or too low, the visibility would be materially reduced. In addition, since the billboards are designed and placed to be seen by approaching motorists, the billboard face must be of sufficient height to be above an automobile dashboard and below the typical tinted upper edge of a windshield (typically the upper 1-3 inches).

For the reasons described above, an alternative that would materially alter the size, height, or orientation of a digital billboard would not be considered feasible.

- **Static Billboards:** In some cases, the digital billboards were found to have significant visual impacts due largely to the fact that they are brightly lit and have continually changing electronic messages. Traditional static billboards

would not have the same visual character, but are often lit with spotlights that could have greater luminosity and spillover effects.

One of the objectives of the Project is to provide for signage that supports and enhances the success of the ESC. The proposed offsite digital billboards would meet this objective by (1) providing a platform for advertising ESC events, and (2) generating revenue. In light of the multitude of events that would take place at the ESC, digital billboards would be much better able to advertise multiple events than a static billboard. Further, revenue generation is materially higher for digital billboards than static billboards. Because static billboards would fail to be consistent with the terms of the Preliminary Nonbinding Term Sheet, and would fail to meet a basic objective related to signage, an alternative involving static billboards was not considered further in the EIR.

### **Alternatives Proposed by Commenters**

In several comments on the EIR, various alternatives to the proposed Project were suggested. The City evaluated those alternatives in response to comments to the extent appropriate, and declines to provide further analysis as unnecessary based on the entirety of the record and as explained in responses to comments in the Final EIR. Specifically, with respect to the project alternatives suggested by commenters that were not added to the Final EIR and were not selected instead of the proposed Project, the City hereby adopts and incorporates by reference the reasons set forth in the responses to comments contained in the Final EIR as its grounds for rejecting those alternatives.

### **Summary of Alternatives Considered**

CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project. The alternatives to the ESC and SPD components of the Project analyzed in the EIR are the (1) No Project Alternative; (2) ESC at Railyards Alternative; (3) ESC in Natomas Alternative; and (4) Reduced Mixed Use Development Alternative.



The City Council rejects the Alternatives set forth in the Final EIR and summarized below because the City Council finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section in addition to those described in Section F below under CEQA Guidelines 15091(a)(3), that make infeasible such Alternatives. In making these determinations, the City Council is aware that CEQA defines “feasibility” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” The Council is also aware that under CEQA case law the concept of “feasibility” encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project. and (ii) the question of whether an alternative is “desirable” from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

### **Alternative 1: No Project Alternative**

#### **Description**

Under CEQA, the No Project Alternative must consider the effects of forgoing the project. The No Project/No Development Alternative describes the environmental conditions that exist at the time that the environmental analysis commences (CEQA Guidelines, section 15126.6 (e)(2)). In the case of the Project, the Downtown project site is already in a developed state, so continuation of existing conditions would involve continued operation of Sleep Train Arena and ongoing economic and related activity at the Downtown Plaza. Existing conditions are described in the Environmental Settings of each section within Chapter 4 of the EIR. The alternatives analysis must also describe conditions that could reasonably be expected to occur if the project is not approved. In this case, it is reasonable to assume that, if the Project is not approved, improvements in the overall economy would increase retail activity in downtown Sacramento and that the owners of Downtown Plaza would be successful in obtaining new tenants.

Under the No Project alternative, the City Council would not approve any project, and none of the adopted mitigation measures would be implemented. No demolition would occur under Alternative 1, because the existing Sleep Train Arena and Downtown Plaza buildings would be retained.

Under the No Project Alternative, Alternative 1, it is assumed that the Kings would remain playing at Sleep Train Arena. In light of the stated commitment of



the current Kings ownership to have the team remain in Sacramento, it is reasonable to assume that Kings ownership and the City would seek an alternate location for the development of a new ESC in Sacramento.

### **Relationship to Project Objectives**

None of the Project Objectives would be achieved under the No Project Alternative.

**Finding:** While the No Project Alternative would avoid impacts associated with the Project, this alternative would not further any of the Project objectives or provide any of the benefits contemplated by the Project, and is therefore rejected. The City Council rejects the No Project Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

### **Alternative 2: ESC at Railyards**

#### **Description**

Alternative 2 assumes that a new entertainment and sports center would be built at the Railyards in a location previously considered by the City in 2011-2012. No major changes would be made to the Downtown Plaza, but it is assumed that occupancy rates would increase to approximately 2004 levels due to improvements in the overall economy and re-tenanting efforts.

The ESC at the Railyards would be located on a 13-acre site located adjacent to and immediately west of the Sacramento Valley Station, bordered by the elevated structure of Interstate 5 to the west, the Amtrak passenger tunnel to the east, the Depot and associated parking lots to the south, and the recently-realigned Union Pacific Railroad (UPRR) tracks to the north.

Similar to the Project, under Alternative 2 the Railyards ESC would be an approximately 779,000 square foot facility providing a venue for sports and entertainment events. The Sacramento Kings offices and practice facilities would be constructed on the site. The Railyards ESC would have the same number of seats—17,500—as the Project, and it is assumed that event attendance levels would be essentially the same, an estimated 1.5 million attendees per year.

### **Relationship to Project Objectives**

Alternative 2 would meet most of the project objectives to some degree, but not to the same extent as the Project. Alternative 2 would result in a state-of-the-art entertainment and sports center to serve as the long-term home of the NBA Sacramento Kings, and develop up to 1.5 million square feet of mixed use development (office, hotel, retail, and residential) within the property formerly known as Downtown Plaza. The ESC would be a technologically advanced, sustainable building that could be used for major entertainment and civic events, and the ESC and SPD would be located in an area where it would be maximize density and meet smart growth principles, be compatible with and enhance the surrounding area, and could catalyze redevelopment of previously blighted areas. The ESC would serve as a destination catalyst for development in the downtown. The Railyards ESC would be served by public transportation, including rail, light rail and buses, bike and pedestrian facilities, and existing streets, highways and parking facilities that have adequate capacity to accommodate ESC traffic. The design would be the same as the Project, so it would meet the design and layout objectives.

The Railyards ESC may not meet the project objective relating to locating the ESC on a site that can be readily assembled and that enables the development of the facility within budget and on schedule to meet the applicant's commitments to the NBA and the City of Sacramento. The Railyards ESC is under one ownership (the City), but is not controlled by the applicant. In addition, the site is constrained by its size and the proximity of the SITF. An August 2012 Briefing Report identified the following difficulties with locating an arena at the Railyards site:

Compromised Program Functions. Existing site features—the small size of the site, constrained access, site grading, constructed tunnels, utility lines, and other physical constraints on the site—limit potential development solutions such as the ability to lower the ESC facility below grade. To enable the successful function of both the ESC and SITF on the project site, the optimal performance of each facility may be compromised or cause inconveniences which will need to be recognized and deemed acceptable by site users and stakeholders and/or functions accommodated elsewhere such as those described below.

- Spaces needed for loading areas of the ESC site are minimal
- Pedestrian plaza spaces are tight for the ESC event functions and need to be designed to allow pedestrian activities to safely overflow onto public right-of-ways and in the adjacent areas of the Downtown

- VIP and patron parking for the ESC will need to be provided off-site though possible parking opportunities are nearby and within a walkable distance of the site
  - The number of bus berths would be limited by the size of the facility that can be fitted on the site; thus, potentially requiring exploration of other sites
  - Transit patrons would mix with ESC patrons in the plaza areas that accommodate their shared circulation and service needs, especially during events at the ESC which may be a frustration for transit users
- In addition, despite the proximity to the SITF, Alternative 2 would not be as accessible to public transportation as the Project. As documented above, the Alternative 2 site would be accessible to one RT LRT line compared to the three lines that are immediately adjacent to the Project site. Further, the Project site is proximate to bus stops used by numerous RT and regional transit bus service providers, and is better served than the Alternative 2 site.

Under Alternative 2, the ESC site is more constrained in terms of accessibility of the local street and highway system than the Project. Situated between J and L Streets, the Project site is readily served by the CBD's grid street system, and is readily accessible from I-5 at I, J, L, and P/Q Streets. Conversely, the Railyards ESC site is highly constrained with vehicular accessibility limited to access from H, I, and 5<sup>th</sup> Streets.

Compared to the Project, Alternative 2 would fail to enhance connections through the downtown area. Since it would be relatively isolated on the Railyards site, Alternative 2 would not provide the connectivity of the Project between Old Sacramento and the K Street corridor.

**Finding:** Alternative 2 (ESC at the Railyards) would avoid or lessen some impacts associated with the Project; however, this alternative would not further some of the key Project objectives related to timing and budget, among others, and involves a site that is physically constrained as well as being outside the applicant's ownership and control. Alternative 2 (ESC at the Railyards) therefore is rejected. The City Council rejects Alternative 2 (ESC at the Railyards) on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

### **Alternative 3: ESC in Natomas**

## **Description**

Under this alternative, a new ESC would be constructed on property owned by the project applicant and/or the City of Sacramento near the existing Sleep Train Arena. The Natomas ESC would be similar in size, function and character as the Project. Downtown Plaza is assumed to have improved operations, with the same occupancy levels as Alternative 1.

For purposes of analysis, it is assumed that the Natomas ESC would likely be constructed on the existing parking lot to the southeast of the existing Sleep Train Arena. Access would be the same as the current access for Sleep Train Arena, with entrances connecting to East Commerce Way and Truxel Road. The Alternative 3 ESC footprint would occupy approximately six acres. The building would be approximately 700,000 square feet and would have a maximum occupancy of 17,500 seats. As with the Project, the new ESC would include expanded amenities including food service, locker rooms, and other facilities.

Under this alternative, the existing Sleep Train Arena would be demolished after opening of the new ESC.

## ***Relationship to Project Objectives***

Alternative 3 would achieve few of the project objectives, and fail entirely to achieve those related to location. Under Alternative 3, a state-of-the-art entertainment and sports center (ESC) with approximately 17,500 seats that could serve as the long-term home of the NBA Sacramento Kings. The ESC would be located on a site that could be readily assembled, and that should not have extensive budget issues. However, due to the status of the floodplain building regulations, the ESC may not be able to be feasibly built in Natomas by the deadline set by the NBA.

Because the ESC would have similar capacity to the existing Sleep Train arena, the existing streets would be able to accommodate automobile traffic associated with the Natomas ESC Alternative. There is more than enough parking for the ESC at the Alternative 3 site. The Alternative 3 ESC could be designed to be technologically innovative capable of accommodating the Kings and a broad array of other events. The Natomas ESC could be constructed to LEED Silver standards, so that it would be sustainable, but less so than the Downtown ESC, which would be built to LEED Gold standards. Local and regional artists could be

tapped to enhance the project. Because the existing Sleep Train arena would be demolished, it would not be reused.

Many of the project objectives are aimed at creating an active, multi-faceted community attraction that enlivens the surrounding area that embodies smart growth principles. The Natomas ESC site is not conducive to these objectives because it is located in a suburban setting, surrounded by a large parking lot, low-density office buildings and two- to three-story multifamily homes. Nor would it be conducive to creating a central, energized district with regular events, activities, or year-round programming that would augment events and games at the ESC. Locating the ESC in Natomas would not catalyze redevelopment of previously blighted areas, because it would essentially replace an existing facility. It is unlikely that an ESC in Natomas would become a world-class destination given the lack of supporting amenities (e.g., lodging, restaurants, other urban attractions such as museums) in the vicinity of the site.

The Natomas site is not well served by public transportation, with only limited bus service and no light rail or train service in the immediate vicinity. The site is not likely to become a multimodal place, because the distance to homes, restaurants and other employment centers is too far to be conducive to walking, biking and/or taking transit to events at the ESC. Attendees at the current Sleep Train arena rely overwhelmingly on automobiles to travel to events and this would be likely to continue given the transportation infrastructure.

A number of objectives are tied directly to locating the ESC in the downtown area, including development of 1.5 million square feet of mixed-use space at the Downtown Plaza, establishing a framework for successful development of the Downtown Plaza, connecting with and enhancing downtown from the waterfront to the convention center, and sparking redevelopment of underutilized properties in the Central Business District. These objectives would not be met by Alternative 3 due to its location.

**Finding:** Alternative 3 (ESC in Natomas) would avoid or lessen some impacts associated with the Project; however, this alternative would not further most of the key Project objectives or achieve many of the benefits contemplated by the Project, and is therefore rejected. The City Council rejects Alternative 3 (ESC in Natomas) on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

#### **Alternative 4: Reduced Mixed Use Development**

## **Description**

Under this alternative, the ESC would be constructed as described in Chapter 2, Project Description. The SPD area would also be developed, but at a lower intensity and a different mix of uses than under the Project.

## ***ESC***

Under Alternative 4, the ESC would be identical to the facility described for the Project, except that the practice facility would be relocated. The ESC would be 697,000 square feet and provide 17,500 seats, along with a practice facility and related space of approximately 82,000 square feet. Annual attendance would be approximately 1.5 million as described for the Project. The 82,000 square foot practice facility would be incorporated into the SPD area, rather than being located adjacent to the eastern side of the ESC.

## ***Downtown Plaza***

Under this alternative, the amount of retail/restaurant and office space would be reduced, as shown in Table 6-4. The most substantive differences between Alternative 4 and the Project would be a 79% reduction in office and a 44% reduction in retail/commercial uses. Residential and hotel uses would be identical to the Project.

This development would occur within the same area as the SPD under the Project. However, the size of buildings would be reduced. As a result, buildings might have smaller footprints with more public space and/or towers might be more slender and/or shorter than under the Project.

## ***Relationship to Project Objectives***

Alternative 4 could meet objectives related directly to construction of a new entertainment and sports facility in downtown Sacramento. This alternative also could meet objectives related to smart growth, mixed-use development, and revitalizing and energizing the Downtown Plaza area and downtown from the river to the Capitol. These objectives would not be as fully realized under Alternative 4, because the amount of commercial and retail development would be substantially reduced.



**Finding:** Although the Reduced Mixed Use Development Alternative would avoid or lessen some impacts associated with the Project and would generally meet most Project objectives, the City Council rejects this alternative as infeasible within the meaning of CEQA for the following reasons:

*Employment Opportunities.* This alternative would provide fewer employment opportunities both during construction and in new commercial space, and significantly reduce numbers of construction and permanent jobs.

*Inconsistency with City Policy.* This alternative would be inconsistent with several City policies that encourage the City's highest intensity development to be located in the Central Business District, including Chapter 17.216.800 of the City Code, which defines the purpose of the C-3 zone (also known and referred to as the central business district (CBD)), "to provide for the most intense residential, retail, commercial, and office developments in the city." In addition, this alternative would be inconsistent with 2030 General Plan policy LU 2.4.5 (which reflects the City's vision of a prominent "central core with the City's tallest buildings", and Central City Community Plan policies CC.LU 1.5 (which emphasizes office development in the Central Business District) and CC.LU 1.6 (which encourages office development in the Central Business District).

The City Council rejects the Reduced Development Alternative on each of these grounds independently. All of the reasons provide sufficient independent grounds for rejecting this Alternative.

### **Summary of Discussion Regarding Alternatives**

For all of the foregoing reasons, and each of them, the City has determined to approve the proposed Project rather than an alternative to the proposed Project.

### **Offsite Digital Billboards**

The digital billboard sites analyzed in the EIR are:

**I-5 at Water Tank:** This site is located adjacent to the City water tank near Freeport Boulevard. There is a residential neighborhood located to the northwest and west of this digital billboard site. Depending on its orientation, a digital billboard at this location might be visible from the yards and perhaps even interiors of homes located on El Morro Court and/or El Rico Way, the streets closest to the billboard site. If visible, the digital billboard could degrade the visual environment of these homes (Impact 4.1-1). Mitigation Measure 4.1-1a would



reduce the magnitude of this impact by ensuring that a digital billboard is oriented, designed and screened to minimize visibility from nearby homes. However, it is currently not possible to determine with certainty that this measure could fully screen the illuminated billboard face at these sites. Thus, the impact at this site may remain significant. Depending on the angle of the sign, light from the billboard could be visible from and/or spillover onto nearby residential parcels (Impact 4.1-2). This impact would be less than significant with implementation of Mitigation Measure 4.1-2, which would restrict the light output from the digital billboard, thereby preventing spillover.

Ornamental tress located adjacent to this site could provide suitable nesting habitat for raptors and other migratory bird species. In addition, cliff swallow nests have been observed on the bottom of the adjacent water tank. Although a billboard at this location would not require removal of trees and/or the nests on the water tank, construction activities could disrupt nesting birds (Impacts 4.3-2 and 4.3-6). Mitigation Measure 4.3-2 would ensure that nesting birds were protected by requiring preconstruction surveys and buffers around active nests.

**US 50 at Pioneer Reservoir:** This site is located within the boundary of the Pioneer Reservoir, immediately north of the Pioneer Bridge, where US 50 crosses the Sacramento River. This site is located in proximity to several sites identified on hazardous materials lists. Therefore, it is possible that the site contains contaminated soils that could be disturbed during construction (Impact 4.6-1). Mitigation Measures 4.6-1b and 4.6-1c require that a Phase 1 Environmental Site Assessment (ESA) be prepared for this site prior to final project design. Any recommendations in the ESA must be implemented, including follow up sampling to characterize the contamination and remediation as needed. This measure would ensure that construction workers are protected from contaminated soils if present, and reduce the impact to a less-than-significant level.

**Business 80 at Sutter's Landing Regional Park:** This site is located within the former City landfill adjacent to Business 80.

There are two elderberry shrubs within this billboard site, one of which contained exit holes. Therefore, Valley elderberry longhorn beetle (VELB), a federally-listed species, could be present. Construction activities and associated removal of vegetation, ground disturbance and run-off from construction sites could result in loss of the VELB habitat and possibly mortality for VELB (if present) (Impacts 4.3-1 and 4.3-6). Mitigation Measure 4.3-1a would require a survey for VELB and

compensatory mitigation for any Valley elderberry shrubs that are affected by construction of a digital billboard at this location. With mitigation, this impact would be less than significant.

This site contains eucalyptus trees that could provide suitable nesting habitat for raptors and roosting sites for special-status bat species that could be disturbed by construction activities (4.3- 2). This impact would be reduced to a less-than-significant level through implementation of Mitigation Measure 4.3-2a, which would protect nesting birds by requiring preconstruction surveys and establishing buffers around any nests that are present.

**Business 80 at Del Paso Regional Park/Haggin Oaks:** This site is located along the Haggin Oaks Trail adjacent to the Alister MacKenzie Golf Course.

This site contains mature ornamental trees, which could provide suitable habitat for raptors and other migratory birds and roosting sites for special-status bat species (Impacts 4.3-2 and 4.3-6). In addition, the site contains habitat that could support burrowing owls. Mitigation Measures 4.3- 2a, 4.3-2b, and 4.3-2c would ensure these wildlife species are protected from harm by requiring preconstruction surveys, avoiding construction during the nesting season, and that appropriate buffers would be used to protect nesting birds or roosting bats if they are present.

**Business 80 at Sutter's Landing Regional Park/American River:** This site is located north of Interstate 80 and west of the American River. The freeway and adjacent soundwall separate the billboard site from the River Park residential neighborhood to the south. The site is adjacent to the American River Parkway. Depending on where the billboard was situated on the site, the billboard structure would be visible from the Parkway, which could degrade the visual quality of this area (Impact 4.1-1). Mitigation Measure 4.1-1b would reduce the magnitude of this impact by ensuring that a digital billboard is located at a sufficient distance from the Parkway that would minimize its visibility from the Jedediah Smith Memorial Trail and the river, however the impact would remain significant after mitigation. The Business 80 freeway would provide enough separation that light from the billboard would not spillover onto residential parcels to the south, so the lighting impact would be less than significant at this location (Impact 4.1-2).

Trees located within 500 feet of the project site could provide suitable nesting habitat for raptors and migratory bird species that could be disturbed by construction activities (4.3-2 and 4.3-6). This impact would be reduced to a less-

than-significant level through implementation of Mitigation Measure 4.3-2a would protect nesting birds by requiring preconstruction surveys and establishing buffers around nests.

This site is located within this “Triangle” mitigation area. A digital billboard at this site may conflict with the compensatory mitigation goals identified by Resolution No. 2011-609, because a portion of the “Triangle” mitigation area would be occupied by the proposed digital billboard footprint and not available for restoration (Impact 4.3-5). Additionally, installation of a digital billboard in this location may result in temporary construction-related impacts to the restoration area. Mitigation Measure 4.3-5 would reduce the impact to a less-than-significant level by requiring the applicant to restore all temporary project-related impacts immediately following the completion of installation of the digital billboard, and to implement additional site restoration and enhancement within the “Triangle” mitigation area to ensure no net loss of habitat values.

**Interstate 80 at Roseville Road:** This site is located at the intersection of I-80 westbound and Roseville Road.

One site on a contaminated site list, the North Highlands Air National Guard, is located within 1/4 mile of the Roseville Road billboard site. Therefore, the project site could contain contaminated soils and/or groundwater (Impacts 4.6-1 and 4.6-3). Mitigation Measures 4.6-1b and 4.6-1c require that a Phase 1 Environmental Site Assessment be prepared for this site prior to final project design. Any recommendations in the ESA must be implemented, including follow up sampling to characterize the contamination and remediation as needed. This measure would ensure that construction workers are protected from contaminated soils and groundwater if present, and reduce the impact to a less-than-significant level.

**SR 99 at Calvine Road:** This site is located on a parcel adjacent to the SR 99 southbound onramp from eastbound Calvine Road.

This site contains a portion of a detention basin and associated upland annual grasslands. Wetland features appear to be present within the detention basin. If the billboard were located within the detention basin, it might encroach on wetlands. Even if the billboard would not encroach into the detention basin, construction activities could indirectly affect the wetlands through ground disturbance and subsequent erosion and water quality degradation (Impacts 4.3-3 and 4.3-7). This impact would be less than significant with implementation of

Mitigation Measure 4.3-3, which would require preparation of a wetland delineation, avoidance of wetlands if feasible, and implementation of mitigation measures, if necessary, to achieve no net loss of wetlands.

**I-5 Bayou Road:** This site is located in North Natomas, within the landscaped shoulder on the north side of Bayou Road near Interstate 5. No significant impacts would occur for this site other than those described in the EIR as being common to all digital billboard sites.

**I-5 at San Juan Road:** This site is located immediately west of Interstate 5 and north of San Juan Road. The site is bordered by the interstate and road and undeveloped land. A residential neighborhood is located to the south, across San Juan Road. Due to the potential visibility of the billboard face from front yards and through windows to indoor areas, it is possible that nighttime operation of a billboard in this location could result in a substantial degradation of the visual environment for sensitive receptors at the I-5 at San Juan Road site (Impact 4.1-1). Mitigation Measure 4.1-1a would reduce the magnitude of this impact by ensuring that a digital billboard is oriented, designed and screened to minimize visibility from nearby homes. However, it is currently not possible to determine with certainty that this measure could fully screen the illuminated billboard face at these sites. Thus, the impact at this site may remain significant. In addition, light from the sign could spillover into front- and backyards and interiors of homes south of San Juan Road (Impact 4.1-2). Mitigation Measure 4.1-2(h) would restrict the light output from the digital billboard, reducing this impact to a less-than-significant level.

This digital billboard site contains a fresh emergent wetland that is hydrologically connected to drainage channels that could provide habitat for the giant garter snake, a federally-listed species (Impacts 4.3-1 and 4.3-6). Mitigation Measure 4.3-1b would reduce impacts on giant garter snake by requiring surveys for the snake, and implementation of construction protocols that would ensure that the snake would be protected from harm.

This site is located adjacent to the City's existing water drainage system and supports approximately 0.06 acres of freshwater emergent wetland. The exact location of the billboard is not known, but it could encroach into this wetland, resulting in the loss of the wetland (Impacts 4.3-3 and 4.3-7). This impact would be less than significant with implementation of Mitigation Measure 4.3-3, which requires preparation of a wetland delineation, avoidance of wetlands if feasible,

and implementation of mitigation measures, if necessary, to achieve no net loss of wetlands.

**I-5 at Sacramento Railyards:** This site is located in the Sacramento Railyards near the I Street onramp to northbound Interstate 5.

The Sacramento Railyards property is subject to ongoing remediation for soil and groundwater contamination. The digital billboard at this location would be constructed with a spread footing foundation so that only 5 feet of excavation would be needed. Contaminated soils and groundwater are unlikely to be encountered at such a shallow depth. Nonetheless, depending on the ultimate location of the billboard, it could disturb contaminated soils (Impact 4.6-1). Mitigation Measures 4.6-1b and 4.6-1c requires that a Phase 1 Environmental Site Assessment be prepared for this site prior to final project design. Any recommendations in the ESA must be implemented, including follow up sampling to characterize the contamination and remediation as needed. This measure would ensure that construction workers are protected from contaminated soils if present, and reduce the impact to a less-than-significant level.

**F. Statement of Overriding Considerations:**

Pursuant to Guidelines section 15092, the City Council finds that in approving the Project it has eliminated or substantially lessened all significant and potentially significant effects of the Project on the environment where feasible, as shown in Sections 5.0 through 5.6. The City Council further finds that it has balanced the economic, legal, social, technological, and other benefits of the Project against the remaining unavoidable environmental risks in determining whether to approve the Project and has determined that those benefits outweigh the unavoidable environmental risks and that those risks are acceptable. The City Council makes this statement of overriding considerations in accordance with section 15093 of the Guidelines in support of approval of the Project.

Any one of the reasons for approval cited below is sufficient to justify approval of the Project. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Public Resources Code section 21167.6, subdivision (e).

**Statement of Overriding Considerations:**

The City Council has considered the information contained in and related to the Final EIR (the Draft EIR, Comments and Responses to those documents, text changes and other revisions to the EIR, and all other public comments, responses to comments, accompanying technical memoranda and staff reports, and findings included in the public record for the Project). Pursuant to CEQA Guidelines section 15092, the City Council finds that in approving the Sacramento Entertainment and Sports Center & Related Development project (Project) it has eliminated or substantially lessened all significant and potentially significant effects of the Project on the environment where feasible as shown in the findings. The City Council further finds that it has balanced the economic, social, technological and other benefits of the Project against the remaining unavoidable environmental risks in determining whether to approve the Project and has determined that those benefits outweigh the unavoidable risks and that those risks are acceptable. The City Council makes this statement of overriding considerations in accordance with CEQA Guidelines section 15093 in support of approval of the Project. Specifically, in the City Council's judgment, the benefits of the Project as proposed outweigh the unmitigated adverse impacts and the proposed Project should be approved.

The overall goal of the Project is to construct and operate the proposed Sacramento Entertainment and Sports Center (ESC), approximately 1.5 million square feet of surrounding mixed-use development, and up to six (6) offsite digital billboards on City of Sacramento-owned property, and to transfer ownership of certain City-owned properties to the Project applicant. Based on the objectives identified in the Final EIR and administrative record, and through extensive public participation, the City Council has determined that the proposed Project should be approved, and any remaining significant environmental impacts attributable to the proposed Project are outweighed by the following specific environmental, economic, fiscal, social, housing and other overriding considerations. Each benefit set forth below is supported by substantial evidence in the record and constitutes an overriding consideration warranting approval of the proposed Project, independent of the other benefits, despite each and every unavoidable impact.

The considerations that have been taken into account by the City Council in making this decision are identified below.



**Land Use.** The Project will replace the antiquated and suburban Sleep Train Arena and the underperforming Downtown Plaza shopping center, and will create a new state-of-the-art entertainment and sports center surrounded by up to 1.5 million square feet of mixed-use development. Redevelopment of these facilities will incorporate many of the best principles of smart growth and quality urban design and will advance the City's land use goals and policies. Key land use-related benefits include the following:

- Redevelopment of the underperforming and substantially vacant Downtown Plaza shopping center consistent with 2030 General Plan policies LU 1.1.15, LU 2.6.2, LU 5.4.2; Central City Community Plan policy CC LU 1.3; and City of Sacramento Economic Development Strategy, 2013 Economic Development Strategic Goals #1 - Invest in Building Sacramento: Facilitate and Promote Projects and Program Initiatives that Support Economic Growth, Quality of Life and Job Creation in Key Areas of the City, Action Item 1.1;
- Creation of a mixed-use, transit-oriented development, including residential, retail, restaurant, hotel, office and other related uses in close proximity to a wide array of modes of transportation consistent with 2030 General Plan goal LU 4.4, policy LU 2.6.1, LU 5.1.1, LU 5.1.2, LU 5.1.4, and LU 5.1.5, and Central City Community Plan policies CC LU 1.3 and CC H 1.1;
- Continuation of the redevelopment of K Street consistent with City of Sacramento Economic Development Strategy, 2013 Economic Development Strategic Goal #1 – Action Item 1.2; and
- Setting the stage for planning for future reuse of the current Sleep Train Arena and long-time vacant adjacent parcel in North Natomas, consistent with City of Sacramento Economic Development Strategy, 2013 Economic Development Strategic Goal #1 – Action Item 1.29.

**Housing.** The Project will add up to 550 housing units to the City's housing stock. Key housing-related benefits include the following:

- Addition of market-rate, high-rise housing in the heart of the Central Business District, where little market rate housing currently exists, consistent with policies H 1.3.4, H1.3.5, H 2.2.1, and H 6.4 of the 2013-2021 Housing Element of the City's 2030 General Plan and the Central City Community Plan policy CC H 1.1;
- Construction of housing as part of mixed-use development projects, consistent with 2013-2021 Housing Element Policy H1.2.4. A high-rise



housing product is desired but currently unavailable in the Sacramento region;

- Payment of school, park, and open space fees notwithstanding the fact that this housing type generally does not create a substantial burden on these resources;
- Addition of up to 550 units to the City's housing inventory, advancing the City's ability to achieve its Regional Housing Needs Allocation established by SACOG and reflected in the 2013-2021 Housing Element, which requires 24,101 new units, including 3,200 above moderate income, multi-family units (see 2013-2021 Housing Element, Table H 9-1). The proposed 550 units would represent 17.2% of the RHNA-required above moderate income, multi-family units; and
- Addition of up to 550 units in an area of the City unconstrained by flood risk, advancing the City's achievement of 2013-2021 Housing Element Policy H 2.3.4 and Implementation Program 29.

**Sustainable Development.** The Project would implement a comprehensive sustainability strategy, including LEED Gold certification of the Entertainment and Sports Center facility, that includes principles, goals, targets and strategies for key elements including site design and land use, transportation, energy, water and wastewater, materials, solid waste, health, safety and security, community and society and economic development. Key benefits of the Project's sustainable development plan include the following:

- A 19-22% reduction in per-attendee vehicle miles travelled by passenger vehicles and light duty trucks to NBA events compared to conditions at the existing Sleep Train Arena (see discussion on Draft EIR pages 4.10-69 and 4.10-70, Table 4.10-20; and 4.10-82 and 4.10-83, Table 4.10-30);
- Achievement of carbon neutrality for use of private automobiles and light duty trucks compared to the average levels at Sleep Train Arena between 2002 and 2013 (see Draft EIR page 4.5-12 and Table 4.5-1);
- Reductions in per-attendee greenhouse gas emissions from travel to and from events at the ESC compared to travel to and from Sleep Train Arena, which would exceed the goals established by SACOG in the 2013 Metropolitan Transportation Plan/Sustainable Communities Strategy. The MTP/SCS goals are 9% for 2020 and 16% for 2035; the ESC would result in reductions of 36% in 2020 and 45% in 2035 (see Draft EIR page 4.5-13 and Table 4.5-2);
- Increased energy efficiency that includes 15% more efficient than 2013 Title 24/CalGreen requirements, and potential inclusion of up to 1% on-

- site renewable energy generation and/or design of the ESC facility to allow for on-site renewable energy generation to be added in the future;
- Decreased water demand;
  - Incremental elimination of current operational dewatering discharges (up to 15.1 million gallons per month) to the City's Combined Sewer System (CSS) as documented on page 4.11-31 and 4.11-32 of the Draft EIR; and
  - Certification of the ESC as LEED Gold, consistent with 2030 General Plan policy 8.1.5.

**Economic Development.** The Project will provide opportunities to generate thousands of new annual construction jobs, encouraging participation by small and local business enterprises through a comprehensive employment and contracting policy. Key benefits of the Project's economic development plan include the following:

- Provision of approximately 1,355 construction jobs over the 2.5 year period of demolition and construction (see Draft EIR page 2-62 to 2-65);
- Creation of 2,100 new permanent jobs at the Project site, and approximately 1,700 additional jobs elsewhere in the region, for a total of about 3,800 new permanent jobs (see Draft EIR pages 2-42 and 2-43, and Table 2-8 for jobs at the project site, and page 5-8, Table 5-1, for indirect and induced jobs in the region);
- Retention of 265 permanent jobs and up to 1,200 event-related temporary jobs that currently exist at Sleep Train Arena that would be relocated to the ESC site. Without implementation of this Project, the potential exists that the Sacramento Kings would be relocated to another city, which would result in the loss of these jobs in the Sacramento community;
- Implementation of a Priority Apprenticeship Program that will create apprenticeship job opportunities for low-income and disadvantaged individuals in the construction of the ESC, consistent with Sacramento 2013 Economic Development Strategy, Action Items 5.4 and 5.5. Through the program, the Project applicant will partner with the Sacramento-Sierra Building and Construction Trades Council, SETA, the Urban League of Greater Sacramento, Sacramento Area Congregations Together, the Center for Employment Training, La Familia, the Asian Resource Center, and Northern California Construction Training, to recruit, train and deploy at least 70 "Priority Apprentices" to help build the ESC. Qualifying individuals must live in Sacramento, and must have at least two of the following characteristics: low income, receive cash/public assistance,

- receive food stamps, former foster youth, homeless, ex-offender, or veteran<sup>1</sup>;
- Partnership with local chambers of commerce to implement a Local Business and Small Business Utilization Program that will set specific performance targets for biddable work related to ESC design, construction and professional services, consistent with Sacramento 2013 Economic Development Strategy, Action Items 2.3, 2.6, and 5.2,. The program will ensure that 60% of biddable work will be awarded to local businesses, and 20% of work will be awarded to small businesses, of which 75% must be local small businesses.<sup>2</sup> This program is consistent with goals for the ESC project adopted by the City Council on October 29, 2013, including a goal which focuses on leveraging economic development opportunities resulting from the Project. In addition, the plan is consistent with the City's recently adopted Economic Development Strategy which has five strategic goals including Invest in Building Sacramento and Invest in Local Business<sup>3</sup>;
  - Delivery of an iconic structure that will house the NBA Sacramento Kings and will increase the visibility of Sacramento as a tourist destination, consistent with 2030 General Plan policy ED 1.1.1, and Sacramento 2013 Economic Development Strategy, Action Item 3.8; and
  - Implementation of a substantial public-private partnership to implement City goals for revitalization and redevelopment, as encouraged by 2030 General Plan policies LU 8.1.11 and ED 4.1.3.

**Downtown Revitalization.** The City's General Plan and implementing plans for the City's core identify the Downtown project site and surrounding area as a high priority for revitalization where the City will focus reinvestment and redevelopment efforts. Implementation of the Project would promote development consistent with the City's vision for the Downtown area. Key benefits related to downtown revitalization include the following:

- Creation of a mixed-use development, including residential, retail, restaurant, office, hotel, and entertainment uses, consistent with 2030 General Plan policies LU 5.6.1, 5.6.2, and 5.6.3; and
- Reinforcement of downtown Sacramento as the region's cultural center, consistent with 2030 General Plan policy LU 5.6.7.

<sup>1</sup> Sacramento Kings, Sacramento ESC Priority Apprenticeship Program Flyer, March 2014.

<sup>2</sup> Sacramento Kings, Sacramento ESC Local Business and Small Business Utilization Program Flyer, March 2014.

<sup>3</sup> City of Sacramento, City Council Report #2013-00909, December 10, 2013.

**Community Facilities.** The Project will provide a comprehensive package of educational, social, cultural, environmental and public safety facilities and programs, including development of a major public plaza and support of public art. Key benefits of the Project would include the following:

- Creation of a major public plaza around the ESC comprised of approximately 1.8 acres out of 3.4 acres of open space included in the Project. The plaza would include a central bosque element, hydroponic gardens, sculptures, and other features to promote public interest and use;
- Implementation of a public art program, including a contribution equal to 2% of the physical construction costs, to install publicly accessible art that would make a significant artistic statement in conjunction with the ESC; and
- Donation of existing public art located in Downtown Plaza to the Sacramento Metropolitan Arts Commission, including select low-relief terra cotta panels that are currently adhered to existing Downtown Plaza buildings.

Having considered the benefits outlined above, the City Council finds that the benefits of approving the Project outweigh and override the unavoidable adverse environmental effects associated with the Project, and therefore, the Project's unavoidable adverse environmental effects are acceptable.

## CHAPTER 4

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# Mitigation Monitoring Plan

### 4.1 Introduction

Section 15097 of the California Environmental Quality Act (CEQA) Guidelines requires public agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring Plan (MMP) for the Sacramento Entertainment and Sports Center & Related Development project. The intent of the MMP is to prescribe and enforce a means for properly and successfully implementing the mitigation measures identified within the Draft EIR for this project.

### 4.2 Mitigation Measures

The mitigation measures are taken from the Sacramento Entertainment and Sports Center & Related Development Draft EIR and are assigned the same number as in the Draft EIR. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions.

### 4.3 MMP Components

The components of the attached table, which contains applicable mitigation measures, are addressed briefly, below.

**Impact:** This column summarizes the impact stated in the Draft EIR.

**Mitigation Measure:** All mitigation measures that were identified in the Sacramento Entertainment and Sports Center & Related Development Draft EIR are presented, as revised in the Final EIR, and numbered accordingly.

**Action(s):** For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented, and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.

**Component:** This column identifies the relevant component of the Proposed Project to which the mitigation measure applies. The mitigation measure may apply to the ESC, the SPD area, or one or more of the digital billboard sites. More than one project component may be identified.

**Implementing Party:** This item identifies the entity that will undertake the required action.

**Timing:** Implementation of the action must occur prior to or during some part of project approval, project design or construction or on an ongoing basis. The timing for each measure is identified.

**Monitoring Party:** The City of Sacramento is primarily responsible for ensuring that mitigation measures are successfully implemented. Within the City, a number of departments and divisions would have responsibility for monitoring some aspect of the overall project. Other agencies, such as the Sacramento Metropolitan Air Quality Management District, may also be responsible for monitoring the implementation of mitigation measures. As a result, more than one monitoring party may be identified.

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
<b>4.1 Aesthetics, Light, and Glare</b>						
4.1-1: The Proposed Project could substantially degrade the existing visual character or quality of the site and its surroundings.	4.1-1(a) <i>At the I-5 at Water Tank and I-5 at San Juan Road sites, the digital billboard shall be oriented and designed, including the addition of screening and shielding features, to minimize the visibility of the lighted northern billboard face to homes on El Morro Court and El Rito Way, and to minimize the visibility of the lighted southern billboard face to homes on San Juan Road, Almonetti Avenue, and Tice Creek Way. Once the precise location and design of the digital billboard at this location has been proposed, the visibility of the LED face from windows and backyards of nearby homes shall be assessed and screening of the billboard face from view at nearby homes and yards shall be confirmed through a visibility study prepared by the applicant to the satisfaction of the Planning Director.</i>	Prepare a visibility study that is to the satisfaction of the Planning Director demonstrating that the LED face is screened from view at nearby homes and yards on the streets identified in Mitigation Measure 4.1-1(a).	DB-1, DB-9	Project applicant	Prior to approval of design, review permit	City of Sacramento Community Development Department
	4.1-1(b) <i>At the Business 80 at Sutter's Landing Regional Park/American River site, the digital billboard pole shall be located to eliminate the visibility of the billboard from the Jedediah Smith Memorial Trail and from the level of the river. Once the precise location and design of the digital billboard at this location has been proposed, the visibility of the billboard shall be assessed and compliance with the requirements of Policy 7.24 of the American River Parkway Plan shall be confirmed through a visibility study prepared by the applicant to the satisfaction of the Planning Director.</i>	Prepare a visibility study that is to the satisfaction of the Planning Director demonstrating that the digital billboard at Business 80 at Sutter's Landing Regional Park/American River location will not be visible from the Jedediah Smith Memorial Trail or the river, and that demonstrates compliance with Policy 7.24.	DB-5	Project applicant	Prior to approval of design review permit	City of Sacramento Community Development Department
4.1-2: The Proposed Project could create substantial new sources of light.	4.1-2(a) <i>The project applicant shall require construction contractors to ensure that all lighting related to construction activities shall be shielded or directed to restrict any direct illumination onto property located outside of the Downtown project site boundaries that is improved with light-sensitive uses.</i>	Include light screening requirements on Construction Plans.	ESC, SPD	Project applicant	During construction	City of Sacramento Community Development Department
	4.1-2(b) <i>Exterior lighting included within the ESC or SPD area shall incorporate fixtures and light sources that focus light on-site to minimize spillover light.</i>	Identify light fixtures to be used on Construction Plans and demonstrate that the fixtures minimize spill over.	ESC, SPD	Project applicant	Prior to approval of design review permit	City of Sacramento Community Development Department
	4.1-2(c) <i>The project applicant shall submit a conceptual signage and lighting design plan for the ESC to the Department of City Planning to establish lighting design standards and guidelines.</i>	Submit a conceptual signage and lighting design plan for the ESC to the Department of City Planning to establish lighting design standards and guidelines.	ESC, SPD	Project applicant	Prior to issuance of building permit for the ESC	City of Sacramento Community Development Department

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards



**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	4.1-2(d) <i>Prior to issuance of a building permit for the ESC signage displays, the project applicant shall retain a lighting design expert who shall develop plans and specifications for the proposed lighting displays, establish maximum luminance levels for the displays, and review and monitor the installation and testing of the displays, in order to insure compliance with all City lighting regulations and these mitigation measures.</i>	Retain a lighting design expert who shall develop plans and specifications for the proposed lighting displays, establish maximum luminance levels for the displays, and review and monitor the installation and testing of the displays, in order to insure compliance with all City lighting regulations and these mitigation measures.	ESC, SPD	Project applicant	Prior to issuance of building permit for the ESC signage displays	City of Sacramento Community Development Department
	4.1-2(e) <i>Project lighting shall not cause more than two foot-candles of lighting intensity or direct glare from the light source at any residential property. This would preclude substantial spillover light from bright lighting sources.</i>	Identify lighting fixtures to be used consistent of Mitigation Measure 4.1-2(e)  Include light brightness specifications on Construction Plans.	ESC, SPD  ESC, SPD	Project applicant  Project applicant	Prior to design review permit  Prior to construction	City of Sacramento Community Development Department  City of Sacramento Community Development Department
	4.1-2(f) <i>The project applicant shall comply with City Code Section 8.072.010, which establishes regulations regarding the use of searchlights.</i>	Demonstrate compliance with City Code Section 8.072.010, regarding the use of searchlights.	ESC, SPD	Project applicant	Prior to approval of special use or event permit involving the use of searchlights	Sacramento Police Department
	4.1-2(g) <i>At the Downtown project site, all light emitting diodes used within the integral electronic display shall have a horizontal beam spread of maximum 165 degrees wide and 65 degrees vertically, and shall be oriented downwards to the plaza/street, rather than upwards.</i>	Demonstrate that all light emitting diodes used at the Downtown project site have a horizontal beam spread of maximum 165 degrees wide and 65 degrees vertically, and are oriented downwards to the plaza/street, rather than upwards.  Include light brightness and orientation specifications on Construction Plans.	ESC, SPD  ESC, SPD	Project applicant  Project applicant	Prior to design review permit  Prior to construction	City of Sacramento Community Development Department  City of Sacramento Community Development Department
	4.1-2(h) <i>The maximum ambient light output level for any digital billboard shall be two (2) foot-candles at the closest residential property line from the billboard.</i>	Demonstrate that the maximum ambient light output level for any digital billboard at the San Juan Road location is no more than two (2) foot-candles at the closest residential property line from the billboard.  Include light brightness specifications on appropriate Construction Plans.	DB-9  DB-9	Project applicant  Project applicant	Prior to design review permit  Prior to construction	City of Sacramento Community Development Department  City of Sacramento Community Development Department
4.1-3: The Proposed Project could create new sources of glare.	4.1-3 <i>In the SPD area, highly reflective mirrored glass walls shall not be used as a primary building material (no more than 35 percent) for building facades adjacent to J Street and 7th Street. Instead, low emission (Low-E) glass shall be used in order to reduce the reflective qualities of the buildings, while maintaining energy efficiency.</i>	Demonstrate that low emission will be used on building facades adjacent to J Street and 7 <sup>th</sup> Street.  Include low emission (Low-E) glass specifications on Construction Plans.	SPD  SPD	Project applicant  Project applicant	Prior to design review permit  Prior to construction	City of Sacramento Community Development Department  City of Sacramento Community Development Department

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
<b>4.2 Air Quality</b>						
4.2-2: Construction of the Proposed Project would result in short-term emissions of NO <sub>x</sub> .	<p>4.2-2(a)</p> <p><i>City approval of any grading or improvement plans shall include the following SMAQMD Basic Construction Emission Control Practices, including:</i></p> <ul style="list-style-type: none"> <li><i>All exposed surfaces shall be watered two times daily. Exposed surfaces include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads.</i></li> <li><i>Cover or maintain at least two feet of free board space on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways shall be covered.</i></li> <li><i>Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited.</i></li> <li><i>Limit vehicle speeds on unpaved roads to 15 miles per hour.</i></li> <li><i>All roadways, driveways, sidewalks, parking lots shall be paved as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</i></li> <li><i>Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes (as required by the state airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site.</i></li> <li><i>Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment shall be checked by a certified mechanic and determine to be running in proper condition before it is operated.</i></li> </ul>	Include construction site and equipment specifications identified in Mitigation Measure 4.2-2(a) on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to issuance of demolition or grading permit	City of Sacramento Community Development Department, Sacramento Metropolitan Air Quality Management District (SMAQMD)
	<p>4.2-2(b)</p> <p><i>City approval of any grading or improvement plans shall include the following SMAQMD Enhanced Exhaust Control Practices, including:</i></p> <ul style="list-style-type: none"> <li><i>Provide a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the Proposed Project to the City and the SMAQMD. The inventory shall include the horsepower rating, engine model year, and</i></li> </ul>	Include construction equipment specifications listed in Mitigation Measure 4.2-2(b) on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to issuance of demolition permit or grading permit	City of Sacramento Community Development Department, Sacramento Metropolitan Air Quality Management District (SMAQMD)

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>projected hours of use for each piece of equipment. The construction contractor shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman. This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment. The inventory shall be updated and submitted monthly throughout the duration of the Proposed Project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.</i></p> <ul style="list-style-type: none"> <li><i>Provide a plan in conjunction with the equipment inventory, approved by the SMAQMD, demonstrating that the heavy-duty (50 horsepower or more) off-road vehicles to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project wide fleet-average 20% NOx reduction and 45% particulate reduction compared to the most recent CARB fleet average. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.</i></li> <li><i>Emissions from all off-road diesel powered equipment used on the project site shall not exceed 40% opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately, and the City and SMAQMD shall be notified within 48 hours of identification of non-compliant equipment. A visual survey of all in-operation equipment shall be made at least weekly, and a monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey. The SMAQMD and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this measure shall supersede other SMAQMD or state rules or regulations.</i></li> <li><i>If at the time of granting of each building permit, the SMAQMD has adopted a regulation applicable to construction emissions, compliance with the regulation may completely or partially replace this mitigation. Consultation with the SMAQMD prior to construction will be necessary to make this determination.</i></li> </ul>					
	<p>4.2-2(c)</p> <p><i>The project applicant shall coordinate with SMAQMD to determine and ensure payment of off-site mitigation fees to offset the significant NOx emissions associated with the Proposed Project.</i></p>	<p>Provide proof of payment of SMAQMD fees to the City of Sacramento Community Development Department.</p>	<p>ESC, SPD, DB-all</p>	<p>Project applicant, SMAQMD</p>	<p>Prior to issuance of demolition or grading permit</p>	<p>Sacramento Metropolitan Air Quality Management District (SMAQMD)</p>

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.2-3: The Proposed Project would result in long-term (operational) emissions of NOx or ROG.	4.2-3 <i>The Proposed Project shall join and maintain membership in the Sacramento Transportation Management Association (TMA).</i>	Provide proof of membership to the City of Sacramento Community Development Department.	ESC, SPD	Project applicant	Prior issuance of certificate of occupancy	City of Sacramento Community Development Department
4.2-4: The Proposed Project would generate construction emissions of PM10.	4.2-4 <i>Implement Mitigation Measure 4.2-2(a).</i>	See Mitigation Measure 4.2-2(a).	ESC, SPD, DB-all	See Mitigation Measure 4.2-2(a).	See Mitigation Measure 4.2-2(a).	See Mitigation Measure 4.2-2(a).
4.2-8: The Proposed Project would contribute to cumulative increases in short-term (construction) emissions.	4.2-8 <i>Implement Mitigation Measures 4.2-2(a) through 4.2-2(c).</i>	See Mitigation Measures 4.2-2(a) through 4.2-2(c).	ESC, SPD, DB-all	See Mitigation Measures 4.2-2(a) through 4.2-2(c).	See Mitigation Measures 4.2-2(a) through 4.2-2(c).	See Mitigation Measures 4.2-2(a) through 4.2-2(c).
4.2-9: The Proposed Project would contribute to cumulative increases in long-term (operational) emissions of NOx or ROG.	4.2-9 <i>Implement Mitigation Measure 4.2-3.</i>	See Mitigation Measure 4.2-3.	ESC, SPD	See Mitigation Measure 4.2-3.	See Mitigation Measure 4.2-3.	See Mitigation Measure 4.2-3.
4.2-10: The Proposed Project would contribute to cumulative increases in PM10 concentrations.	4.2-10 <i>Implement Mitigation Measure 4.2-2(a).</i>	See Mitigation Measure 4.2-2(a).	ESC, SPD, DB-all	See Mitigation Measure 4.2-2(a).	See Mitigation Measure 4.2-2(a).	See Mitigation Measure 4.2-2(a).
<b>4.3 Biological Resources</b>						
4.3-1: Construction of the Proposed Project could disturb or harm listed wildlife species and/or destroy or degrade their habitat.	4.3-1(a)  (1) <i>Prior to construction at the Business 80 at Sutter's Landing Regional Park digital billboard site, the site shall be surveyed for the presence of the valley elderberry longhorn beetle and its elderberry host plant by a qualified biologist in accordance with USFWS protocols. If elderberry plants with one or more stems measuring 1.0 inch or greater in diameter at ground level occur on or adjacent to the project site, or are otherwise located where they may be directly or indirectly affected by the Proposed Project, minimization and compensation measures, which include transplanting existing shrubs and planting replacement habitat (conservation plantings), are required (see below). Surveys are valid for a period of two years. Elderberry plants with no stems measuring 1.0 inch or greater in diameter at ground level are unlikely to be habitat for the beetle because of their small size and/or immaturity. Therefore, no minimization measures are required for removal of elderberry plants with all stems measuring 1.0 inch or less in diameter at ground level.</i>  (2) <i>For shrubs with stems measuring 1.0 inch or greater, the City shall ensure that elderberry shrubs within 100 feet of proposed development be protected and/or compensated for in accordance with the "U.S. Fish and Wildlife Services' (USFWS) Conservation Guidelines for the Valley Elderberry Longhorn Beetle and the Programmatic Formal Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle Within the Jurisdiction of the Sacramento Field Office."</i>	Conduct survey for VELB and elderberry shrubs as specified. If no stems over 1.0 inch are found, no further action is required.	DB-3	Project applicant	Prior to issuance of grading permit	City of Sacramento Community Development Department and USFWS
		If stems over 1.0 inch are found, include elderberry plant protection requirements on Grading Plans.	DB-3	Project applicant	Prior to issuance of grading permit if stems over 1.0 inch are found	City of Sacramento Community Development Department and USFWS

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SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	4.3-1(b)	To minimize impacts to giant garter snakes, follow the protocol described in Mitigation Measure 4.3-1(b) at the I-5 at San Juan Road digital billboard site.	DB-9	Project applicant	During construction per time frames described in Mitigation Measure 4.3-1(b)	City of Sacramento Community Development Department and USFWS
	(1) <i>No more than 24-hours prior to the commencement of construction activities at the I-5 at San Juan Road digital billboard site, a preconstruction survey shall be conducted to survey for giant garter snakes by a USFWS-approved biologist. The biologist shall provide the USFWS with a written report that adequately documents the monitoring efforts within 24-hours of commencement of construction activities. The project site shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.</i>					
	(2) <i>Construction activity within giant garter snake habitat (e.g., riverine and fresh emergent wetland) shall be conducted between May 1 and September 30. This is the active period for the snake and direct mortality is lessened as snakes are expected to actively move and avoid danger. If it appears that construction activity may go beyond September 30, the City shall contact the USFWS as soon as possible, but not later than September 15 of the year in question, to determine if additional measures are necessary to minimize take. Construction activities within 200 feet from the banks of aquatic snake habitat will be avoided during the snake's inactive season. If this is not feasible, the City shall consult with USFWS to determine measures to avoid impacts to giant garter snake. If project activities are approved to continue into the inactive season, a USFWS-approved biologist shall inspect construction-related activities daily during this period for unauthorized take of federally listed species or destruction of their habitat. The biologist shall be available for monitoring throughout all phases of construction that may result in adverse effects to the giant garter snake.</i>					
	(3) <i>Any dewatered habitat shall remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling the dewatered habitat.</i>					
	(4) <i>A Worker Environmental Awareness Training Program for construction personnel shall be conducted by the USFWS-approved biologist for all construction workers, including contractors, prior to the commencement of construction activities. The program shall provide workers with information on their responsibilities with regard to the snake, an overview of the life-history of this species, information on take prohibitions, protections afforded this animal under FESA, and an explanation of the relevant terms and conditions of project permits. Written documentation of the training shall be submitted to the Sacramento Fish and Wildlife Office within 30 days of the completion of training. As needed, training shall be conducted in Spanish for Spanish language speakers.</i>					
	(5) <i>Prior to the commencement of construction activities, high visibility fencing shall be erected around the habitats of giant garter snake to identify and protect</i>					

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>these designated areas from encroachment of personnel and equipment. These areas shall be avoided by all construction personnel. The fencing shall be inspected by the Contractor before the start of each work day and maintained by the Contractor until completion of the project. The fencing may be removed only when the construction of the project is completed. Fencing shall be established in upland habitat immediately adjacent to aquatic snake habitat and extending up to 200 feet from construction activities. Silt fencing, if properly installed and maintained, may serve as suitable snake exclusion fencing.</i></p> <p>(6) <i>Signs shall be posted by the Contractor every 50 feet along the edge of the GGS habitat, with the following information: "This area is habitat of federally-threatened and/or endangered species, and must not be disturbed. These species are protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs should be clearly readable from a distance of 20 feet, and shall be maintained by the Contractor for the duration of construction.</i></p> <p>(7) <i>The Contractor shall minimize the potential for harm, harassment, and direct mortality of the snake resulting from project-related activities by implementation of the project. The Contractor shall ensure that the temporary loss of giant garter snake habitat is confined to the Proposed Project site.</i></p> <p>(8) <i>Movement of heavy equipment to and from the project site shall be restricted to established roadways to minimize habitat disturbance.</i></p> <p>(9) <i>Temporary impacts shall be restored to pre-project conditions. Areas subject to temporary impacts shall be limited to one season (the calendar year period between May 1 and October 1) and be restored within two seasons. Permanent impacts to giant garter snake habitat shall be replaced at a 3:1 ratio which must include both upland and aquatic habitat components. A portion of the mitigation for permanent loss of wetlands at a ratio no less than 1:1 may fulfill a portion of the 3:1 mitigation obligation for permanent impacts to giant garter snake habitat. This mitigation may be fulfilled through in-kind, onsite or off-site, out-of-kind mitigation as approved by the U.S. Fish and Wildlife Service and the Corps.</i></p>					
4.3-2: Construction of the Proposed Project could disturb nesting raptors, migratory birds, and/or maternity roosts for special-status bat species.	<p>4.3-2(a)</p> <p><i>The project applicant shall conduct any tree removal activities required for project construction outside of the migratory bird and raptor breeding season (February 1 through August 31) where feasible. For any construction activities that will occur between February 1 and August 31,</i></p>	Conduct any tree removal and construction activities according to the protocol described in Mitigation Measure 4.3-2(a).	ESC, SPD, DB-1, DB-3, DB-4, DB-5	Project applicant	During construction per the time frames described in Mitigation Measure 4.3-2(a) for tree removal and construction activities between February 1 and August 31.	City of Sacramento Community Development Department and CDFW

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>the applicant shall conduct preconstruction surveys in suitable nesting habitat within 500 feet of the construction area for nesting raptors and migratory birds. Surveys shall be conducted by a qualified biologist. In addition, all trees slated for removal during the nesting season shall be surveyed by a qualified biologist no more than 48-hours before removal to ensure that no nesting birds are occupying the tree. For Swainson's hawk nesting habitat, surveys shall be conducted in accordance with the Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley).</i></p> <p><i>If active nests are found during the survey, the applicant shall implement appropriate mitigation measures to ensure that the species will not be adversely affected, which will include establishing a no-work buffer zone as approved by CDFW, around the active nest.</i></p> <p><i>Measures may include, but would not be limited to:</i></p> <p><i>(1) Maintaining a 500-foot buffer around each active raptor nest. No construction activities shall be permitted within this buffer. For migratory birds, a no-work buffer zone shall be established, approved by CDFW, around the active nest. The no-work buffer may vary depending on species and site specific conditions as approved by CDFW.</i></p> <p><i>(2) Depending on conditions specific to each nest, and the relative location and rate of construction activities, it may be feasible for construction to occur as planned within the buffer without impacting the breeding effort. In this case (to be determined on an individual basis), the nest(s) shall be monitored by a qualified biologist during construction within the buffer. If, in the professional opinion of the monitor, the project would impact the nest, the biologist shall immediately inform the construction manager. The construction manager shall stop construction activities within the buffer until the nest is no longer active.</i></p>	<p>Include tree removal timing and/or tree protection requirements on Grading and Construction Plans.</p>	<p>ESC, SPD, DB-1, DB-3, DB-4, DB-5</p>	<p>Project applicant</p>	<p>Prior to construction</p>	<p>City of Sacramento Community Development Department and CDFW</p>
	<p>4.3-2(b)</p> <p><i>Pre-construction surveys for burrowing owls shall be conducted by a qualified biologist (as approved by CDFW) within 30-days prior to the start of work activities at the Business 80 at Del Paso Regional Park/Haggin Oaks billboard site where land construction is planned in known or suitable habitat. If construction activities are delayed for more than 30 days after the initial preconstruction surveys, then a new preconstruction survey shall be required. All surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation.</i></p> <p><i>(1) If burrowing owls are discovered in the Proposed Project site vicinity during construction, the CDFW-approved project biologist shall be notified immediately. Occupied burrows shall not be disturbed during the nesting season (February 1 through August</i></p>	<p>Conduct pre-construction surveys for burrowing owls and construction activities according to the protocol described in Mitigation Measure 4.3-2(b).</p>	<p>DB-4</p>	<p>Project applicant</p>	<p>During construction per the time frames described in Mitigation Measure 4.3-2(b) (surveys within 30 days of site work)</p>	<p>City of Sacramento Community Development Department and CDFW</p>

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	<p>31) unless a qualified biologist approved by the CDFW verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>(2) Occupied burrows during the nesting season shall be avoided by establishment of a no-work buffer of 250-foot around the occupied/active burrow. Where maintenance of a 250-foot no-work buffer zone is not practical, the City shall consult with the CDFW to determine appropriate avoidance measures. Burrows occupied during the breeding season (February 1 to August 31) will be closely monitored by the biologist until the young fledge/leave the nest. The onsite biologist shall have the authority to stop work if it is determined that construction related activities are disturbing the owls.</p> <p>(3) If approved by CDFW, the biologist may undertake passive relocation techniques by installing one-way doors in active and suitable burrows (that currently do not support eggs or juveniles). This would allow burrowing owls to escape but not re-enter. Owls should be excluded from the immediate impact zone and within a 160-foot buffer zone by having one-way doors placed over the entrance to prevent owls from inhabiting those burrows.</p>					
	<p>4.3-2(c)</p> <p><i>If tree removal activities commence on the project site during the breeding season of special-status bat species (April 1 to August 31), then a field survey shall be conducted by a qualified biologist to determine whether active roosts are present on site or within 50 feet of the project boundaries. Field surveys shall be conducted early in the breeding season before any construction activities begin, when bats are establishing maternity roosts but before pregnant females give birth (April through early May). If no roosting bats are found, then no further mitigation is required.</i></p> <p><i>If roosting bats are found, then disturbance of the maternity roosts shall be avoided by halting construction until the end of the breeding season or a qualified bat biologist excludes the roosting bats in consultation with CDFW.</i></p>	Conduct tree removal activities according to the protocol described in Mitigation Measure 4.3-2(c).	DB-3, DB-4	Project applicant	During construction per the time frames described in Mitigation Measure 4.3-2(c) (for any tree removal between April 1 and August 31)	City of Sacramento Community Development Department and CDFW
4.3-3: The Proposed Project could remove, fill, interrupt or degrade protected wetlands.	<p>4.3-3</p> <p>(a) <i>The City shall require that the applicant(s) for the I-5 at San Juan Road and SR 99 at Calvine Road proposed billboard site (if the project encroaches into the detention basin) conduct a formal wetland delineation of wetlands and other waters of the U.S. within those project sites. The wetland delineation shall be submitted to the Corps for verification. If jurisdictional wetlands or other waters of the U.S. are not present,</i></p>	Follow the protocol described in Mitigation Measure 4.3-3 to minimize impacts to wetlands.	DB-7, DB-9	Project applicant	Prior to issuance of grading permit	City of Sacramento Community Development Department, USACE, and CDFW

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<i>no further action is required.</i>					
	(b) <i>If jurisdictional wetlands or other waters of the U.S. are present, the applicant shall avoid them if feasible. The Proposed Project shall minimize disturbances and construction footprints near avoided wetlands and other waters of the U.S to the extent feasible.</i>					
	(c) <i>If avoidance is not feasible, then the applicant shall demonstrate that there is no net loss of wetlands through compensation. This measure may be satisfied by obtaining a Section 404 permit. To ensure that there is no net loss of wetland habitat and no significant impact to potential jurisdictional features, the project shall compensate for impacted wetlands at a ratio no less than 1:1. Compensation shall take the form of wetland preservation, enhancement or creation in accordance with Corps and CDFW mitigation requirements, as required under project permits. Preservation and creation may occur on-site (through a conservation agreement) or off-site (through purchasing credits at a Corps approved mitigation bank).</i>					
	(d) <i>At the I-5 at San Juan Road proposed billboard site, the project applicant shall compensate for loss of habitat in the Natomas Basin at a 0.5-to-1.0 ratio, per the requirements of the NBHCP.</i>					
4.3-4: The Proposed Project could require removal of Street Trees and/or Heritage Trees.	4.3-4  <i>The applicant for any project within the Downtown project site that would remove street and/or heritage trees shall submit a tree removal permit application for the removal of protected trees, as defined by City Codes 12.56 and 12.64. The application shall include proposed mitigation measures to protect retained trees and proposed replacement measures to mitigate for the loss of tree resources (replacement measures may be determined in consultation with the City's Director of the Department of Public Works). Several standard tree protection measures for retained trees are listed below; these measures may be revised in consultation with the City's Director of the Department of Transportation as appropriate.</i>	Include tree removal requirements and/or tree protection requirements on Grading and Construction Plans. Include tree replacement requirements on Grading and Construction Plans.	ESC, SPD	Project applicant	Prior to grading permit issuance.	City of Sacramento Community Development Department and Department of Public Works
		Remove street and/or heritage trees according to the protocol described in Mitigation Measure 4.3-4.	ESC, SPD	Project applicant	During construction	City of Sacramento Community Development Department and Department of Public Works
	<ul style="list-style-type: none"> <li><i>A Tree Protection Zone (TPZ) shall be established around any tree or group of trees to be retained. The formula typically used is defined as 1.5 times the radius of the dripline or 5 feet from the edge of any grading, whichever is greater. The TPZ may be adjusted on a case-by-case basis after consultation with a certified arborist.</i></li> <li><i>The TPZ of any protected trees shall be marked with permanent fencing (e.g., post and wire or equivalent), which shall remain in place for the duration of construction activities in the area. Post "keep out" signs on all sides of fencing.</i></li> </ul>					

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	<ul style="list-style-type: none"> <li>Construction-related activities, including grading, trenching, construction, demolition, or other work shall be prohibited within the TPZ. No heavy equipment or machinery shall be operated within the TPZ. No construction materials, equipment, machinery, or other supplies shall be stored within a TPZ. No wires or signs shall be attached to any tree. Any modifications must be approved and monitored by a certified arborist.</li> <li>Prune selected trees to provide necessary clearance during construction and to remove any defective limbs or other parts that may pose a failure risk. All pruning shall be completed by a certified arborist or tree worker and adhere to the Tree Pruning Guidelines of the International Society of Arboriculture.</li> <li>The TPZs of protected trees shall be monitored on a weekly basis.</li> <li>A certified arborist shall monitor the health and condition of the protected trees and, if necessary, recommend additional mitigations and appropriate actions. This shall include the monitoring of trees adjacent to project facilities in order to determine if construction activities (including the removal of nearby trees) would affect protected trees in the future.</li> </ul>					
4.3-5: The Proposed Project could install a digital billboard within a habitat mitigation area, resulting in a net loss in restorable area.	4.3-5 <i>To mitigate for potential temporary and permanent impacts to Sutter's Landing Regional Park's "Triangle" mitigation area, the applicant shall restore all temporary project-related impacts immediately following the completion of installation of the digital billboard. The applicant shall implement additional site restoration and enhancement within the "Triangle" mitigation area to ensure no net loss of habitat values. Restoration and enhancement activities may include the planting of additional oak trees and other vegetation (native shrubs, vines, forbs, and/or grasses) consistent with the 28<sup>th</sup> Street Landfill Tree Removal Mitigation Committee Report.</i>	Follow the protocol described in Mitigation Measure 4.3-5 to mitigate for temporary and permanent impacts to Sutter's Landing Regional Park's "Triangle" mitigation area.  Include project-related site restoration requirements on Construction Plans.	DB-5  DB-5	Project applicant  Project applicant	Immediately following the completion of installation of the digital billboard  Prior to construction	Sutter's Landing Regional Park and City of Sacramento Community Development Department  City of Sacramento Community Development Department
4.3-6: The Proposed Project would contribute to the cumulative harm to special-status species or species of special concern and/or loss of degradation of their habitat.	4.3-6 <i>Implement Mitigation Measures 4.3-1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c), and 4.3-5.</i>	See Mitigation Measure 4.3-1(a), Mitigation Measure 4.3-1(b), Mitigation Measure 4.3-2(a), Mitigation Measure 4.3-2(b), Mitigation Measure 4.3-2(c), and Mitigation Measure 4.3-5.	DB-3 DB-9 ESC, SPD, DB-1, DB-3, DB-4, DB-5 DB-4 DB-3, DB-4 DB-5	See Mitigation Measures 4.3-1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c), and 4.3-5.	See Mitigation Measures 4.3-1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c), and 4.3-5.	See Mitigation Measures 4.3-1(a), 4.3-1(b), 4.3-2(a), 4.3-2(b), 4.3-2(c), and 4.3-5.
4.3-7: The Proposed Project would contribute to the cumulative loss and degradation of wetlands.	4.3-7 <i>Implement Mitigation Measure 4.3-3.</i>	See Mitigation Measure 4.3-3.	DB-7, DB-9	See Mitigation Measure 4.3-3.	See Mitigation Measure 4.3-3.	See Mitigation Measure 4.3-3.
4.3-8: The Proposed Project would contribute to the cumulative loss of street trees and heritage trees.	4.3-8 <i>Implement Mitigation Measure 4.3-4.</i>	See Mitigation Measure 4.3-4.	ESC, SPD	See Mitigation Measure 4.3-4.	See Mitigation Measure 4.3-4.	See Mitigation Measure 4.3-4.

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
<b>4.4 Cultural Resources</b>						
4.4-1: The Proposed Project could damage, degrade and/or destroy historic resources.	4.4-1(a)  <i>The Project applicant shall protect the Hotel Marshall from physical damage during demolition to ensure that the building's historic integrity of material is not significantly diminished and the Project Proponents will be responsible for repairs to the Hotel Marshall for damage caused by the demolition of the loading dock. If necessary, repairs shall be conducted in compliance with the "Treatment of Preservation" under the Secretary of Interior's Standards for the Treatment of Historic Properties (SOI Standards). The Project Proponents shall provide the City Preservation Director for review and approval of work plans for documenting the pre-construction condition of the Marshall Hotel, for protocols as to determining damage from demolition work, for the means and methods of protecting the Marshall Hotel during demolition, and for the means and methods of the demolition work itself alongside the Marshall Hotel, for the means and methods for making any of the repairs to be undertaken as a result of construction damage, and a completion report to ensure compliance with the SOI Standards. The Project Proponents shall be responsible for repairs related to project impacts and not for general rehabilitation or restoration activities on the Hotel Marshall.</i>	Protect the Hotel Marshall from physical damage during demolition by following the protocol described in Mitigation Measure 4.4-1(a).	ESC, SPD	Project applicant	During demolition	City of Sacramento Community Development Department
		Include Hotel Marshall protection requirements on Demolition, Grading and Construction Plans.	ESC, SPD	Project applicant	Prior to construction	City of Sacramento Community Development Department
	4.4-1(b)  <i>Implement Mitigation Measure 4.8-3.</i>	See Mitigation Measure 4.8-3.	ESC, SPD	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.
4.4-2: Construction of the Proposed Project could damage or destroy archaeological resources.	4.4-2(a)  <i>The project applicant shall retain a qualified archaeologist (i.e., defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology) to carry out all actions related to archaeological and historical resources. Prior to the start of any ground disturbing activities, the qualified archaeologist shall conduct a Cultural Resources Sensitivity Training for all construction personnel working on the project. The training shall include an overview of potential cultural resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist for further evaluation and action, as appropriate, and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources. The project applicant shall inform the City Preservation Director prior to ground disturbing activities. During ground disturbing activities, archaeological monitoring shall be undertaken by the qualified archaeologist and Native American monitor as approved by the City Preservation Director.</i>	Retain a qualified archaeologist to carry out all actions related to archaeological and historical resources according to the protocol described in Mitigation Measure 4.4-2(a). Obtain City Preservation Director approval.	ESC, SPD, DB-all	Project applicant, City Preservation Director	During construction	City of Sacramento Community Development Department
		Include construction worker training requirements on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to construction	City of Sacramento Community Development Department

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	4.4-2(b)	Immediately cease all work activities within approximately 100 feet of any discovered items of historic or archaeological interest, contact the City of Sacramento, and follow the protocol described in Mitigation Measure 4.4-2(b).	ESC, SPD, DB-all	Project applicant and City of Sacramento Community Development Department	During construction	City of Sacramento Community Development Department
	<p><i>If items of historic or archaeological interest are discovered, the construction contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, baked clay fragments, or faunal food remains (bone and shell); stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and/or battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include the remains of stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. After cessation of excavation the contractor shall immediately contact the City. The contractor shall not resume work until authorization is received from the City.</i></p> <p><i>Any inadvertent discovery of cultural resources during construction shall be evaluated by a qualified archaeologist. If deemed appropriate by the qualified archaeologist, an Archaeological Testing and Recovery Plan shall be prepared and implemented for the area subject to excavation. The qualified archaeologist shall determine whether monitoring is appropriate when construction activities resume.</i></p> <p><i>If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and section 15126.4 of the CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City and appropriate Native American representatives (if the find is of Native American origin).</i></p>	Include historic and archaeological resources discovery, identification, and notification guidelines on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant and City of Sacramento Community Development Department	Prior to construction	City of Sacramento Community Development Department
	4.4-2(c)	Immediately stop work in the vicinity of discovered human bone or bone of unknown origin, notify the County Coroner, and follow the protocol described in Mitigation Measure 4.4-2(c).	ESC, SPD, DB-all	Project applicant	During construction	City of Sacramento Community Development Department
	<p><i>If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.</i></p>	Include bone discovery, identification, and notification guidelines on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to construction	City of Sacramento Community Development Department

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	4.4-2(d)  <i>Prior to project construction at the I-5 at Bayou Road digital billboard site, on-site construction personnel shall attend a mandatory pre-project training led by a Secretary of the Interior-qualified archaeologist. The training will outline the general archaeological sensitivity of the area (without providing site specifics) and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered.</i>	Retain a qualified archaeological monitor to train construction personnel on the archaeological sensitivity of the area.	DB-8	Project applicant	Prior to construction	City of Sacramento Community Development Department
	  <i>Prior to installation of the billboard, a Secretary of the Interior-qualified archaeologist shall establish an Archaeologically Sensitive Area (ASA) that shall remain in place during construction activities within and adjacent to the ASA. The ASA will include the electrical box and a 15-foot radius around the electrical box, as well as a 10-foot buffer around that radius. No personnel associated with project activities would be allowed access within the ASA without an archaeologist present. The archaeologist shall also monitor any activities within the ASA to ensure that ground disturbing activities do not adversely affect the known archaeologically-sensitive resources within the ASA.</i>	Establish Archaeologically Sensitive Area (ASA) around area described. Monitor construction activities within and near the established ASA.	DB-8	Project applicant	During construction	City of Sacramento Community Development Department
	  <i>Monitoring shall be required during all earthmoving activities associated with the installation of the billboard including, but not limited to site preparation, excavation of the footing for the billboard, and utility trenching.</i>	Monitor earthmoving activities to prevent damage to potential archaeological resources.	DB-8	Project applicant	During construction	City of Sacramento Community Development Department
	  <i>If archaeological materials are encountered during billboard construction, all soil disturbing activities within 25 feet in all directions of the find shall cease until the resource is evaluated. The monitor shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource. If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the State CEQA Guidelines section 15064.5), mitigation shall be implemented in accordance with PRC Section 21083.2 and section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. Consistent with State CEQA Guidelines section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, the archaeologist shall develop a treatment plan in consultation with the City. At the conclusion of construction activities, the archaeological monitor shall submit a memorandum to the City describing what, if any, archaeological resources were encountered during construction activities.</i>	The archaeological monitor shall carry out all actions related to archaeological resources according to the protocol described in Mitigation Measure 4.4-3(a).	DB-8	Project applicant	During construction	City of Sacramento Community Development Department

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.4-3: Construction of the Proposed Project could damage and/or destroy paleontological resources.	4.4-3(a)  <i>The project applicant shall retain a qualified paleontologist to carry out all actions related to paleontological resources. Prior to the start of any ground disturbing activities, the qualified paleontologist shall conduct a Paleontological Resources Sensitivity Training for all construction personnel working on the project. The training shall include an overview of potential paleontological resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified paleontologist for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of paleontological resources.</i>	Retain a qualified paleontologist to carry out all actions related to paleontological resources according to the protocol described in Mitigation Measure 4.4-3(a).	ESC, SPD, DB-all	Project applicant	During construction	City of Sacramento Community Development Department
		Include paleontological resources training, discovery, identification, avoidance and notification guidelines on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to construction	City of Sacramento Community Development Department
4.4-4: The Proposed Project would contribute to cumulative losses of historical resources.	4.4-3(b)  <i>If discovery is made of items of paleontological interest, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery. After cessation of excavation the contractor shall immediately contact the City. The contractor shall not resume work until authorization is received from the City. Any inadvertent discovery of paleontological resources during construction shall be evaluated by a qualified paleontologist. If it is determined that the project could damage a unique paleontological resource (as defined pursuant to the CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the CEQA Guidelines. If avoidance is not feasible, the paleontologist shall develop a treatment plan in consultation with the City.</i>	Immediately cease all work activities within approximately 100 feet of discovered items of paleontological interest, contact the City of Sacramento, and follow the protocol described in Mitigation Measure 4.4-3(b).	ESC, SPD, DB-all	Project applicant and City of Sacramento Community Development Department	During construction	City of Sacramento Community Development Department
		Include paleontological resources discovery, identification, and notification guidelines on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant and City of Sacramento Community Development Department	Prior to construction	City of Sacramento Community Development Department
4.4-4: The Proposed Project would contribute to cumulative losses of historical resources.	4.4-4  <i>Implement Mitigation Measure 4.4-1.</i>	See Mitigation Measure 4.4-1.	ESC, SPD, DB-all	See Mitigation Measure 4.4-1.	See Mitigation Measure 4.4-1.	See Mitigation Measure 4.4-1.
4.4-5: The Proposed Project would contribute to cumulative losses of archaeological resources.	4.4-5  <i>Implement Mitigation Measure 4.4-2.</i>	See Mitigation Measure 4.4-2.	ESC, SPD, DB-all	See Mitigation Measure 4.4-2.	See Mitigation Measure 4.4-2.	See Mitigation Measure 4.4-2.
4.4-6: The Proposed Project would contribute to cumulative losses of paleontological resources.	4.4-6  <i>Implement Mitigation Measure 4.4-3.</i>	See Mitigation Measure 4.4-3.	ESC, SPD, DB-all	See Mitigation Measure 4.4-3.	See Mitigation Measure 4.4-3.	See Mitigation Measure 4.4-3.
<b>4.6 Hazards and Hazardous Materials</b>						
4.6-1: The Proposed Project could expose people to previously unidentified contaminated soil during construction activities.	4.6-1(a)  <i>If unidentified or suspected contaminated soil or groundwater evidenced by stained soil, noxious odors, or other factors, is encountered during site preparation or construction activities</i>	Stop work if unidentified or suspected contaminated soil or groundwater is encountered and follow the protocol described in Mitigation Measure 4.6-1(a).	ESC, SPD, DB-all	Project applicant, Sacramento County Environmental Management Department, and California Department of Toxic Substances Control	During construction	City of Sacramento Community Development Department

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<i>at the Downtown project site and/or digital billboard site, work shall stop in the area of potential contamination, and the type and extent of contamination shall be identified by a Registered Environmental Assessor (REA) or qualified professional. The REA or qualified professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant concentrations, and recommendations for appropriate handling and disposal. Site preparation or construction activities shall not recommence within the contaminated areas until remediation is complete and a "no further action" letter is obtained from the appropriate regulatory agency.</i>	Include listing of contaminated soil or groundwater indicators on Grading and Construction Plans. Include contaminated soil or groundwater discovery, identification, and notification guidelines on Grading and Construction Plans.	ESC, SPD, DB-all	Project applicant	Prior to construction	City of Sacramento Community Development Department
	4.6-1(b)  <i>Prior to final project design and any earth disturbing activities at the US 50 at Pioneer Reservoir, I-80 at Roseville Road, and I-5 at Sacramento Railyards billboard sites, the City shall require that the applicant conduct a Phase I Environmental Site Assessment. The Phase I Site Assessment shall be prepared by a REA or other qualified professional to assess the potential for contaminated soil or groundwater conditions at the project site. The Phase I Site Assessment shall include a review of appropriate federal and State hazardous materials databases, as well as relevant local hazardous material site databases for hazardous waste on-site and off-site locations within a one-quarter mile radius of the subject project site. The Phase I Site Assessment shall also include a review of existing or past land uses and aerial photographs, summary of results of reconnaissance site visit(s), and review of other relevant existing information that could identify the potential existence of contaminated soil or groundwater. If no contaminated soil or groundwater is identified or the Phase I ESA does not recommend any further investigation than no further action is required.</i>  <i>The Phase I ESA for the Sacramento Railyards shall include contacting DTSC to obtain information to identify any remediation infrastructure within the vicinity of the proposed billboard site. No remediation system, monitoring well network, extraction wells, associated conveyance piping or treatment systems shall be altered, disturbed or destroyed without prior approval by DTSC.</i>  <i>No excavation and/or removal of soil at the Sacramento Railyards billboard site, except as allowed pursuant to section 3.01.C of the 1994 covenant, shall occur without prior written approval of DTSC. Excavated soil must be tested for those compounds noted in the preamble of the 1994 covenant and properly used, treated and/or disposed of as required by law and DTSC.</i>	Conduct Phase I Environmental Site Assessments at the US 50 at Pioneer Reservoir, the I-80 at Roseville Road and/or I-5 at Sacramento Railyards billboard sites according to the requirements described in Mitigation Measure 4.6-1(b).  Provide information on location of remediation facilities within the area to be disturbed to Contractor.  Include prohibition on removal of remediation facilities on Grading and Construction Plans.	DB-2, DB-6, DB-10  DB-10  DB-10	Project applicant  DTSC, project applicant  Project applicant	Prior to final project design  Prior to construction  Prior to construction	City of Sacramento Community Development Department  City of Sacramento Community Development Department  City of Sacramento Community Development Department
	4.6-1(c)  <i>If existing soil or groundwater contamination is identified and the Phase I ESA recommends further review, the applicant shall retain a REA to conduct follow-up sampling to characterize the contamination and to identify any required</i>	Retain a REA to conduct follow-up sampling to characterize any identified contamination and to identify any required remediation according to the protocol described in Mitigation Measure 4.6-1(c).  Include specifications of follow up sampling, if any, in	DB-2, DB-6, DB-10	Project applicant, Sacramento County Environmental Management Department, and California Department of Toxic Substances Control	Prior to construction, if additional analysis recommended in Phase I ESA	City of Sacramento Community Development Department

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<i>remediation that shall be conducted consistent with applicable regulations prior to any earth-disturbing activities. The environmental professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant concentrations at the proposed construction site, and recommendations for appropriate handling of any contaminated materials during construction. These recommendations shall be implemented and the site shall be deemed remediated by the appropriate agency (e.g., DTSC, Sacramento County EMD) prior to earth disturbance continuing in the vicinity of the contamination.</i>	Construction and Grading Plans.				
4.6-3: The Proposed Project could expose people to existing contaminated groundwater during dewatering activities.	4.6-3 <i>Implement Mitigation Measure 4.6-1 (a) through (c).</i>	See Mitigation Measure 4.6-1(a), Mitigation Measure 4.6-1(b) and Mitigation Measure 4.6-1(c).	ESC, SPD, DB – all DB-2, DB-6, DB-10 DB-2, DB-6, DB-10	See Mitigation Measure 4.6-1(a) through (c).	See Mitigation Measure 4.6-1(a) through (c).	See Mitigation Measure 4.6-1(a) through (c).
4.6-4: Dewatering activities associated with the Proposed Project could interfere with remediation of the Railyards South Plume.	4.6-4 <i>Prior to initiating dewatering activities for the ESC and/or SPD development, the project applicant shall demonstrate that dewatering activities would adequately protect construction workers and minimize interference with remediation activities subject to approval from DTSC. If during project dewatering, monitoring data indicate that the remediation of the groundwater plume is being adversely affected, dewatering activities shall cease until measures are developed and implemented, subject to DTSC approval. Measures might include: (1) limiting the duration of pumping during periods of high groundwater flow; (2) relocating dewatering wells; or (3) equally effective measures to be developed in consultation with DTSC which eliminate demonstrated adverse effects to on-going remediation.</i>	Obtain approval from DTSC prior to initiating dewatering activities for the ESC and/or SPD development. If monitoring data indicate that remediation of the plume is being affected, contact DTSC and undertake appropriate actions.	ESC, SPD	Project applicant and City of Sacramento Community Development Department	Prior to initiating dewatering activities	City of Sacramento Community Development Department
		After approval from DTSC is obtained, include DTSC approval notice on Grading and Construction Plans.	ESC, SPD	Project applicant	During dewatering	City of Sacramento Community Development Department
4.6-6: The Proposed Project would contribute to cumulative dewatering activities that could interfere with remediation of the existing South Plume.	4.6-6 <i>Implement Mitigation Measure 4.6-4.</i>	See Mitigation Measure 4.6-4.	ESC, SPD	See Mitigation Measure 4.6-4.	See Mitigation Measure 4.6-4.	See Mitigation Measure 4.6-4.
<b>4.7 Hydrology and Water Quality</b>						
4.7-2: Implementation of the Proposed Project could increase the risk of flooding on- or off-site.	4.7-2 <i>Implement Mitigation Measure 4.11-5.</i>	See Mitigation Measure 4.11-5.	ESC, SPD	See Mitigation Measure 4.11-5.	See Mitigation Measure 4.11-5.	See Mitigation Measure 4.11-5.
4.7-5: The Proposed Project could contribute to cumulative increases in the risk of flooding.	4.7-5 <i>Implement Mitigation Measure 4.7-2.</i>	See Mitigation Measure 4.7-2.	ESC, SPD	See Mitigation Measure 4.7-2.	See Mitigation Measure 4.7-2.	See Mitigation Measure 4.7-2.

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SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
<b>4.8 Noise</b>						
4.8-1: The Proposed Project could result in a substantial permanent increase in ambient exterior noise levels in the project vicinity.	4.8-1(a) <i>On-site mechanical equipment (e.g., HVAC units, compressors, generators) and area-source operations (e.g., loading docks) shall be located as far as possible and/or shielded from nearby noise sensitive land uses to meet City noise standards.</i>	Include mechanical equipment location and noise specifications consistent with Mitigation Measure 4.8-1(a) on Construction Plans.	ESC, SPD	Project applicant	Prior to construction	City of Sacramento Community Development Department
	4.8-1(b) <i>The project applicant shall retain a qualified acoustical consultant to verify that the architectural and outdoor amplified sound system designs incorporate all acoustical features in order to comply with the City of Sacramento Noise Ordinance.</i>	Demonstrate that architectural and outdoor amplified sound system designs comply with City of Sacramento Noise Ordinance through implementation of all acoustical features.	ESC	Project applicant	Prior to design review approval permit	City of Sacramento Community Development Department
4.8-2: The Proposed Project could result in residential interior noise levels of 45 dBA Ldn or greater caused by noise level increases due to project operation.	4.8-2(a) <i>Prior to the issuance of building permits, the City shall require project applicants for residential development to submit a detailed noise study, prepared by a qualified acoustical consultant, to identify design measures necessary to achieve the City interior standard of 45 Ldn in the proposed new residences. The study shall be submitted to the City for review and approval. Design measures such as the following could be required, depending on the specific findings of the noise study: double-paned glass windows facing noise sources; solid-core doors; increased sound insulation of exterior walls (such as through staggered-or double-studs, multiple layers of gypsum board, and incorporation of resilient channels); weather-tight seals for doors and windows; or sealed windows with an air conditioning system installed for ventilation. This study can be a separate report, or included as part of the Noise and Vibration Reduction Plan for the SPD. The building plans submitted for building permit approval shall be accompanied by certification of a licensed engineer that the plans include the identified noise-attenuating design measures and satisfy the requirements of this mitigation measure.</i>	Demonstrate that the project does not result in interior noise levels of 45 dBA Ldn or greater at nearby residential uses by following the protocol described in Mitigation Measure 4.8-2(a).	SPD	Project applicant	Prior to issuance of building permits	City of Sacramento Community Development Department
	4.8-2(b) <i>Implement Mitigation Measure 4.8-1(b) to minimize noise from outdoor amplified sound systems.</i>	See Mitigation Measure 4.8-1(b).	ESC	See Mitigation Measure 4.8-1(b).	See Mitigation Measure 4.8-1(b).	See Mitigation Measure 4.8-1(b).

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**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.8-3: Construction of the Proposed Project could result in noise levels that temporarily exceed the City standards.	<p>4.8-3</p> <p><i>Prior to the issuance of any building permit for each phase of project development, the project applicant shall develop a Noise and Vibration Reduction Plan in coordination with an acoustical consultant, geotechnical engineer, and construction contractor, and submit the Plan to the City Chief Building Official for approval. The Plan shall include the following elements:</i></p> <ul style="list-style-type: none"> <li><i>To mitigate noise, the Plan shall include measures such that off-road equipment will not exceed interior noise of 45 dBA Leq (between 10 p.m. and 7 a.m.) and 75 dBA Leq (between 7 a.m. and 10 p.m.) at nearby receptors.</i></li> <li><i>To mitigate vibration, the Plan shall include measures such that surrounding buildings will be exposed to less than 80 VdB and 83 VdB where people sleep and work, respectively, and less than 0.2 PPV for historic buildings and 0.5 PPV for non-historic buildings to prevent building damage.</i></li> </ul> <p><i>Measures and controls shall be identified based on project-specific final design plans, and may include, but are not limited to, some or all of the following:</i></p> <ul style="list-style-type: none"> <li><i>Buffer distances and types of equipment selected to minimize noise and vibration impacts during demolition/construction at nearby receptors in order to meet the specified standards.</i></li> <li><i>Haul routes that affect the fewest number of people shall be selected and subject to preapproval by the City.</i></li> <li><i>Construction contractors shall utilize equipment and trucks equipped with the best available noise control techniques, such as improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible.</i></li> <li><i>Impact tools (i.e., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used to lower noise levels from the exhaust by up to about 10 dBA. External jackets shall be used on impact tools, where feasible, in order to achieve a further reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.</i></li> <li><i>Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds.</i></li> </ul>	Develop a Noise and Vibration Reduction Plan according to the requirements described in Mitigation Measure 4.8-3.	ESC, SPD	Project applicant	Prior to the issuance of any building permit for each phase of project	City of Sacramento Community Development Department
		<p>Include noise and vibration reduction requirements and maximum noise levels permitted on Demolition, Grading and Construction Plans. Include noise and vibration monitoring requirements on Demolition, Grading and Construction Plans. Include the requirement for an on-site disturbance coordinator on Demolition, Grading and Construction Plans.</p>	ESC, SPD	Project applicant	Prior to construction	City of Sacramento Community Development Department

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>incorporate insulation barriers, or other measures to the extent feasible.</i></p> <ul style="list-style-type: none"> <li>• <i>Erection of a six-foot or greater solid plywood construction/noise barrier, where feasible, around the outside perimeter of the project site where the demolition or construction activity area faces occupied uses (i.e., excluding parking garages). The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.</i></li> <li>• <i>Use of "quiet" pile driving technology (such as auger displacement installation), where feasible in consideration of geotechnical and structural requirements and conditions.</i></li> <li>• <i>Erection of a scaffold with reinforced noise blankets to completely block the line of sight of the Jade Apartments and accessible faces of the Hotel Marshall prior to commencement of demolition, and shall extend the scaffold to screen the Hotel Marshall incrementally as access is provided by demolition of the adjacent Macy's building. Alternatively, residents of these two buildings could be temporarily relocated during demolition, excavation, and construction activities that could result in noise and vibration levels that exceed the above listed thresholds.</i></li> <li>• <i>Implement a vibration, crack, and line and grade monitoring program at existing historic and non-historic buildings located within 20 feet and 10 feet of demolition/construction activities, respectively. The following elements shall be included in this program:</i> <ul style="list-style-type: none"> <li>○ <i>Pre-Demolition and Construction:</i> <ul style="list-style-type: none"> <li>▪ <i>To assist with measures regarding impacts to historical resources, the project applicant and construction contractor shall solicit input and review of plan components from a person(s) who meets the SOI Professional Qualification Standards for Architectural History, and, as appropriate, an architect that meets the SOI Professional Qualification Standard for Historic Architect. These qualification standards are defined in Title 36 Code of Federal Regulations Part 61.</i></li> <li>▪ <i>Photos of current conditions shall be included as part of the crack survey that the construction contractor will undertake. This includes photos of existing cracks and other material conditions present on or at the surveyed buildings. Images of interior conditions shall be included if possible. Photos in the report shall be labeled in detail and dated.</i></li> <li>▪ <i>The construction contractors shall install crack gauges on cracks in the walls of the</i></li> </ul> </li> </ul> </li> </ul>					

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>historical and non-historical buildings to measure changes in existing cracks during project activities. Crack gauges shall be installed on multiple representative cracks, particularly on sides of the building facing the project.</i></p> <ul style="list-style-type: none"> <li>▪ <i>The construction contractor shall determine the number and placement of vibration receptors at the affected historic and non-historic buildings in consultation with the consulting architectural historian and/or architect. The number of units and their locations shall take into account proposed demolition and construction activities so that adequate measurements can be taken illustrating vibration levels during the course of the project, and if/when levels exceed the established threshold.</i></li> <li>▪ <i>A line and grade pre-construction survey at the affected historic and non-historic buildings shall be conducted.</i></li> </ul> <p>○ <i>During Demolition and Construction:</i></p> <ul style="list-style-type: none"> <li>▪ <i>The construction contractor shall regularly inspect and photograph crack gauges, maintaining records of these inspections to be included in post-construction reporting. Gauges shall be inspected every two weeks, or more frequently during periods of active project actions in close proximity to crack monitors, such as during demolition of the Macy's Men's and Furniture Department Building near the Hotel Marshall.</i></li> <li>▪ <i>The construction contractor shall collect vibration data from receptors and report vibration levels to the City Chief Building Official on a monthly basis. The reports shall include annotations regarding project activities as necessary to explain changes in vibration levels, along with proposed corrective actions to avoid vibration levels approaching or exceeding the established threshold.</i></li> <li>▪ <i>With regards to historic structures, if vibration levels exceed the threshold and monitoring or inspection indicates that the project is damaging the building, the historic building shall be provided additional protection or stabilization. If necessary and with approval by the City Chief Building Official, the construction contractor shall install temporary shoring or stabilization to help avoid permanent impacts. Stabilization may involve structural reinforcement or corrections for deterioration that would</i></li> </ul>					

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>minimize or avoid potential structural failures or avoid accelerating damage to the historic structure. Stabilization shall be conducted following the Secretary of Interior Standards Treatment of Preservation. This treatment shall ensure retention of the historical resource's character-defining features. Stabilization may temporarily impair the historic integrity of the building's design, material, or setting, and as such, the stabilization must be conducted in a manner that will not permanently impair a building's ability to convey its significance. Measures to shore or stabilize the building shall be installed in a manner that when they are removed, the historic integrity of the building remains, including integrity of material.</i></p> <ul style="list-style-type: none"> <li>o <i>Post-Construction</i> <ul style="list-style-type: none"> <li>▪ <i>The applicant (and its construction contractor) shall provide a report to the City Chief Building Official regarding crack and vibration monitoring conducted during demolition and construction. In addition to a narrative summary of the monitoring activities and their findings, this report shall include photographs illustrating the post-construction state of cracks and material conditions that were presented in the pre-construction assessment report, along with images of other relevant conditions showing the impact, or lack of impact, of project activities. The photographs shall sufficiently illustrate damage, if any, caused by the project and/or show how the project did not cause physical damage to the historic and non-historic buildings. The report shall include annotated analysis of vibration data related to project activities, as well as summarize efforts undertaken to avoid vibration impacts. Finally, a post-construction line and grade survey shall also be included in this report.</i></li> <li>▪ <i>The project applicant (and its construction contractor) shall be responsible for repairs from damage to historic and non-historic buildings if damage is caused by vibration or movement during the demolition and/or construction activities. Repairs may be necessary to address, for example, cracks that expanded as a result of the project, physical damage visible in post-construction assessment, or holes or connection points that were needed for shoring or stabilization. Repairs shall be directly related to project impacts and will not apply to general rehabilitation or restoration activities of the buildings. If necessary for historic structures,</i></li> </ul> </li> </ul>					

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<p><i>repairs shall be conducted in compliance with the Secretary of Interior Standards Treatment of Preservation. The project applicant shall provide the City Chief Building Official and City Preservation Officer for review and comment both a work plan for the repairs and a completion report to ensure compliance with the SOI Standards.</i></p> <ul style="list-style-type: none"> <li><i>Designate a disturbance coordinator and conspicuously post this person's number around the project site, in adjacent public spaces, and in construction notifications. The disturbance coordinator shall be responsible for responding to any local complaints about construction activities. This disturbance coordinator shall receive all public complaints about construction noise disturbances and be responsible for determining the cause of the complaint and implementation of feasible measures to be taken to alleviate the problem. The disturbance coordinator shall have the authority to halt noise- or vibration-generating activity if necessary to protect public health and safety.</i></li> <li><i>Adjacent noise-sensitive residents and commercial uses (i.e., educational, religious, transient lodging) within 200 feet of demolition and pile driving activity shall be notified of the construction schedule, as well as the name and contact information of the project disturbance coordinator.</i></li> </ul>					
4.8-4: Construction of the Proposed Project would expose existing and/or planned buildings, and persons within, to significant vibration that could disturb people and damage buildings.	4.8-4 <i>Implement Mitigation Measure 4.8-3.</i>	See Mitigation Measure 4.9-3.	ESC, SPD	See Mitigation Measure 4.9-3.	See Mitigation Measure 4.9-3.	See Mitigation Measure 4.9-3.
4.8-6: The Proposed Project would contribute to cumulative increases in ambient exterior noise levels in the project vicinity.	4.8-6 <i>Implement Mitigation Measures 4.8-1(a) and 4.8-1(b).</i>	See Mitigation Measure 4.8-1(a) and Mitigation Measure 4.8-1(b).	ESC, SPD ESC	See Mitigation Measures 4.8-1(a) and 4.8-1(b).	See Mitigation Measures 4.8-1(a) and 4.8-1(b).	See Mitigation Measures 4.8-1(a) and 4.8-1(b).
4.8-7: Implementation of the Proposed Project would contribute to cumulative increases in residential interior noise levels of 45 dBA Ldn or greater.	4.8-7 <i>Implement Mitigation Measures 4.8-2(a) and 4.8-2(b).</i>	See Mitigation Measures 4.8-2(a) and Mitigation Measure 4.8-2(b).	SPD ESC	See Mitigation Measures 4.8-2(a) and 4.8-2(b).	See Mitigation Measures 4.8-2(a) and 4.8-2(b).	See Mitigation Measures 4.8-2(a) and 4.8-2(b).
4.8-8: The Proposed Project would result in exposure of people to cumulative increases in construction noise levels.	4.8-8 <i>Implement Mitigation Measure 4.8-3.</i>	See Mitigation Measure 4.8-3.	ESC, SPD	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.8-9: The Proposed Project would contribute to cumulative construction that could expose existing and/or planned buildings, and persons within, to significant vibration.	4.8-9 <i>Implement Mitigation Measure 4.8-3.</i>	See Mitigation Measure 4.8-3.	ESC, SPD	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.	See Mitigation Measure 4.8-3.
<b>4.10 Transportation</b>						
4.10-1: The Proposed Project would worsen conditions at intersections in the City of Sacramento.	4.10-1 <i>The applicant shall be required to prepare and implement an Event Transportation Management Plan (TMP) that would provide a range of transportation management strategies designed to address the travel associated with various events at the ESC, and to improve operations in downtown before, during, and after ESC events. The TMP will be subject to review and approval of City of Sacramento Traffic Engineer, in consultation with affected agencies such as Caltrans and Regional Transit.</i>	Prepare and implement an Event Transportation Management Plan (TMP) according to the requirements described in Mitigation Measure 4.10-1.	ESC, SPD	Project applicant, Caltrans, and Regional Transit	TMP approved prior to issuance of certificate of occupancy; Implement during operation	City of Sacramento Community Development Department, Department of Public Works, City of Sacramento Fire and Police departments
4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.	4.10-2 <i>Prior to the issuance of each building permit for the project, the project applicant shall pay its fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project. The payment shall cover the fair-share portion allocable to the portion of the project subject to the building permit. This mitigation measure is required with each phase of development, regardless of whether it is the ESC or a non-ESC land use.</i>	Demonstrate payment of project fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project.	ESC, SPD	Project applicant	Prior to issuance of each building permit for the project	City of Sacramento Community Development Department and Department of Public Works
4.10-3: The Proposed Project would worsen queuing on the J Street freeway off-ramps from I-5.	4.10-3 <i>The City shall coordinate with Caltrans, as necessary, to implement the following measures to benefit operations at the J Street/3<sup>rd</sup> Street/I-5 off-ramps intersection:</i>  a) <u>AM Peak Hour; Street/3<sup>rd</sup> Street/I-5 off-ramps Intersection</u> – <i>Revise the traffic signal green splits for the 3<sup>rd</sup> Street north-south, southbound off-ramp, and northbound off-ramp phases. The applicant shall be required to pay a fair share contribution to the City Traffic Operation Center (TOC) to revise the signal timing at this intersection.</i>  b) <u>Pre-Event Peak Hour (for large events):</u> <i>Implement Mitigation Measure 4.10-1 (Prepare/Implement TMP which includes potential traffic management strategies at the J Street/3<sup>rd</sup> Street/I-5 off-ramps intersection for pre-event conditions).</i>  c) <u>Pre-Event Peak Hour (for large events):</u> <i>The City shall coordinate with Caltrans to use existing changeable message signs (CMS) located on southbound I-5 (south of West El Camino Ave.), northbound I-5 (at</i>	Coordinate with Caltrans, as necessary, to implement the measures listed in Mitigation Measure 4.10-3(a).  Coordinate with Caltrans, as necessary, to implement the measures listed in Mitigation Measure 4.10-3(b).  Coordinate with Caltrans, as necessary, to implement the measures listed in Mitigation Measure 4.10-3(c).	ESC, SPD  ESC, SPD  ESC, SPD	City of Sacramento Department of Public Works, Caltrans  City of Sacramento Department of Public Works, Caltrans  City of Sacramento Department of Public Works, Caltrans	Prior to issuance of the first building permit for the project  TMP approved prior to issuance of certificate of occupancy; Implement during operation  Coordination prior to issuance of certificate of occupancy; Implement during operation	City of Sacramento Community Development Department and Department of Public Works  City of Sacramento Community Development Department and Department of Public Works  City of Sacramento Community Development Department and Department of Public Works

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<i>Sutterville Road), and westbound Capital City Freeway (at 9<sup>th</sup> Street) to broadcast real-time information to travelers regarding preferred travel routes to access the ESC. These broadcasts would operate in conjunction with City, State, and ESC Traffic Management Centers.</i>					
4.10-5: The Proposed Project would cause inadequate access to bus transit.	4.10-5  <i>The project applicant, in coordination with the City of Sacramento, Regional Transit, and other transit providers within the project vicinity, shall identify new bus stop locations and cause replacement bus stop facilities to be constructed. Service providers should then collaborate/agree on which bus routes should use which relocated stops. The proposed new bus stop would be located on the north side of Capitol Mall between 8th Street and 7th Street.</i>	Cause construction of replacement bus stop facilities according to the requirements described in Mitigation Measure 4.10-5.	ESC	Project applicant, City of Sacramento Department of Public Works, and Regional Transit	Prior to demolition	City of Sacramento Community Development Department and Department of Public Works
4.10-6: Access to light rail transit would be inadequate.	4.10-6  <i>The project applicant, the City of Sacramento, and Regional Transit shall identify and implement feasible operational strategies to improve access to light rail transit before and after events at the ESC. These strategies, which shall be documented in the TMP, may include, but are not limited to, the following:</i>  a) <i>7<sup>th</sup> Street Closure (City/Applicant responsibility):</i> Close 7 <sup>th</sup> Street between J Street and L Street to vehicular traffic (buses and LRT trains would be permitted on 7 <sup>th</sup> Street) prior to the completion of an evening event and extending for a certain period after the event ends (events warranting closure and duration of closures to be identified in the TMP).  b) <i>Train Boarding/Queuing at 7<sup>th</sup>/K Station (City/RT responsibility):</i> During post-event conditions, permit pedestrians to board trains at the 7 <sup>th</sup> /K (St. Rose of Lima Park) stop from both the left and right sides of the train. This measure would increase pedestrian staging space, and provide improved access to trains. Also implement strategies (wayfinding, barriers, personnel) that would enable transit riders to "queue" (stand in line) while waiting for post-game trains.  c) <i>Alternative Station Loading Strategies (City/RT/Applicant responsibility):</i> To better distribute passenger loadings, consider loading the Gold line and Blue line (to Meadowview) from different stations (i.e., one would load only at 7 <sup>th</sup> /K and the other would load only at 7 <sup>th</sup> /Capitol). Also consider a mid-block loading location for the Gold line on the closed portion of 7 <sup>th</sup> Street from J to K Streets.  d) <i>Enhanced LRT Service (City/RT/Applicant responsibility):</i> As warranted, operate the first post-event trains (i.e., after the game ends) in each direction with four cars (versus current two-car	Identify and implement feasible operational strategies to improve access to light rail transit before and after events at the ESC according to the requirements described in Mitigation Measure 4.10-6.	ESC	Project applicant, City of Sacramento Department of Public Works, and Regional Transit	TMP approved prior to issuance of certificate of occupancy; Implement during operation	City of Sacramento Community Development Department and Department of Public Works

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	capacity) to provide a spike in transit system capacity in response to demand.					
	e) <u>Enhanced LRT Ticket Purchasing (City/RT/Applicant responsibility):</u> Consider approaches such as selling LRT passes inside the ESC, special passes (valid for use on trains until midnight) sold at the box office, smartphone applications, and/or special transit ticket provisions.					
4.10-8: The Proposed Project would adversely affect existing or planned pedestrian facilities or fail to provide for access for pedestrians.	4.10-8 <i>The project applicant, in coordination with the City and subject to the City's Traffic Engineer approval, shall implement pedestrian system enhancements consistent with the Project's TMP to accommodate pedestrian access before and after special events at the ESC. Potential improvements may include, but are not limited to, the following:</i>	Implement pedestrian system enhancements consistent with the project TMP to accommodate pedestrian access before and after special events at the ESC according to the requirements described in Mitigation Measure 4.10-8.	ESC	Project applicant and City of Sacramento Department of Public Works	TMP approved prior to issuance of certificate of occupancy; Implement during operation; Signal improvements shall be implemented before issuance of a building permit	City of Sacramento Community Development Department and Department of Public Works
	a) <i>Upgrade traffic signals (if necessary) at the following locations to include pedestrian countdown heads (i.e., displays number of seconds remaining in "flashing don't walk" phase) and other required enhancements (e.g., special signage or signal control equipment for temporary closures) subject to the review and approval by the City Traffic Engineer:</i>					
	<ul style="list-style-type: none"> <li>• L Street/4th Street</li> <li>• L Street/5th Street</li> <li>• L Street/6th Street</li> <li>• L Street/7th Street</li> <li>• Capitol Mall/5th Street</li> </ul>	<ul style="list-style-type: none"> <li>• J Street/5th Street</li> <li>• J Street/6th Street</li> <li>• J Street/7th Street</li> <li>• K Street/7th Street</li> </ul>				
	b) <i>Increase the width of the following crosswalks from 10 to 15 feet:</i>					
	<ul style="list-style-type: none"> <li>• L Street/4<sup>th</sup> Street – crossing of L Street on the east side</li> <li>• J Street/5<sup>th</sup> Street Intersection - crossing of J Street on the east side</li> <li>• L Street/5<sup>th</sup> Street Intersection - crossing of L Street on the east side</li> <li>• J Street/6<sup>th</sup> Street Intersection - crossing of J Street on the west side</li> <li>• L Street/6<sup>th</sup> Street Intersection – crossing of L Street on the west side</li> <li>• L Street/7<sup>th</sup> Street Intersection – crossing of L Street on the west side</li> </ul>					

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Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<ul style="list-style-type: none"> <li>• <i>J Street/7<sup>th</sup> Street Intersection – all crossings of both J Street and 7<sup>th</sup> Street</i></li> <li>• <i>Capitol Mall/5<sup>th</sup> Street Intersection - crossing of Capitol Mall on the east side</i></li> </ul> <p>c) <i>Position traffic control personnel, as determined in the TMP, at intersections on L Street, 7<sup>th</sup> Street, and J Street to monitor/assist with pedestrian travel during events that generate large pedestrian volumes (i.e. NBA games, concerts, major community events).</i></p> <p>d) <i>Modify traffic signal timings for the pre-event and post-event peak hours at each of the intersections listed in part a) above to provide longer WALK intervals for north-south travel, while maintaining signal coordination along each corridor.</i></p>					
4.10-10: The Proposed Project would cause construction-related traffic impacts.	<p>4.10-10</p> <p><i>The applicant shall be required to implement the following mitigation measures.</i></p> <p>a) <i>Before issuance of demolition permits for the project site, the project applicant shall prepare a detailed Construction Traffic Management Plan that will be subject to review and approval by the City Department of Public Works, in consultation with Caltrans, affected transit providers, and local emergency service providers including the City of Sacramento Fire and Police departments. The plan shall ensure that acceptable operating conditions on local roadways and freeway facilities are maintained. At a minimum, the plan shall include:</i></p> <ul style="list-style-type: none"> <li>▪ <i>The number of truck trips, time, and day of street closures</i></li> <li>▪ <i>Time of day of arrival and departure of trucks</i></li> <li>▪ <i>Limitations on the size and type of trucks, provision of a staging area with a limitation on the number of trucks that can be waiting</i></li> <li>▪ <i>Provision of a truck circulation pattern</i></li> <li>▪ <i>Identification of detour routes and signing plan for street closures</i></li> <li>▪ <i>Provision of driveway access plan so that safe vehicular, pedestrian, and bicycle movements are maintained (e.g., steel plates, minimum distances of open trenches, and private vehicle pick up and drop off areas)</i></li> <li>▪ <i>Maintain safe and efficient access routes for emergency vehicles</i></li> </ul>	Implement the measures listed in Mitigation Measure 4.10-10 to minimize construction-related traffic impacts.	ESC, SPD	Project applicant, City of Sacramento Department of Public Works, Caltrans, Regional Transit, City of Sacramento Fire and Police departments	Prior to issuance of demolition permit	City of Sacramento Community Development Department and Department of Public Works

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
	<ul style="list-style-type: none"> <li>▪ <i>Manual traffic control when necessary</i></li> <li>▪ <i>Proper advance warning and posted signage concerning street closures</i></li> <li>▪ <i>Provisions for pedestrian and bicycle safety</i></li> </ul> <p><i>A copy of the construction traffic management plan shall be submitted to local emergency response agencies and transit providers, and these agencies shall be notified at least 30 days before the commencement of construction that would partially or fully obstruct roadways.</i></p> <p>b) <i>The project applicant, in coordination with the City of Sacramento, Regional Transit, and other transit providers within the project vicinity and subject to their approval, shall identify temporary bus stop locations and cause ADA-compliant replacement bus stop facilities to be constructed. Potential bus stop locations include (but are not limited to): J Street to the west of 4th Street, J Street to the west of 5th Street, and J Street to the east of 6th Street. The relocation of bus stops may have a secondary impact related to the loss/relocation of a small number of on-street parking spaces and/or loading zones. This secondary impact would not be significant.</i></p> <p>c) <i>The project applicant shall implement the planned conversion of 3rd Street, from Capitol Mall to L Street, from its current one-way (southbound-only) configuration to a two-way configuration prior to the closure of 5th Street. This project will provide an alternative travel route during the 5th Street closure. This shall include the installation of lane/intersection restriping, signing, and traffic signal modifications. It may include the elimination of on-street parking on the east side of 3rd Street. The improvements shall include the provision for eastbound buses on Capitol Mall to turn left on 3rd Street and travel along 3rd Street to J Street.</i></p>					
4.10-11: The Proposed Project would contribute to cumulatively unacceptable intersection operations in the City of Sacramento.	4.10-11 <i>Implement Mitigation Measure 4.10-1.</i>	See Mitigation Measure 4.10-1.	ESC, SPD	See Mitigation Measure 4.10-1.	See Mitigation Measure 4.10-1.	See Mitigation Measure 4.10-1.
4.10-13: The Proposed Project would contribute to cumulatively unacceptable operations on freeway facilities maintained by Caltrans.	4.10-13 <i>Implement Mitigation Measure 4.10-2.</i>	See Mitigation Measure 4.10-2.	ESC, SPD	See Mitigation Measure 4.10-2.	See Mitigation Measure 4.10-2.	See Mitigation Measure 4.10-2.
4.10-14: The Proposed Project would worsen cumulatively unacceptable queuing on the J Street freeway off-ramps from I-5.	4.10-14 <i>Implement Mitigation Measure 4.10-3.</i>	See Mitigation Measure 4.10-3.	ESC	See Mitigation Measure 4.10-3.	See Mitigation Measure 4.10-3.	See Mitigation Measure 4.10-3.

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.10-16: The Proposed Project would cause inadequate access to bus transit under cumulative conditions.	4.10-16 <i>Implement Mitigation Measure 4.10-5.</i>	See Mitigation Measure 4.10-5.	ESC	See Mitigation Measure 4.10-5.	See Mitigation Measure 4.10-5.	See Mitigation Measure 4.10-5.
4.10-17: Access to light rail transit would be inadequate under cumulative conditions.	4.10-17 <i>Implement Mitigation Measure 4.10-6.</i>	See Mitigation Measure 4.10-6.	ESC	See Mitigation Measure 4.10-6.	See Mitigation Measure 4.10-6.	See Mitigation Measure 4.10-6.
4.10-19: The Proposed Project would adversely affect existing or planned pedestrian facilities or fail to provide for access for pedestrians.	4.10-19 <i>Implement Mitigation Measure 4.10-8.</i>	See Mitigation Measure 4.10-8.	ESC	See Mitigation Measure 4.10-8.	See Mitigation Measure 4.10-8.	See Mitigation Measure 4.10-8.
4.10-21: The Proposed Project would cause construction-related traffic impacts.	4.10-21 <i>Implement Mitigation Measure 4.10-10.</i>	See Mitigation Measure 4.10-10.	ESC, SPD	See Mitigation Measure 4.10-10.	See Mitigation Measure 4.10-10.	See Mitigation Measure 4.10-10.
<b>4.11 Utilities and Service Systems</b>						
4.11-3: The Proposed Project would contribute to cumulative increases in demand for water supply.	4.11-3 <i>To ensure that sufficient capacity would be available to meet cumulative demands, the City shall implement, to the extent needed in order to secure sufficient supply, one or a combination of the following:</i>  <i>(a) Maximize Water Conservation</i>  <i>(b) Implement New Water Diversion and/or Treatment Infrastructure</i>  <i>(c) Implement Additional Groundwater Pumping</i>	Implement, to the extent needed in order to secure sufficient water supply, one or a combination of the actions listed in Mitigation Measure 4.11-3.	ESC, SPD	City of Sacramento Department of Utilities	During operation	City of Sacramento Community Development and Utilities departments
4.11-5: The Proposed Project would discharge additional flows to the City's sewer and drainage systems, which could exceed existing infrastructure capacity.	4.11-5 <i>The project applicant shall manage wastewater, drainage and dewatered groundwater from the Proposed Project such that they shall not exceed existing CSS and Basin 52 system capacity by implementing one or more of the following or equally effective methods to be designed according to City standards and approved by the City Department of Utilities:</i>  <i>a. Install one or more tanks to hold wastewater, stormwater and/or construction period groundwater dewatering flows for a period of time and incrementally release flows at a rate that would not exceed existing capacity;</i>  <i>b. Suspend construction period dewatering activities during storm events; and/or</i>  <i>c. Design and implement offsite improvements to increase capacity to accommodate project flows.</i>	Demonstrate that project is designed so that CSS and Basin 52 capacity will not be exceeded, per Mitigation Measure 4.11-5.	ESC, SPD	Project applicant	Prior to issuance of Building Permit	City of Sacramento Community Development and Utilities departments

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards



**TABLE 4-1  
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT MITIGATION MONITORING PLAN**

Impact	Mitigation Measure	Action(s)	Component	Implementing Party	Timing	Monitoring Party
4.11-7: The Proposed Project would contribute to cumulative increases in demand for wastewater and stormwater facilities.	4.11-7  <i>Implement Mitigation Measure 4.11-5.</i>	See Mitigation Measure 4.11-5.	ESC, SPD	See Mitigation Measure 4.11-5.	See Mitigation Measure 4.11-5.	See Mitigation Measure 4.11-5.
4.11-12: Project construction could interfere with a buried, existing 115-kV power line.	4.11-12  <i>Prior to the initiation of demolition, the project applicant shall work with SMUD to identify the location of the 115-kV, and shall implement measures to avoid the use of heavy machinery or the placement of heavy objects on or in the immediate vicinity (i.e., within 10 feet on either side of the line) of the line during construction. The applicant shall work with SMUD to identify maximum weight limits within the 10-foot buffer area prior to the initiation of construction activities on site.</i>	Work with SMUD to identify the location of the 115-kV power line according to the requirements described in Mitigation Measure 4.11-12.	ESC, SPD	Project applicant, Sacramento Municipal Utility District (SMUD)	Prior to the issuance of Demolition Permit	City of Sacramento Community Development and Utilities departments, Sacramento Municipal Utility District (SMUD)
		Include statement prohibiting heavy equipment on top of or within 10 feet of SMUD's 115-kV line on Demolition, Grading and Construction Plans.	ESC, SPD	Project applicant	Prior to construction	City of Sacramento Community Development and Utilities departments, Sacramento Municipal Utility District (SMUD)

ESC = Entertainment and Sports Center; SPD = Special Planning District; DB-all = all proposed digital billboard sites; DB-1= I-5 at Water Tank; DB-2 = US 50 at Pioneer Reservoir; DB-3 = Business 80 at Sutter's Landing Regional Park; DB-4 = Business 80 at Del Paso Regional Park/Haggin Oaks; DB-5 = Business 80 at Sutter's Landing Regional Park/American River; DB-6 = I-80 at Roseville Road; DB-7 = SR 99 at Calvine Road; DB-8 = I-5 at Bayou Road; DB-9 = I-5 at San Juan Road; DB-10 = I-5 at Sacramento Railyards

# Comments and Responses



# CHAPTER 3

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## Comments and Responses

### 3.1 Introduction

This section contains the comment letters that were received on the Draft EIR. Following each comment letter is a response by the City intended to supplement, clarify, or amend information provided in the Draft EIR or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues may be discussed or noted for the record. Where text changes in the Draft EIR are warranted based upon comments on the Draft EIR, those changes are generally included following the response to comment. However, in some cases when the text change is extensive, the reader is instead referred to Chapter 2, Text Changes to the Draft EIR, where all the text changes can be found.

Occasionally, a response to a comment provides a cross-reference to another response to comment. This occurs when the same, or very similar, comment was made or question asked, and an appropriate response was included elsewhere. Please see below for a list of frequent comment topics and the most frequently cross-referenced response.

<b><u>Topic</u></b>	<b><u>Response to Comment</u></b>
Bicycle access	A3-8
Bus stop relocation	A7-4
Construction traffic control plan	A11-18
Bicycle parking	O2-7
Revised Draft Event Transportation Management Plan	O2-17
Social and economic effects	O4-17
Use of cell phone data	O10-1
Housing affordability/effects on SRO units	O11-2
Pedestrian flows on 7 <sup>th</sup> Street	O13-2
VMT calculations/downtown trip origins	I14-1

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**Main Office**

10060 Goethe Road  
Sacramento, CA 95827-3553  
Tel: 916.876.6000  
Fax: 916.876.6160

**Treatment Plant**

8521 Laguna Station Road  
Elk Grove, CA 95758-9550  
Tel: 916.875.9000  
Fax: 916.875.9068

**Board of Directors**

Representing:

- County of Sacramento
- County of Yolo
- City of Citrus Heights
- City of Elk Grove
- City of Folsom
- City of Rancho Cordova
- City of Sacramento
- City of West Sacramento

Prabhakar Somavarapu

*District Engineer*

Ruben Robles

*Director of Operations*

Christoph Dobson

*Director of Policy & Planning*

Karen Stoyanowski

*Director of Internal Services*

Joseph Maestretti

*Chief Financial Officer*

Claudia Goss

*Public Affairs Manager*

[www.srcsd.com](http://www.srcsd.com)

December 23, 2013

Scott Johnson, Associate Planner  
City of Sacramento, Community Development  
Environmental Planning Services  
300 Richards Blvd., 3<sup>rd</sup> Floor  
Sacramento, CA 95811

**Subject: Comments Regarding the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center and Related Development Project (P13-065) (SCH#: 2013042031)**

Dear Mr. Johnson:

Regional San (SRCSD) has the following comments regarding the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center and Related Development Project:

SRCSD is not a land-use authority. Projects identified within SRCSD planning documents are based on growth projections provided by land-use authorities. Sewer studies, including points of connection and phasing information will need to be completed to fully assess the impacts of any project that has the potential to increase existing or future flow demands. Onsite and offsite impacts associated with constructing sanitary sewers facilities to provide service to the subject project must be included in environmental impact reports.

A1-1

Customers receiving service from SRCSD are responsible for rates and fees outlined within the latest SRCSD ordinances. Fees for connecting to the sewer system are set up to recover the capital investment of sewer and treatment facilities that serves new customers. The SRCSD ordinance is located on the SRCSD website at <http://www.srcsd.com/ordinances.php>.

A1-2

Local sanitary sewer service for the proposed project site will be provided by the City of Sacramento's local sewer collection system. Ultimate conveyance to the Sacramento Regional Wastewater Treatment Plant (SRWTP) for treatment and disposal will be provided via Sump 2/2A and the SRCSD City Interceptor system. Cumulative impacts of the proposed project will need to be quantified by the project proponents to ensure wet and dry weather capacity limitations within Sump 2/2A and the City Interceptor system are not exceeded.

A1-3

On March 13, 2013, SRCSD approved the Wastewater Operating Agreement between the Sacramento Regional County Sanitation District and the City of Sacramento. The following are excerpts from this agreement:

A1-4



**SECTION 4 – OPERATION AND MAINTENANCE**

**A. CWCS FACILITIES**

*The CITY shall have primary responsibility for selection of the operational mode for CWCS facilities, but shall not vary from the flow allocations defined in Section 4.H of this Agreement without conferring with an on-duty SRCSD Plant Control Center (PCC) Operator....*

**H. CWCS ALLOWABLE FLOW ALLOCATIONS**

*SRCSD agrees to operate SRCSD facilities as necessary to accept flows via the CITY Interceptor from CITY service areas up to the maximum instantaneous flow rates indicated in the table below:*

<i>Service Area</i>	<i>Flow Rate (MGD)</i>
<i>Combined Flows from Sump 2 and Sump 2A</i>	<i>60</i>
<i>Combined flows from Sumps 2, 2A, 21, 55, and 119</i>	<i>98</i>
<i>Total to City Interceptor of combined flows from Sumps 2, 2A, 21, 55, 119, and five trunk connections</i>	<i>108.5</i>

*Total flow to the City Interceptor from the five trunk connections identified in Exhibit B may exceed 10.5 mgd so long as the City does not exceed the 108.5 total flow limitations. The City and SRCSD will monitor flow conditions and will coordinate operations of their respective facilities, to the extent feasible for each party, to prevent or reduce the risk of SSOs in their respective facilities.*

A1-4  
cont.

If you have any questions regarding these comments, please contact me at 916-876-9994

Sincerely,



Sarena Moore  
SRCSD/SASD  
Policy and Planning

Cc: SRCSD Development Services, SASD Development Services, Michael Meyer, Dave Ocenosak, Christoph Dobson



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**Letter A1 Response**      **Sareena Moore, Sacramento Regional County Sanitation District (Regional San, SRCSD)**  
December 23, 2013

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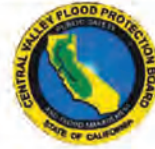
- A1-1      The City acknowledges that the Sacramento County Regional Sanitation District (Regional San) is not a land use authority and does not generate growth projections for its service area. As discussed in section 4.11.2 of the Draft EIR, the Proposed Project would not connect directly to Regional San sewage collection facilities, but would instead connect to the City's existing sewer system, which is located on and adjacent to the Downtown project site. Construction of on-site sanitary sewer systems, and connection to the City's sewer system, are discussed in the impact assessment in section 4.11.2 of the Draft EIR, and throughout other environmental impact analysis sections of the EIR, as relevant to each CEQA resource area. Please refer to these sections of the Draft EIR for more information.
- A1-2      The comment refers to SRCSD ordinances that establish rates and fees for sewer system connections and service. The comment does not address the environmental impact report for the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- A1-3      The City's Combined Sewer System (CSS) provides sewer service to the Downtown project site while the City's separated system provides storm drainage service. The City's reliance on Sumps 2 and 2A, and the City Interceptor system, is discussed on pages 4.11-28 through 4.11-31 of the Draft EIR. Potential cumulative-scenario increases in wastewater flows are discussed under Impact 4.11-7 of the Draft EIR; the discussion indicates the Proposed Project would result in a net increase of 0.136 million gallons per day (mgd). Sufficient capacity is available in the City Interceptor system to handle this flow increase under normal conditions. Note also that the Proposed Project would result in the curtailment of existing flows of dewatered groundwater from the Project site into the City's CSS system and SRCSD's sumps/interceptor system (see Draft EIR page 4.11-38), which has the potential to more than offset any cumulative-scenario increases in wastewater flows from the Project. Finally, as discussed for Impact 4.11-7, implementation of Mitigation Measure 4.11-5 would be required, which would require management of wastewater and stormwater flows from the Downtown project site such that existing CSS capacity would not be exceeded, and the Proposed Project would not contribute additional flows to the sewer system during high capacity periods. Thus the Proposed Project would not contribute to exceedance of capacity of Sump 2, 2A, or the City Interceptor system during major storm events. Additionally, the City would continue to manage stormwater and wastewater flows in accordance with the current

Wastewater Operating Agreement between the City and SRCSD. During dry weather, the City would manage discharges from the Proposed Project within capacity limitations specified in that agreement. During high flow events, the Proposed Project would not contribute sewage to the system, as discussed previously. Therefore, the Proposed Project would not contribute to cumulatively considerable impacts on the SRCSD's wastewater collection and conveyance facilities.

- A1-4            The comment includes excerpted text from the Wastewater Operating Agreement between SRCSD and the City of Sacramento. As noted in Mitigation Measure 4.11-5, wastewater, drainage, and dewatered groundwater flows from the Downtown project site would be required to be managed so as to not exceed existing CSS and Basin 52 system capacity. The comment is noted and will be conveyed to the City Council for its consideration.

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-2380 FAX: (916) 574-0682



January 13, 2014

Mr. Scott Johnson  
City of Sacramento  
300 Richards Blvd, Third Floor  
Sacramento, California 95811

Subject: Sacramento Entertainment and Sports Center and  
Related Development Project (P13-065)  
SCH Number: 2013042031  
Document Type: Draft Environmental Impact Report

Dear Mr. Johnson:

Staff of the Central Valley Flood Protection Board (Board) has reviewed the subject document and provides the following comments:

The proposed project includes project features located adjacent to or within the Sacramento River and American River which are under the jurisdiction of the Central Valley Flood Protection Board. The Board is required to enforce standards for the construction, maintenance, and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A2-1

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance near or within the levee (CCR Section 6) including:

A2-2

The proposed digital billboards located at the I-5 Water Tank Site (APN 031-0200-046); US 50 at Pioneer Reservoir (APN 009-0012-075); and Business 80 at Sutter's Landing Regional Park/American River (APN 001-0170-006).

The permit application and Title 23 CCR can be found on the Central Valley Flood Protection Board's website at <http://www.cvfpb.ca.gov/>. Contact your local, federal and State agencies, as other permits may apply.

A2-3


Mr. Scott Johnson  
January 13, 2014  
Page 2 of 2

The Board's jurisdiction, including all tributaries and distributaries of the Sacramento River and the San Joaquin River, and designated floodways can be viewed on the Central Valley Flood Protection Board's website at <http://gis.bam.water.ca.gov/bam/>.

If you have any questions, please contact me by phone at (916) 574-0651, or via e-mail at [James.Herota@water.ca.gov](mailto:James.Herota@water.ca.gov).

↑  
A2-3  
cont.

Sincerely,



James Herota  
Senior Environmental Scientist  
Projects and Environmental Branch

cc: Governor's Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street, Room 121  
Sacramento, California 95814

**Letter A2**      **James Herota, Central Valley Flood Protection Board**  
**Response**      **January 13, 2014**

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- A2-1              This comment describes the jurisdiction of the Central Valley Flood Protection Board (CVFPB) and states that the project includes features within that jurisdiction. The comment is noted and will be conveyed to the City Council for its consideration.
- A2-2              The Proposed Project would comply with all applicable regulatory requirements, including permits required under the California Code of Regulations. If the I-5 at Water Tank and/or Business 80 at Sutter’s Landing Regional Park digital billboard sites are selected for implementation, the applicant will apply for a CVFPB permit and comply with all permit requirements.
- A2-3              This comment provides relevant websites and contact information. The comment is noted and will be conveyed to the City Council for its consideration

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Scott Johnson

From: James R Allison <JimA@capitolcorridor.org>
Sent: Wednesday, January 22, 2014 12:05 PM
To: Scott Johnson
Cc: dkutros@bart.gov
Subject: CCJPA Comments on ESC Project EIR

Mr. Johnson:

As you may be aware, the Capitol Corridor Joint Powers Authority (CCJPA) manages the Capitol Corridor Intercity Passenger Rail service. Sacramento is by far our busiest station and the seventh busiest in the nation. We understand the proposed Entertainment and Sports Center (ESC) complex has generated a strong degree of interest in the Sacramento community both for and against the project. The CCJPA supports the City of Sacramento's direction to hopefully utilize the ESC as a key element in revitalizing Sacramento's downtown. The draft EIR correctly identifies (in the transportation section) that Capitol Corridor service is available within a comfortable walking, bicycling, and transit distance but does not, at present, provide the ability of Capitol Corridor's latest trains to serve the usual ending time of basketball games and other entertainment events and conversely, would not usually be a means to access the events at the ESC in the first place. We agree with this characterization given today's schedule. We do, however, regularly participate with other sporting and event partnerships in the San Francisco Bay Area when those events and our service align. We do try to feature Capitol Corridor travel and promotions with the Oakland Raiders, Oakland A's, and Sacramento Rivercats since those game times can, at times, work well with Capitol Corridor service. But just as might be expected with the Sacramento Kings, we don't feature any marketing partnerships with the Golden State Warriors in Oakland or the San Jose Sharks in San Jose due to the end time differences with our existing service plan. That said, the Capitol Corridor service may still be utilized in certain circumstances as access to/from the proposed ESC for those who may stay overnight in the Sacramento area. But, as well, the ESC is expected to generate additional business activity, make the downtown area more attractive and for those reasons, probably increase the utilization of the Capitol Corridor service whether their is a game/event or not. In that context, the comments that CCJPA have are primarily about pedestrian and bicycle circulation, and transit accessibility to/from the Sacramento Valley Station. For the purposes of transit access, we defer to any comments made by a partner agency, the Sacramento Regional Transit District.

A3-1
A3-2
A3-3
A3-4
A3-5

CCJPA's data reveals that pedestrian and bicycle modes are very high with mode of access between 10% and 20% for bicycling and up to about 30% for pedestrian. The percentages largely depend on direction of travel especially for pedestrian access because arriving at a destination in a location without access to a car means that modes leaving a destination station (e.g. Sacramento) are high for the pedestrian mode. Slightly different, are bicycles used at similar rates on both ends of the trips due to the fact that many people take their bicycles on the train with them. We expect that usage would remain in this range for these modes for access the ESC especially since any travel to the ESC or surrounding area would usually reflect not having access to a personal automobile while visiting Sacramento. For these reasons, the primary focus the CCJPA would like to support would be better integration with signage between the ESC and the Sacramento Valley Station for pedestrian access, and support for the on-street bicycle access to/from the Station to the downtown area, including the ESC area. While there are adequate sidewalks, the access to/from the Sacramento Valley Station via bicycle has slightly improved with the addition of some on-street bicycle signage, safe access, including striped and designated lanes for bicycles would be enhanced were downtown bicycle street improvements to be considered in connection with the ESC and overall downtown bicycle planning objectives. The CCJPA encourages the City of Sacramento and the ESC developers to work closely with local bicycle advocacy groups and the City's own bicycle planner to phase in bicycle improvements that will enhance safe connections between ESC and downtown in general with the Sacramento Valley Station. We do not agree with the scope of how Impact 4.10-7: The Proposed Project would adversely affect existing or planned bicycle facilities or fail to provide for access by bicycle is assessed. The summary of the impact assessment is about parking of bicycles at or around the facility and not about

A3-6
A3-7
A3-8



circulation within the downtown area regarding safe on-street access to the ESC area and ultimately, access to the bicycle parking that would be provided. In the same transportation section, automobile and trucking access is considered far outside the scope of the ESC center because there are various intersection impacts. The same is not true of bicycle access in how the document treats and characterizes bicycle access which must travel on existing infrastructure to get to any proposed bicycle parking facilities at the ESC. While bicyclists to/from Capitol Corridor may not add much to the overall numbers, we continue to hear from our riders with bicycles that access to/from Sacramento's downtown is not ideal and discourages some from utilizing a bicycle were access to be made safer in the intervening downtown/ESC/Sacramento Valley Station areas. We encourage the ESC developers and City of Sacramento to take a more holistic approach to bicycle circulation and work with on-street access improvements that make bicycling a safer and more highly utilized means of access to/from the ESC. The CCJPA is also supporting Sacramento's bicycle share effort and we would want to see how bicycle sharing will be integrated into the ESC - there is no mention of that in the document that we could identify.

↑  
A3-8  
cont.  
|  
A3-9  
|  
A3-10

Parking is limited at the Sacramento Valley Station but usually will clear out by game/event time so we are not specifically concerned about vehicle parking utilizing the parking lot at the Sacramento Valley Station.

|  
A3-11

One last matter is that Capitol Corridor may, at some point in the future be in a position to alter our schedule to become a more viable transportation alternative to/from ESC games/events. If this were to happen, not only would CCJPA explore partnership opportunities as we do with other event locations and sports teams, the comments provided above which focussed on the most glaring mode of access issue, bicycle access, would become that much more vital.

|  
A3-12

Thank you for your consideration of these comments.

Jim Allison  
Manager of Planning  
Capitol Corridor Joint Powers Authority  
300 Lakeside Dr., 14th Floor East, Oakland, CA 94612  
Phone: 510-464-6994  
Fax: 510-464-6901  
jalliso@bart.gov

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**Letter A3 Response**      **Jim Allison, Capitol Corridor Joint Powers Authority (CCJPA)**  
January 22, 2014

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- A3-1            The comment provides background on the Capitol Corridor Joint Powers Authority and provides support for the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- A3-2            As noted on page 4.10-20 of the Draft EIR, the latest Capitol Corridor trains depart from the Sacramento station at 9:10 PM on weekdays, which would not serve the usual ending time of basketball games and other entertainment events at the ESC.
- A3-3            The comment describes promotional agreements Capitol Corridor holds with professional sports teams in the Bay Area, but notes that it would likely not have such an agreement with the Sacramento Kings due to the end time differences with their existing service plan. The comment is noted and will be conveyed to the City Council for its consideration.
- A3-4            The comment notes the possible increase in ridership on Capitol Corridor trains as a result of an increase in additional business activity around the ESC. The comment is noted and will be conveyed to the City Council for its consideration.
- A3-5            The comment notes that CCJPA defers any comments on transit access to the Sacramento Regional Transit District. Comment Letter A7 is from the Sacramento Regional Transit District. Please see Responses to Comments A7-1 through A7-25.
- A3-6            Pages 4.10-41 and 4.10-42 of the Draft EIR provide an in-depth discussion of the expected bicycle and pedestrian mode splits for both ESC events and the non-ESC land uses. As shown in Table 4.10-7, the walk/bike mode split for non-ESC events is expected to be 17 percent under opening day conditions. For ESC events, the walk/bike mode split is expected to be 3 percent under opening day conditions. To the extent that some of the residents and employees in the proposed mixed use development, and some of the attendees at events at the proposed ESC would travel on the Capitol Corridor service, the mode splits provided by the commenter are not inconsistent with the mode splits presented in the Draft EIR. The comment does not raise any specific issues regarding the mode splits estimated for the Proposed Project or the methods used to derive them.
- A3-7            Impact 4.10-7 of the Draft EIR considers the effects of the Proposed Project on existing or planned bicycle facilities and the provision of bicycle access to the Proposed Project. The impact considered less than significant, noting that the

project would not adversely affect bicycle facilities and would provide facilities at the project site to support bicycle access. Because the impact is considered less than significant, no mitigation measures specific to bicycle facilities and access are identified. Please also see Response to Comment A3-8.

Although, as stated above, no mitigation measures were specifically identified to address bicycle access to the project site, the Draft Event Transportation Management Plan, included as Appendix L of the Draft EIR and revised in Chapter 2 of this Final EIR, includes a requirement for implementation of wayfinding around downtown Sacramento to promote connectivity to and from the proposed ESC. These types of improvements proposed for the downtown bikeway system would not be required to address or mitigate impacts of the Proposed Project. Rather, they are included to address issues and concerns related to bicycle and pedestrian circulation in downtown Sacramento. The City of Sacramento recently initiated the Downtown Sacramento Transportation Study, which will analyze all modes of travel within downtown including bicycle and pedestrian connectivity to the Sacramento Valley Station and other destinations. The Downtown Sacramento Transportation Study will have several advisory committees which will include SABA and Walk Sacramento as stakeholders.

A3-8

Page 4.10-23 of the Draft EIR sets forth two potential ways in which the Proposed Project could adversely affect the bicycle system. The project would cause a significant impact if it would:

1. Adversely affect existing or planned bicycle facilities; or
2. Fail to adequately provide for access by bicycle.

If the project were to eliminate an existing bicycle facility or preclude future construction of a planned bicycle facility (criterion #1), that would have been a significant impact because such actions would cause an inconsistency with the City's Bikeway Master Plan, and by extension, General Plan Policy M5.1.1 (Bikeway Master Plan). The analysis determined that this kind of effect would not occur, so a significant impact was not identified on this basis. If the project were to provide inadequate bicycle parking, then it would fail to enable attendees to access the facility by bicycle (criterion #2). However, as noted in Response to Comment O2-7, the Proposed Project would provide a supply of bicycle parking that meets the projected demand. Thus, a significant impact was not identified on this basis either.

The Proposed Project's consistency with General Plan Policy M 5.1.1 (Bikeway Master Plan) was evaluated. This policy states, "The City shall maintain and implement a Bikeway Master Plan that carries out the goals and policies of the General Plan. All new development shall be consistent with the applicable

provisions of the Bikeway Master Plan.” The Proposed Project would maintain the same system of bikeways that is called for in the Bikeway Master Plan, and is currently being used by residents, workers, and recreational bicyclists in the CBD. The Bikeway Master Plan incorporates the bicycle-related policies laid out in the Mobility Element of the General Plan. The Proposed Project, by virtue of being consistent with the Bikeway Master Plan, would be consistent with these policies to extent they are applicable. In summary, the Proposed Project would be consistent with General Plan Policy M 5.1.1.

The Draft EIR describes the access routes to the ESC. Figure 4.10-4 shows that Class II bike lanes exist on portions of J Street, 5<sup>th</sup> Street, Capitol Mall, 9<sup>th</sup> Street, and I Street. A multi-use path exists on K Street. The City of Sacramento recently added bicycle lanes to facilities such as Capitol Mall and 5<sup>th</sup> Street where space exists within the roadway and bicycle demand warrants the improvement. These routes form the primary bicycle access routes to the project site. Traffic data collection indicates that segments of I Street, J Street, L Street, and 7<sup>th</sup> Street currently carry between 10 and 30 bicyclists during peak hours.

As a result of expressed concerns about potential conflicts between pedestrians and bicyclists during events at the ESC, the City of Sacramento has indicated that it would prohibit bicyclists from riding through the ESC plaza (though walking a bike through the plaza would be permitted). Bike lanes and other bikeway striping designations lanes would not be provided within the plaza.

Post-event street closures would occur along the project frontage on L Street, 5<sup>th</sup> Street, and 7<sup>th</sup> Street. These closures would not adversely affect bicycle access because bicyclists would be permitted to travel on these streets, which would be closed to vehicular traffic. By virtue of these streets being completely open to joint pedestrian and bicycle use, there would be more space for these users to co-exist.

Class II bicycle lanes currently exist in both directions of 5<sup>th</sup> Street between J Street and L Street. The ESC would have a truck delivery entry -only driveway and a second exit-only driveway on 5<sup>th</sup> Street between J Street and L Street (precise locations still to be determined). The inbound driveway would be configured (via geometric alignment) such that it can only be accessed by northbound trucks, and would have a temporary truck-only waiting/staging lane between the driveway and L Street. Outbound trucks may only travel onto northbound 5<sup>th</sup> Street toward J Street. These two driveways would conflict with the existing Class II bicycle lane located on the east side of 5<sup>th</sup> Street north of L Street. To address this conflict, two potential solutions are under consideration:

1. Maintain Class II bike lane – the northbound Class II bike lane would be restriped such that it is positioned between the truck staging lane and the adjacent (outside) through lane. North of the entry driveway, it would

transition back to the curb. The introduction of the outbound truck driveway (and its skewed geometric alignment necessary to accommodate truck turning paths) would introduce sight distance constraints associated with truck drivers not being able to adequately see approaching bicyclists in the Class II bicycle lane. To address this concern, the City is investigating multiple sight distance remedies ranging from removal of portions of the wall that would otherwise impede sight distance, to installing a bicycle/truck signal system that would prevent these travel modes from conflicting with one another. This solution would also require a restriping modification of northbound 5<sup>th</sup> Street approaching L Street from three to two through lanes. The outside lane could instead be designated for trucks only.

2. Install “Cycle Track” on west side of 5<sup>th</sup> Street – A cycle track is a designated on-street or off-street bicycle facility that may accommodate both directions of travel. If implemented, the cycle track would be situated along the west side of 5<sup>th</sup> Street from J Street to L Street, permitting and providing for both directions of bicycle travel. In conjunction, the Class II bicycle lane on the east side of 5<sup>th</sup> Street would be removed. This alternative may also require special bicycle detection and bicycle signal heads at the J Street/5<sup>th</sup> Street and L Street/5<sup>th</sup> Street intersections. This solution would also require a restriping modification of northbound 5<sup>th</sup> Street approaching L Street from three to two through lanes. The outside lane could instead be designated for trucks only.

The City and project design team are currently investigating the benefits and drawbacks of each solution. Whereas solution 1 is considered a “stand-alone option”, solution 2 may be best implemented as part of a broader cycle track installation, which could extend along 5<sup>th</sup> Street from Capitol Mall on the south to I Street on the north. This improvement may be evaluated as part of the upcoming Downtown Transportation Study and future updates of the City’s Bikeway Master Plan.

Solutions 1 and 2 each accomplish two important objectives. First, they maintain on-street bicycle facilities on 5<sup>th</sup> Street between J Street and L Street that accommodate both directions of travel. Second, they maintain consistency with the City’s Bikeway Master Plan.

A3-9 Please see Response to Comment A3-8.

A3-10 Figure 1 of the Bike Share Business Plan<sup>1</sup> illustrates the location of “planning-level” stations for the Bike Share program. Within the project vicinity, stations

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<sup>1</sup> Sacramento Metropolitan Air Quality Management District, 2013. *Bike Share Business Plan*. Revised October 2013.

are shown at the Sacramento Valley Station and at 7<sup>th</sup> and K Streets adjacent to the ESC. As is noted on Figure 2-24 of the Draft EIR and updated in Chapter 2 of the Final EIR, several locations within and near the Downtown project site have been identified as possible sites for bike share docking stations. As stated in the Draft EIR, in the event that the City moves forward with implementation of a bike share program, the Proposed Project would consider making provisions to accommodate a bike share docking station. The comment regarding CCJPA's support of the bike share program is noted and will be conveyed to the City Council for its consideration.

- A3-11 CCJPA's comment regarding parking generally being available prior to evening ESC events in the lot near the Sacramento Valley Station is noted and will be conveyed to the City Council for its consideration.
- A3-12 The comment notes that the Capitol Corridor may change its schedule to become a more viable transportation alternative to and from ESC events. Should a schedule change occur, the CCJPA notes that bike access to and from the ESC would be important. For further information regarding bike access, please see Responses to Comment Letter O2.

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**DEPARTMENT OF TRANSPORTATION**  
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January 28, 2014

032013-SAC-0193  
 03-SAC-5 / PM 23.585  
 SCH#2013042031  
 P13-065

Mr. Scott Johnson  
 City of Sacramento  
 300 Richards Blvd., 3<sup>rd</sup> Floor  
 Sacramento, CA 95811-0218

**Entertainment and Sports Center – Draft Environmental Impact Report (DEIR)**

Dear Mr. Johnson:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Entertainment and Sports Center (ESC). The ESC DEIR proposes to construct a 17,500 seat, indoor multi-use arena. The project would also establish plans for future adjacent mixed-use development on the Downtown Plaza site in the form of 475,000 square feet of office, 350,000 square feet of retail, up to 550 new residential units, and up to 250 hotel rooms (up to 1,500,000 square feet total mixed-use development). The ESC Project also includes a comprehensive signage program at the Downtown project site, as well as up to six digital billboards at other locations within Sacramento that are adjacent to state highway facilities. The ESC project is located at the current Downtown Plaza site and other property west of 3<sup>rd</sup> Street, east of 7<sup>th</sup> Street, south of J Street, north of L Street, and adjacent to Interstate 5 (I-5). The following comments are based on the project DEIR.

***Traffic Impacts***

We concur with the impacts to State transportation facilities as stated in the project DEIR.

- **Impact 4.10-1: The Proposed Project would worsen conditions at intersections in the City of Sacramento.** The DEIR further notes that the addition of project trips to the J Street/3rd Street/I-5 off-ramps intersection would further degrade LOS F operations during the AM peak hour, and worsen operations from LOS C to F during the pre-event peak hour.
- **Impact 4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.**

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Mr. Scott Johnson / City of Sacramento  
 January 28, 2014  
 Page 2

- **Impact 4.10-3: The Proposed Project would worsen queuing on the J Street freeway offramps from I-5.**

We agree with net volume traffic data as identified in the DEIR on page 4.10-63, of an increase of about 1,100 trips on southbound I-5 between I-80 and J Street, and a net volume increase of about 1,375 trips on westbound state route (SR) 160 between Del Paso Blvd. and Richards Blvd. However, our analysis shows further effects of the additional PM peak hour traffic volumes that will occur on I-5 and SR 160 freeways near the project due to current congestion conditions in the area. Currently, southbound I-5 is operating at LOS "F" during the PM peak hours between Garden Highway to the southbound I-5/eastbound US 50 connector, due to the bottleneck on US 50 known as the "W/X" freeway section. Queuing and spillback will not only occur in the auxiliary lane of I-5 as stated page 4.10-1 of the DEIR, but our analysis shows that vehicle congestion and stop and go conditions are expected to extend to the I-5/I-80 connector and beyond. In addition, the section of westbound I-80 nearby the I-5/I-80 connector would experience congestion due to queuing. Traffic diverging as a result of congestion on westbound I-80 near the I-5/I-80 connector would have a net increase of 1,375 trips on SR 160 as identified on page 4.10-63 of the DEIR, increasing the amount of PM peak hour trips to existing congestion on SR 160.

A4-2

**Traffic Mitigation**

- We concur with **Mitigation Measure 4.10-1**, *the applicant shall be required to prepare and implement an Event Transportation Management Plan (TMP) that would provide a range of transportation management strategies designed to address the travel associated with various events at the ESC, and to improve operations in downtown before, during, and after ESC events.*
- We concur with **Mitigation Measure 4.10-2**, *prior to the issuance of each building permit for the project, the project applicant shall pay its fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project.*

A4-3

As noted in the DEIR, Caltrans District 3 staff has reviewed and approved a methodology proposed by the City to calculate the fair share fee. Caltrans concurs that the fair share fees can be applied to any of the projects currently shown on the Fee Program project list or those projects referenced in our Notice of Preparation comment letter dated May 13, 2013. These projects include the streetcar project between West Sacramento and Midtown Sacramento, the ultimate Richards Blvd. interchange configuration, the preferred alternative projects of the American River Crossings Study, auxiliary lanes and Intelligent Transportation System elements on Interstate 5.

A4-4

- We concur that **Mitigation Measure 4.10-3** will help lessen impacts, *The City shall coordinate with Caltrans, as necessary, to implement the following measures to benefit operations at the J Street/3rd Street/I-5 off-ramps intersection:*
- a) *AM Peak Hour: J Street/3rd Street/I-5 off-ramps Intersection – Revise the traffic signal green splits for the 3rd Street north-south, southbound off-ramp, and northbound offramp phases. The applicant shall be required to pay a fair share contribution to the City Traffic Operation Center (TOC) to revise the signal*

A4-5

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Page 3

*timing at this intersection.*

- b) *Pre-Event Peak Hour (for large events): Implement Mitigation Measure 4.10-1 (Prepare/Implement TMP which includes potential traffic management strategies at the J Street/3rd Street/I-5 off-ramps intersection for pre-event conditions).*
- c) *Pre-Event Peak Hour (for large events): The City shall coordinate with Caltrans to use existing changeable message signs (CMS) located on southbound I-5 (south of West El Camino Ave.), northbound I-5 (at Sutterville Road), and westbound Capital City Freeway (at 9th Street) to broadcast real-time information to travelers regarding preferred travel routes to access the ESC. These broadcasts would operate in conjunction with City, State, and ESC Traffic Management Centers.*
- *In addition to the above mitigation measures, the DEIR notes, "that a physical improvement that would increase the capacity at the J Street/3rd Street/I-5 off-ramps intersection was identified. However, consultations with Caltrans (who would need to review/approve the project) led to the conclusion that it was not feasible due to certain geometric design standards not being met. Therefore, it is not included in the above list of mitigations because it is considered infeasible." We concur with this statement, and would like to continue working with the City to implement measures to lessen impacts to I-5.*

A4-5  
cont.

A4-6

**Outdoor Advertising**

Page 1-3 of the DEIR summarizes the intent of Senate Bill 31, Outdoor Advertising Displays: Arenas. Please be reminded that this bill requires Caltrans to review and certify that the proposed displays and sign ordinance meet the minimum statutory requirements. In addition, the bill prohibits Caltrans from assuming any liability in connection with ceasing operation or removal of an advertising display.

A4-7

Sign plans for any proposed outdoor advertising near a state highway should be provided to Caltrans for review and, depending on proposed sign location, approval. The plans should depict the layout, roadway setback, orientation, glare intensity, and sign size. Please also include a copy of the City's sign ordinance for Caltrans review and certification. The outdoor advertising permit application is available at: [http://www.dot.ca.gov/oda/download/Permit\\_Application\\_New.pdf](http://www.dot.ca.gov/oda/download/Permit_Application_New.pdf).

If you have any questions regarding these comments or require additional information, please contact Angela Shepard, Intergovernmental Review Coordinator, at (916) 274-0566 or by email at: [angela.shepard@dot.ca.gov](mailto:angela.shepard@dot.ca.gov). We look forward to continuing coordinating with the City of Sacramento on this project.

Sincerely,



TRACEY FROST, Interim Chief  
Office of Transportation Planning – South

c: Scott Morgan, State Clearinghouse

*"Caltrans improves mobility across California"*

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**Letter A4 Response**      **Tracey Frost, California Department of Transportation (Caltrans)**  
**January 28, 2014**

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- A4-1            The comment summarizes the Proposed Project and provides concurrence with the analyses in Impacts 4.10-1 and 4.10-2. The comment is noted and will be conveyed to the City Council for its consideration.
- A4-2            The comment reflects agreement with the net volume traffic data as identified in the Draft EIR, but also indicates that Caltrans analysis shows further effects of additional PM peak hour traffic would occur on I-5 and SR 160 due to current congestion conditions in the area. The traffic analysis presented in the Draft EIR shows that southbound I-5 currently experiences vehicle queuing caused by congestion at the “W-X” freeway connector that spills back to J Street and beyond.
- The transportation impact analysis results indicate that queued vehicles are not expected to spill back to the I-80/I-5 interchange as suggested in the comment. The existing AM peak hour is a relevant comparison because it is a peak flow condition in the same direction as the predicted pre-event peak hour. The existing plus project pre-event peak hour volume exiting northbound and southbound I-5 at J Street would be 10 percent less than the existing AM peak hour volume. During the AM peak hour, southbound traffic occasionally would spill back onto the I-5 auxiliary/weaving lane (between Richards Boulevard and J Street), but would not come close to spilling back to the I-5/I-80 interchange as a result of J Street off-ramp queuing. Further, Mitigation Measure 4.10-3 calls for traffic management strategies to be implemented at the J Street/3<sup>rd</sup> Street intersection. This may include signal timing adjustments to better facilitate the heavy southbound off-ramp vehicle demand. Additionally, motorists would have other options to avoid congestion on I-5 including the use of the Richards Boulevard interchange, P Street, Highway 50, State Route 160, and Tower Bridge. Although the comment asserts that their ‘analysis’ revealed that queuing would spill back to the I-5/I-80 interchange, such an analysis was not presented in the letter. Therefore, it was not possible to review it as part of this response.
- During the existing AM peak hour, westbound SR 160 carries about 3,200 vehicles approaching Richards Boulevard. By comparison, during the existing plus project pre-event peak hour, westbound SR 160 is projected to carry 2,565 vehicles, a traffic level that is 20 percent below the existing AM peak hour counts. Under existing conditions queuing problems do not typically occur on westbound SR 160 during the AM peak hour; the analysis supports the conclusion that they are even less likely to occur during the existing plus project pre-event peak hour given its lesser travel demand.

- A4-3            The comment is noted and will be conveyed to the City Council for its consideration.
- A4-4            The comment is noted and will be conveyed to the City Council for its consideration.
- A4-5            The comment is noted and will be conveyed to the City Council for its consideration.
- A4-6            The comment is noted and will be conveyed to the City Council for its consideration.
- A4-7            As noted in the comment, Caltrans is responsible for review, and in some cases approval of outdoor advertising near a state highway, such as the proposed digital billboards described in the Draft EIR. Although ten potential digital billboard locations were analyzed in the Draft EIR, the project applicant has identified seven potential locations as preferable:
- I-5 at Water Tank (dual face);
  - US 50 at Pioneer Reservoir (dual face);
  - Business 80 at Sutter's Landing Regional Park (dual face);
  - Business 80 at Del Paso Regional Park/Haggin Oaks (dual face);
  - SR 99 at Calvine Road (dual face);
  - I-5 at Bayou Road (one face); and
  - I-5 at Sacramento Railyards (dual face).
- When a digital billboard is proposed for a specific site, or when specific outdoor advertising on the ESC site is proposed, the project applicant will submit plans to Caltrans in accordance with Senate Bill 31 (SB 31), Outdoor Advertising Act. The Regulatory Setting in section 4.1, Aesthetics, Light and Glare, describes the regulatory requirements outlined in SB 31.





Governor Edmund G. Brown Jr.

January 29, 2014

Scott Johnson  
City of Sacramento, Community Development  
300 Richards Blvd., 3<sup>rd</sup> Floor  
Sacramento, CA 95811

Dear Mr. Johnson:

Thank you for the opportunity to comment on the Notice of Availability-Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development Project (Report) P13-065, SCH#2013042031.

The State Department of General Services (DGS) oversees approximately 18.9 million square feet of office space in both state-owned and leased facilities in the Sacramento region and is responsible for administering the Capitol Area Plan, which guides the development of state facilities on state-owned land within 42 blocks in downtown Sacramento known as the Capitol Area. The Capitol Area is bounded by 5<sup>th</sup> Street to the west, 17<sup>th</sup> Street to the east, L Street to the north, and R Street to S Street to the south (from 10<sup>th</sup> to 19<sup>th</sup> Streets up to the railroad right-of-way).

Due to the significant presence of state-occupied office space in downtown, DGS recognizes the potential impact of this project on state facilities and employees in the vicinity. Both construction and special event activities may influence traffic flow to and from work, the availability of parking, the ability to frequent the downtown mall, Old Sacramento, as well as downtown dining destinations.

The State of California has a vested interest in the project area because it could affect over 3,400 state employees located at 1001 I Street, a 25-story high-rise, as well as several thousand additional employees housed in state-owned buildings along Capitol Mall.

The Report indicates that there is not a parking impact under the California Environmental Quality Act, and mitigation measures are specific to the construction project as they relate to typical public transportation, traffic, and parking activities. However, the Report does not include mitigation measures addressing the impact to these activities during special events. Diverting traffic to the Interstate 5 Highway could impact surface streets surrounding the arena, as well as those surrounding the Highway 50 corridor. The Report acknowledges mitigation measures for reflectivity issues as they relate to street glare from exterior lighting in the evening, however, it does not identify mitigation measures for the potential for intense solar reflectivity that can occur and potentially create issues for neighboring buildings, passing traffic, and pedestrians.

A5-1  
A5-2  
A5-3  
A5-4



Mr. Scott Johnson

-2-

January 29, 2014

Please take into consideration the long-term transit impact this project may have on the surrounding offices, businesses, and residents. As the Report proceeds through the planning review, DGS is requesting the opportunity to review any changes or updates. Should you have any questions, you may contact me at (916) 376-1807.

A5-5

Sincerely,



Angela Verbaere  
Assistant Chief  
Asset Management Branch

cc: Cathy Buck, Supervising Real Estate Officer, Real Estate Services Division, Asset Management Branch

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**Letter A5 Response**      **Angela Verbaere, California Department of General Services**  
January 30, 2014

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- A5-1            The comment notes the Department of General Services' responsibility for overseeing state-owned and leased facilities in the Sacramento region and for administering the Capitol Area Plan. The comment notes there could be construction and operational impacts to state facilities and employees with regard to traffic flow, parking availability, and access to nearby destinations. These issues are discussed in section 4.10, Transportation.
- A5-2            This comment reiterates the Draft EIR statement that parking is not considered a significance criterion under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.
- A5-3            The comment suggests that the study did not consider traffic diverted off Interstate 5 and onto surface streets during special events. As described on page 4.10-53 of the Draft EIR, the analysis considered the potential diversion of traffic from some routes to others during special events. The first full paragraph on page 4.10-53 states "[t]he forecasting procedure allows for the potential redistribution of some trips to other roadways in response to changes in traffic levels and congestion."
- A5-4            Impact 4.1-3, Draft EIR pages 4.1-75 through 4.1-78, addresses glare that could be created by the proposed ESC during daytime and nighttime. As it pertains to daytime glare, the Draft EIR states that "[b]ecause of the multi-faceted design of the ESC façade, the movement of the sun would create the potential for glare from reflected sunlight in a multitude of directions, but would tend to make glare from any particular facet on the building façade a short-term instance, lasting only a short time from any particular orientation." The impact assessment then addresses daytime glare from each façade of the proposed ESC. As noted by the commenter, the impact assessment also addresses nighttime light and glare that could be created by the proposed ESC, particularly hazards to nearby drivers on J, L, and 5<sup>th</sup> Streets. In addition to addressing the potential hazards created by reflective surfaces, the analysis also addresses the potential for heat effects caused by reflectivity with specific consideration of heat effects on pedestrians in the event plaza around the ESC. Specifically, the analysis states that "[i]n the entry plaza area immediately surrounding the ESC structure, it is possible that morning and afternoon light could create reflective glare that could exacerbate the heat in these pedestrian open spaces during summer days."

The analysis notes that the multi-faceted nature of the ESC façade combined with the natural movement of the sun would tend to make reflective glare effects short-term in nature. Nevertheless, Impact 4.1-3 concludes that the potential for

glare impacts could be significant, and identifies Mitigation Measure 4.1-3 which prohibits the use of reflective mirrored glass, and requires the use of low emission (Low E) glass to reduce the reflective quality of the ESC façade. With the implementation of these measures, the Draft EIR concludes that Impact 4.1-3 would be less than significant.

A5-5           The comment requests that the project’s long-term transit impacts on surrounding offices, businesses, and residents be evaluated. Please see pages 4.10-51 through 4.10-53 of the Draft EIR for a discussion of the impacts on the transit system anticipated under cumulative conditions. In summary, the region will be making a substantial investment in reasonably foreseeable improvements to the transit system ranging from extended Light Rail Transit (LRT) lines operating on more frequent headways, a streetcar system, bus rapid transit, and other bus route service expansions. The conclusion of the Draft EIR analysis of impacts to transit ridership and capacity under cumulative conditions is that the impact would be less than significant (see Impact 4.10-15, page 4.10-109 of the Draft EIR).



Central Valley Regional Water Quality Control Board

29 January 2014

Scott Johnson  
City of Sacramento  
300 Richards Boulevard, 3<sup>rd</sup> Floor  
Sacramento, CA 95811

CERTIFIED MAIL  
7013 1710 0002 3644 0502

**COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, SACRAMENTO ENTERTAINMENT AND SPORTS CENTER AND RELATED DEVELOPMENT PROJECT (P13-065) PROJECT, SCH NO. 2013042031, SACRAMENTO COUNTY**

Pursuant to the State Clearinghouse's 16 December 2013 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report* for the Sacramento Entertainment and Sports Center and Related Development Project (P13-065) Project, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

**Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml).

A6-1



**Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/).

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml)

**Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml).

**Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

**Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

**Waste Discharge Requirements**

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/help/business\\_help/permit2.shtml](http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml).

**Low or Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2013-0074.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf)

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2013-0073.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf)

A6-1  
cont.

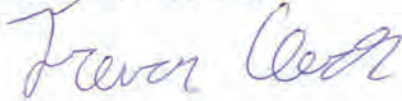


Sacramento Entertainment and Sport Center  
and Related Development Project (P13-065)  
Sacramento County

- 4 -

29 January 2014

If you have questions regarding these comments, please contact me at (916) 464-4684 or  
tcleak@waterboards.ca.gov.

A handwritten signature in blue ink that reads "Trevor Cleak". The signature is written in a cursive, flowing style.

Trevor Cleak  
Environmental Scientist

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento



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**Letter A6**      **Trevor Cleak, Central Valley Regional Water Quality Control**  
**Response**      **Board**  
January 30, 2014

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A6-1              The comment identifies potential types of permits that could be required from the Central Valley Regional Water Quality Control Board (CVRWQCB). Such permits could include a Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, an Industrial Storm Water General Permit, a Clean Water Act Section 404 Permit, a Clean Water Act Section 401 Permit, a Low or Limited Threat General NPDES Permit, or meeting Waste Discharge Requirements. Water quality permit requirements are detailed in section 4.7, Hydrology and Water Quality. As described in Impact 4.7-1, the Proposed Project would be required to comply with both state and local regulations designed to reduce or eliminate construction-related water quality effects.

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# Regional Transit

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January 31, 2014

Scott Johnson  
Associate Planner  
City of Sacramento, Community Development Department  
300 Richards Boulevard, 3<sup>rd</sup> Floor  
Sacramento, CA 95811

**Subject: Entertainment and Sports Center DEIR and TMP  
(P13-065/ SCH# 2013042031)**

Dear Mr. Johnson,

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the Entertainment and Sports Center (ESC). Regional Transit (RT) fully supports this project and is looking forward to the present arena moving downtown where it can be better served by an abundance of transit options. RT's goal is to provide service that is highly attractive to facilitate maximizing transit utilization and ridership. In an effort to be prepared for the opening of the ESC, RT staff has committed to working with the applicant and City staff to have a plan in place so that the community will be efficiently and safely served by transit in a cost-effective manner at all ESC events. RT staff has the following comments on the DEIR and Transportation Management Plan (TMP).

1. RT staff has been meeting with City staff, the applicant, and consultants to discuss transportation impacts of this project. In regards to Impacts 4.10-4 on train capacity and 4.10-6 on station capacity, RT staff accepts the conclusions of the analysis and the listed mitigation measures and is coordinating with the applicant and City to work out the details for implementing them. There are a variety of desirable operating techniques that would maximize the utilization of light rail service (for example, possibly designating a stop for boarding the Gold Line and another for boarding the Blue Line and/or providing special trains between regular service). In order to accomplish this, RT may need infrastructure consistent with the mitigation measures described in the DEIR and/or TMP (such as changeable message signage and wayfinding) and support (such as transit access information for event attendees and for on-site staff) from the City and ESC Operator. These potential needs shall be recognized in the final TMP. RT looks forward to working with you on finalizing these strategies.

As we are successful in maximizing transit utilization, there may need to be additional service/trains, security, and other infrastructure added to the system. RT will work with our collective partners to make sure there are

A7-1

A7-2

A7-3



adequate resources to meet these needs. To this end, the TMP should recognize as a mitigation measure the need for, at a minimum, one annual meeting between the ESC Operator, City and RT for the life of the ESC to discuss transit service operations, including on-going monitoring results and projected transit needs.

A7-3  
cont.

2. RT staff accepts the mitigation for Impact 4.10-5 on L Street bus stops. Please add the following location alternatives for consideration: Capitol Mall between 5<sup>th</sup> and 6<sup>th</sup> streets that will accommodate three (3) buses; while not preferred, a stop potentially on the east end between 4<sup>th</sup> and 5<sup>th</sup> Streets to accommodate one (1) bus maximum; and in the long-term, an additional stop on Capitol Mall between 7<sup>th</sup> and 8<sup>th</sup> streets to accommodate multiple buses. Permanently relocated bus stops must meet RT's specifications for Americans with Disability Act (ADA) compliance and shall result in equal or better service levels with regard to bus stop length, width, capacity, and amenities. Permanently relocated bus stops resulting in realignment of RT bus routes will warrant coordination with City staff regarding traffic signal management (for example, retiming of lights), on-going coordination with other event street closures, and/or comparable measures to prevent increases to overall travel times of routes.

A7-4

3. RT agrees with the need to reduce activity along 7<sup>th</sup> Street (as stated in Mitigation 4.10-6 and TMP) in order to enhance the circulation and safety of pedestrians and access to light rail before and after events. RT looks forward to working with the applicant and the City to further this objective.

A7-5

4. Impact 4.10-10 on construction related bus stop closures: Please add the following location alternatives for consideration for the closure of bus stops on L Street: Capitol Mall between 5<sup>th</sup> and 6<sup>th</sup> streets that will accommodate three (3) buses; while not preferred, a stop potentially on the east end between 4<sup>th</sup> and 5<sup>th</sup> Streets to accommodate one (1) bus maximum; and in the long-term, an additional stop on Capitol Mall between 7<sup>th</sup> and 8<sup>th</sup> streets to accommodate multiple buses.

A7-6

5. Please confirm in the DEIR and TMP that buses would be allowed access to northbound 3<sup>rd</sup> and 5<sup>th</sup> streets during event-related closures from Capitol Mall.

A7-7

RT staff requests the following corrections/edits to the DEIR:

6. Please make note in the DEIR that RT's Transit Network includes ADA-required complementary paratransit service within a three-quarter mile radius of all fixed-route RT service. This service is presently operated under contract by Paratransit Inc. The limited fixed-route RT bus service currently provided within a three-quarter mile radius of the Sleep Train Arena partially explains the low use of paratransit services at that site. However, with the ESC being located within a three-quarter mile radius of light rail service and multiple bus routes, which operates during all future ESC event hours, RT anticipates a much greater demand for paratransit services at this site.

A7-8

7. On page 4.10-23 of the DEIR and page 19 of the TMP, please note that the Green Line only operates Monday through Friday with limited service hours.

A7-9

8. On page 4.10-23 of the DEIR and page 19 of the TMP, the Sacramento Valley Station should be mentioned; it is just as close as some of the other stations and may be used by passengers wanting a seat on light rail as well as others users of the intermodal station.

A7-10



- 9. Please add to Figure 4.10-7 the existing bus stop on 5<sup>th</sup> Street south of L Street. A7-11
  
- 10. Page 4.10-69 describes the use of the light rail mini-high ramps related to the number of wheelchair accessible spaces/seats in the arena. RT's mini-high ramps are used by anyone who cannot climb the steps to board the train (not just wheelchair users), which we have statistically found to be 4.77 percent of light rail users. RT staff asks that the reference to the wheelchair capacity of the arena be stricken from this paragraph, as it does not relate. A7-12
  
- RT staff also has the following comments on the Draft Transportation Management Plan:
  
- 11. Table 1-1: The City does not manage transit infrastructure and right of way for the light rail system (please take "transit" out of their description). Please add, "Recommendations related to the physical or operational changes to transit facilities or operations have to be approved by RT" to RT's description. Also, please replace "several RT bus routes" with "14 bus routes." A7-13
  
- 12. On page 20, the second paragraph under section 5.2 should be corrected to state that 30% of pre-game riders would be expected to use the 9<sup>th</sup> & K station and 30% would use the 8<sup>th</sup> & K station, which are closer to the site than 8<sup>th</sup> & Capitol. In addition, the last sentence of the section should also mention some riders might walk to the Sacramento Valley Station. A7-14
  
- 13. The introductory sentence of Section 5.4 on Page 21 should also say, "as well as encourage the use of transit to the event." A7-15
  
- 14. The DEIR states that it will take 45 minutes for the existing fare vending machines to accommodate the DEIR's estimated number of riders after each event (both for purchasing and validating tickets). RT concurs with this statement. As a result, reliance on post-game transit ticket sales is not logistically feasible. Please re-write Section 5.4, Page 21 to reflect that Transit Pass Sales will address the need for pre-game sale and distribution of transit passes and that these are more feasible than post-game sales. Further, please add specific example strategies which may include, but are not limited to, pre-purchase of RT daily passes or RT Connect Cards, and mailings to NBA season ticket holders and inclusion of RT marketing materials in publicity efforts. A7-16
  
- 15. Add to first bullet of Section 5.4, Page 21, Post-Game Management Strategies, "so that special event trains can mobilize." A7-17
  
- 16. Section 5.4, Page 21: Post-Game Management Strategies, fourth bullet: please note that an operations plan is still being worked out by RT. Please see comment #1 above. A7-18
  
- 17. Section 5.4, Page 22: Post-Game Management Strategies, last bullet: reword to say, "If the on-going monitoring of ridership and other factors determines the need, the ESC Operator and Sacramento DPW staff will work with RT staff to arrange for special event game trains between regular service trains or other service enhancements, as has been previously referred to in this document (in the 4<sup>th</sup> bullet of this section) and the DEIR (Mitigation Measure 4.10-6d). It is anticipated special event trains or other service enhancements may be necessary to serve crowds waiting at the stations (and blocking pedestrian and traffic circulation)." A7-19



18. Figures 6, 7 and 8 should show the Sacramento Valley Station and pedestrian path to it.

A7-20

19. Section 6.4, Page 27: RT staff does not recommend bike parking in areas where cycling paths will conflict with train operations. This section should also discuss the use of the bike share program and siting a kiosk near the ESC to be used by both employees as well as attendees.

A7-21

20. Section 9.1, Page 47: Please address efforts to inform employees of transportation options and encourage alternative modes of transportation besides auto use. As it does with all large employers, RT recommends the ESC Operators provide discounted transit passes to employees. RT also supports implementation of Mitigation Section 4.2-3 in that the ESC Operators join the Sacramento Transportation Management Association.

A7-22

21. Section 9.2, Page 47: Please include wayfinding signage that directs pedestrians both to and from light rail stations and ramps, including special instructions for those with special accessibility needs.

A7-23

22. Section 10.2, Page 49: RT staff must be included in the Coordination Meetings for transportation monitoring, including at a minimum, one annual meeting between the ESC Operator, City and RT for the life of the ESC to discuss transit service operations including on-going monitoring results and projected transit needs.

A7-24

The ESC is a tremendous opportunity for Sacramento. The region will benefit as the transit providers position their services to maximize transit utilization and we expect utilization to increase in the future as ESC patrons become familiar and comfortable with transit. RT staff has surveyed other peer cities that have achieved successful use of transit serving arenas in their downtown areas. We have found there to be a range of transit use, showing promising interest for our community. For instance, UTA in Salt Lake City boards on average approximately 2,000 (10%) attendees after NBA games with 4-car light rail trains and 15-minute headways adjacent to the site. Denver RTD boards 1,700 (10%) of their NBA attendees and Portland transit ridership for NBA games is on average 20% of attendees. The provision of adequate transit supply and user amenities will facilitate the achievement of similar goals and environmental benefits for the Sacramento community.

A7-25

RT will continue to work with the City and ESC Operator to develop means to identify additional resources necessary to support the increased level of ridership over time.

Please send any subsequent documents and hearing notices that pertain to this project as they become available. To set up a meeting or if you have further questions regarding these comments, please contact me at (916) 556-0340 or Traci Canfield at (916) 556-0513 or tcanfield@sacrt.com.

Sincerely,

RoseMary Covington  
AGM of Planning and Transit System Development

c: Michael R. Wiley, General Manager/CEO  
Desmond Parrington, ESC Project Manager, City of Sacramento

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**Letter A7**      **Rosemary Covington, Sacramento Regional Transit District**  
**Response**      **January 31, 2014**

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- A7-1      The comment supports the Proposed Project's location near several transit options. The comment also notes Regional Transit's desire to work with the City and project applicant to prepare a coordinated plan and approach to providing transit service in the area. The comment is noted and will be conveyed to the City Council for its consideration.
- A7-2      This comment indicates that Regional Transit accepts the conclusions regarding Impacts 4.10-4 and 4.10-6. Based on the input from Sacramento Regional Transit District in this comment, the Revised Draft Event TMP will include changeable message signs, wayfinding, and transit access information among the list of operating techniques to be considered to enhance transit service. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-3      In response to this comment, the Revised Draft Event TMP will explicitly state that there will be one annual meeting the ESC operator, City, and RT for the life of the ESC to discuss transit service operations, monitoring results, and projected transit needs. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-4      Regional Transit's acceptance of Mitigation Measure 4.10-5 is noted. In response to this comment, a civil engineer studied the suggested location for relocated bus stops on Capitol Mall between 6<sup>th</sup> and 4<sup>th</sup> Streets. Based on this engineering assessment, it was determined that it would not be possible to construct bus stops at these locations that would meet RT specifications, including compliance with the American with Disabilities Act, within the public right-of-way on the north side of Capitol Mall. Limiting factors included maximum slope and curb height limitations.
- A civil engineer also studied the suggested location on Capitol Mall between 8<sup>th</sup> and 7<sup>th</sup> Streets. Based on this engineering assessment, it was determined that new bus stops could be constructed at this location that would meet all RT specifications, including ADA compliance. The improvements would involve reconstruction of the sidewalk on the north side of Capitol Mall, along with paving the majority of the area planted in grass in the landscape strip. Trees would not be removed, and would remain in appropriately sized planters, but may require a limited amount of pruning to avoid conflicts with buses.
- Although design plans for the relocated bus stop are still in development, initial estimates are that the majority of the block could be used for bus loading/unloading as there are no driveways or on-street parking that would

interfere with bus operations. It is estimated that a minimum of three buses could simultaneously load/unload passengers at this location. Passengers boarding or disembarking at this location would have immediate access to all of RT's light rail lines at adjacent stations on 7<sup>th</sup> Street and 8<sup>th</sup> Street.

To accommodate this bus stop, the westbound direction of Capitol Mall, which currently consists of two travel lanes and a Class II bicycle lane, would need to be restriped between 9<sup>th</sup> Street and 7<sup>th</sup> Street as follows:

- Westbound Capitol Mall approach to 8<sup>th</sup> Street would be restriped to consist of a single through lane, and a dedicated right-turn lane (that buses may also use to access the bus stop/lane that begins west of 8<sup>th</sup> Street).
- Westbound Capitol Mall between 7<sup>th</sup> Street and 8<sup>th</sup> Street would consist of a single through lane, and a bus only lane.
- The Class II bicycle lane would remain on westbound Capitol Mall, though the positioning of it would change. Approaching and departing 8<sup>th</sup> Street, it would be located between the travel lane and bus lane. It would transition back to the curb prior to 7<sup>th</sup> Street.

The proposed restriping of westbound Capitol Mall would not adversely affect traffic flow in the corridor. Under existing plus project PM peak hour conditions, westbound Capitol Mall between 7<sup>th</sup> and 8<sup>th</sup> Streets is projected to carry 266 vehicles, which can readily be accommodated by a single travel lane. The approximate 30 buses that will stop on this segment will have a dedicated bus lane to load/unload passengers, thereby not affecting through travel. The Capitol Mall/8<sup>th</sup> Street intersection, which currently operates at LOS C or better during each peak hour, would continue to operate at LOS C with this modification and the addition of project traffic. Finally, this modification would not create an inconsistency with the City's Mobility Element because the lanes specified in it represent the maximum number of lanes that can be provided.

Relocated bus stops on this block would require the City of Sacramento to coordinate traffic signals on Capitol Mall west of 7<sup>th</sup> Street to better facilitate the flow of through travel.

As depicted on Revised Figure 2-23, in discussions with the City, Regional Transit has indicated that in response to the implementation of Mitigation Measure 4.1-5, it would make additional changes to its bus system in the project vicinity. These changes would be intended to facilitate effective rerouting of buses from L Street to Capitol Mall via southbound 9<sup>th</sup> Street. In the future, buses travelling on westbound L Street would turn left onto southbound 9<sup>th</sup> Street, and then turn right onto westbound Capitol Mall. Further changes would

involve the closure of existing bus stops that are located on the north side of L Street between 10<sup>th</sup> and 9<sup>th</sup> Streets, and between 9<sup>th</sup> and 8<sup>th</sup> Streets. Buses that stop at these locations would in the future stop at the existing bus stop on the west side of 9<sup>th</sup> Street between L Street and Capitol Mall, before proceeding onto Capitol Mall and stopping at the new bus stop located between 8<sup>th</sup> and 7<sup>th</sup> Street.

When compared to the potential new bus stop locations identified in the Draft EIR (i.e., on L Street east of 7<sup>th</sup> Street and on southbound 6<sup>th</sup> Street, north of Capitol Mall), the proposed location on Capitol Mall would avoid the displacement of on-street parking and loading spaces. It would also simplify transfers between buses and light rail, and wayfinding to/from the ESC (due to buses stopping in a single nearby location).

The preservation of the street trees that are currently located in the landscape strip along the north side of Capitol Mall between 8<sup>th</sup> and 7<sup>th</sup> Streets would maintain the visual character of the Capitol Mall corridor. The removal of approximately 180 linear feet of planted grass turf in the landscape strip would not substantially change the visual character of the street which is largely established by the street tree canopy, the center median, and the high-rise buildings that line Capitol Mall. These changes would be consistent with 2030 General Plan policies ER 7.1.3 and ER 7.1.4. The location of a bus stop on Capitol Mall would not affect views of the State Capitol, consistent with 2030 General Plan policy ER 7.1.1.

In order to reflect this additional discussion, Mitigation Measure 4.1-5 on pages 4.1-98 and 4.10-99 of the Draft EIR is revised to read as follows:

#### 4.10-5 (ESC)

*The project applicant, in coordination with the City of Sacramento, Regional Transit, and other transit providers within the project vicinity, shall identify new bus stop locations and cause replacement bus stop facilities to be constructed. Service providers should then collaborate/agree on which bus routes should use which relocated stops. ~~Potential~~ The proposed new bus stop locations include (but are not limited to): north side of L Street east of 7<sup>th</sup> Street, and west side of 6<sup>th</sup> Street south of L Street would be located on the north side of Capitol Mall between 8<sup>th</sup> Street and 7<sup>th</sup> Street.*

The bus stop location on the north side of Capitol Mall, between 8<sup>th</sup> Street and 7<sup>th</sup> Street, would extend for approximately 210 feet measured from the limit line on the west side of 8<sup>th</sup> Street. A site visit, which included RT staff and a civil engineer, identified the need for various improvements to support a bus stop, including curb/gutter modifications, removal, re-grading, and replacement of the existing Capitol Mall sidewalk within the limits of the bus stop, paving of portions of the planted grass landscape strip between the sidewalk and the curb, addition of two bus shelters, reconstruction and strengthening of portions of the pavement immediately adjacent to the bus

stop. The resulting bus stop could simultaneously load 3 buses and provide queuing for 1-2 buses.

*The bus stop location on the north side of L Street east of 7<sup>th</sup> Street could extend for approximately 140 feet, measured from the limit line at 7<sup>th</sup> Street to the bollards forming the entrance to nearby parking garage. A site visit, which included RT staff, identified the need for various potential improvements to support a bus stop including curb/gutter modifications, prohibition of on-street parking, a new transit shelter, removal of one street tree, and other relocations/modifications. The resulting bus stop could simultaneously load two buses.*

*The bus stop location on the west side of 6<sup>th</sup> Street north of Capitol Mall would measure about 75 feet, which is sufficient to load one bus. To the north, the curb is painted yellow with "Loading Zone" markings. If this loading zone area were to be relocated slightly further north on 6<sup>th</sup> Street, the bus stop could be of sufficient length to simultaneously load two buses. A site visit, which included RT staff, identified the need for various potential improvements to support a bus stop including prohibition of on-street parking, a new transit shelter, and the potential removal of decorative tree/shrubs.*

*"The permanent relocation of bus stops may have secondary impacts related to the loss of a small number of on-street parking spaces, loading zones, and/or street trees. This secondary impact would be potentially significant.*

- A7-5 This comment reaffirms the need to close 7<sup>th</sup> Street between J Street and L Street, as identified in the Draft Event Transportation Management Plan and Mitigation Measure 4.10-6(a).
- A7-6 Please see Response to Comment A7-4.
- A7-7 The Revised Draft Event TMP will clarify that buses would be permitted to travel on northbound 3<sup>rd</sup> Street or 5<sup>th</sup> Street between Capitol Mall and J Street during post-event street closures. However, because of the large number of pedestrians expected in post-event conditions, buses would not be permitted to travel on closed segments of L Street and 7<sup>th</sup> Street.
- A7-8 This comment suggests that the location of the ESC would result in greater levels of paratransit use when compared to Sleep Train Arena. The comment does not raise any issues regarding the environmental impact analysis.

Page 4.10-24, the following is added after the 6<sup>th</sup> full paragraph:

RT's transit network includes ADA-required complementary paratransit service within a three-quarter mile radius of all fixed-route RT service. This service is presently operated under contract by Paratransit, Inc. There is

limited fixed-route RT bus service currently provided within a three-quarter mile radius of Sleep Train Arena, at least partially explaining the low use of paratransit service to the existing facility. The Downtown project site is located within a three-quarter mile radius of light rail service and multiple bus routes, which operate during all future ESC event hours. As a result, RT expects a greater demand for paratransit service at the Downtown project site.

- A7-9 The Revised Draft Event TMP will include the current operating hours of the Green Line. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.

Page 4.10-23, second full paragraph, the following is added after the last sentence:

The Green Line only operates Monday through Friday with limited service hours.

- A7-10 The Revised Draft Event TMP will be clarified to further describe the Sacramento Valley Station and its potential transit patronage. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR. The end of the second full paragraph on page 4.10-23 of the Draft EIR will be modified to include the following additional text:

Transit service is also provided by the new Sacramento Valley station located north of I Street. It operates between Auburn and the Bay Area. Currently, the latest eastbound and westbound trains depart the Intermodal Terminal Station at 9:10 PM on weekdays. This means that current service would not enable an ESC patron to stay for an entire basketball game (which ends at about 9:30 PM) while catching the train home.

- A7-11 Figure 4.10-7 will be modified to show the existing bus stop on 5<sup>th</sup> Street south of L Street, as shown in Chapter 2 of this Final EIR.

- A7-12 The reference to the wheelchair capacity of the arena on page 4.10-69 is deleted. As a result of this clarification, the fourth full paragraph on page 4.10-69 is revised as follows:

RT staff requested that occupancy of the mini-high ramps and platforms also be evaluated based on the assumption that 4.77 percent of light rail riders use the mini-high ramps. During the post-event peak hour, 918 LRT riders are expected, which implies 44 riders will use the mini-high ramps based on the suggested factor. Since the maximum ridership on a given line is 40 percent of the total, this means a maximum of 18 riders using the mini-high ramps during the two train departures during the post-event peak hour. ~~It is worth~~

~~noting that the ESC site design is proposing approximately 160 wheelchair accessible spaces/seats, which is less than one percent of the facility's capacity. This implies that RT's suggested factor of LRT riders that use the mini high ramps and platforms is conservative when compared to the ESC design.~~

- A7-13 The Revised Draft Event TMP will include the suggested text change. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-14 The Revised Draft Event TMP will include the suggested text change. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-15 The Revised Draft Event TMP will include the suggested text change. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-16 The Revised Draft Event TMP will include the suggested transit pass sales strategies. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-17 The Revised Draft Event TMP will include the suggested text change. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-18 Please see Response to Comment A7-2. The Revised Draft Event TMP will include potential operating techniques to enhance transit service. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-19 The Revised Draft Event TMP will include the suggested text change. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-20 Figures 6, 7, and 8 of the Revised Draft Event TMP will be modified as suggested. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-21 Section 6.3 of the Revised Draft Event TMP will include RT's recommendation that bike parking not be provided where it will conflict with train operations. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-22 As is noted in Mitigation Measure 4.2-3, the Proposed Project would be required to join and maintain membership in the Sacramento Transportation Management Association. It is anticipated that the TMA would support efforts by the project applicant and other businesses that would operate within the Proposed Project to provide information on alternative modes of travel for employees, event attendees, residents, and business patrons.



- A7-23            The Revised Draft Event TMP will include the provision of wayfinding signage for ESC attendees to access transit. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.
- A7-24            Please see Response to Comment A7-3.
- A7-25            This comment addresses light rail operations and ridership in other cities in the western U.S. that have NBA franchises. The comment stresses the importance of providing an adequate transit supply and user amenities to achieve environmental benefits for the Sacramento community. The comment does not raise any issues regarding the environmental analysis. The comment is noted and will be conveyed to the City Council for its consideration.

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January 31, 2014

**CITY HALL**  
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West Sacramento, CA 95691

**City Council**  
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**City Manager's Office**  
City Clerk  
Early Learning Services  
Information Technology  
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Economic Development  
(916) 617-4535

**Community Development**  
Planning/Development Engineering  
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Recreation Center  
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1951 South River Road  
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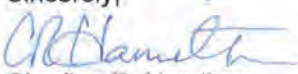
Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)

Dear Mr. Johnson:

Thank you for providing the City of West Sacramento with the opportunity to comment on the draft EIR for the Sacramento Entertainment and Sports Center & Related Development Project (P13-065) (SCH#: 2013042031). Please accept this letter as the City's formal comments on the DEIR.

The Downtown/Riverfront Streetcar Project is an urban circulator that could benefit the ESC by helping mitigate traffic on city streets and Interstate 5 by providing alternative means to access the ESC and remote parking areas that could serve the ESC. It could also mitigate air quality emissions and GHG emissions as well as extend the economic benefit of the ESC beyond its localized impact by providing riders a non-vehicular method to get to and from the ESC area. The City believes that the Streetcar would assist development and operation of the ESC as part of a larger public transit program for patrons and employees of the ESC.

The City of West Sacramento remains very supportive of the ESC and believes that the streetcar project could provide the necessary solutions to improve traffic, air quality and other transportation impacts in the project location and surrounding areas.

Sincerely,  
  
Charline R. Hamilton  
Community Development Director

A8-1  
A8-2

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**Letter A8**      **Charlene Hamilton, City of West Sacramento**  
**Response**      January 31, 2014

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- A8-1      The comment supports the development of the Downtown/Riverfront Streetcar Project as a means to lessen potential environmental effects. As is required in Mitigation Measure 4.10-2, prior to the issuance of each building permit for the project, the project applicant is required to pay a fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project. As is noted in Comment A4-4, Caltrans notes that the SACOG MTP includes as a project the streetcar project between West Sacramento and Midtown Sacramento. If the Proposed Project fair-share contribution is directed to the streetcar project, those funds would contribute to the advancement of the streetcar project. The comment is noted and will be conveyed to the City Council for its consideration.
- A8-2      The comment provides support for the ESC and reiterates support for a streetcar system. The comment is noted and will be conveyed to the City Council for its consideration.

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Larry Greene  
AIR POLLUTION CONTROL OFFICER

January 31, 2014

Stacia Cosgrove, Senior Planner  
Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
[SCosgrove@cityofsacramento.org](mailto:SCosgrove@cityofsacramento.org); [SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)

**RE: Sacramento Entertainment and Sports Center (SAC201101409)**

Ms. Cosgrove and Mr. Johnson,

The Sacramento Metropolitan Air Quality Management District (District) has received the Draft Environmental Impact Report and Draft Transportation Management Plan for the Sacramento Entertainment and Sports Center (ESC), located at the northeast corner of L Street and 5<sup>th</sup> Street in Downtown Sacramento. The following are the District's comments:

General Comment

All projects are subject to District rules in effect at the time of construction. A complete listing of current rules is available at [www.airquality.org](http://www.airquality.org) or by calling (916) 874-4800.

A9-1

Consistency with General Plan Air Quality Goals

The project meets the 15 percent reduction in ozone precursors as prescribed in General Plan policy ER 6.1.3 and the proposed construction mitigation and permanent annexation into the Sacramento Transportation Management Association satisfies General Plan policy ER 6.1.2.

A9-2

Compliance with Senate Bill 743

Senate Bill 743 requires the District to verify that the project "reduce[s] to at least zero the net greenhouse gas (GHG) emissions from private automobile trips to the arena as compared to the baseline (existing arena)." The District has reviewed the Draft Environmental Impact Report and finds that the project meets this provision of SB 743.

A9-3

Re: **RE: Sacramento Entertainment and Sports Center (SAC201101409)**

Transportation Management Plan Analysis

The proponents have submitted an Event Transportation Management Plan to be utilized during peak events at the Entertainment and Sports Complex (ESC). Table 1-1 (page 2) lists the roles and responsibilities for various agencies and entities that may be involved in managing transportation facilities or providing transportation services in the vicinity of the ESC. The Sacramento Transportation Management Association (Sacramento TMA) should be included on that list because: (i) the project is located within their jurisdiction, and (ii) 10 percent of people attending peak events at the arena are expected to originate from the 95814 zip code, which is likewise within the Sacramento TMA's purview. The TMA could assist Employee Transportation Coordinators in providing information on sustainable alternative travel modes for attendees and employees working at the events. Consequently, the TMA should be a full partner in maximizing sustainable modes.

A9-4

The location of the project, close to light rail and bus lines, offers a significant opportunity to reduce traffic and air quality impacts by enhancing transit services. In fact, the DEIR analysis projects that the project will achieve a 7% mode split for vehicular and transit trips. While Regional Transit (RT) will play the key role in providing transit services, it is important that the Project proponents and the City continue to work with RT to ensure that enhanced services are financially viable and that the 7% split is achieved and maintained.

A9-5

The District thanks the City of Sacramento for the opportunity to comment on this project. If you have additional questions or require further assistance, please contact Paul Philley at pphilley@airquality.org or (916) 874-4882.

Sincerely,

Larry Greene  
Executive Director/Air Pollution Control Officer  
Sacramento Metropolitan Air Quality Management District  
777 12<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Sacramento, CA 95814

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**Letter A9 Response**      **Larry Greene, Sacramento Metropolitan Air Quality Management District (SMAQMD)**  
January 31, 2014

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- A9-1            The comment notes that the Proposed Project is subject to SMAQMD rules. Applicable rules in effect at the time of the Draft EIR's publication are listed on page 4.2-13. The comment is noted and will be conveyed to the City Council for its consideration.
- A9-2            The comment notes the Proposed Project's compliance with City of Sacramento General Plan policy ER 6.1.3 regarding ozone precursors emissions reduction and policy ER 6.1.2 regarding reduction of construction and operational emissions. The comment is noted and will be conveyed to the City Council for its consideration.
- A9-3            The comment notes that SMAQMD reviewed the Draft EIR and GHG analysis and concurs that the Proposed Project meets Senate Bill 743's requirement of no net increase in GHG emissions. The comment is noted and will be conveyed to the City Council for its consideration.
- A9-4            The Sacramento Transportation Management Association (TMA) will be added to Table 1-1 of the Revised Draft Event TMP given its role in providing information on alternative travel modes for attendees and employees. Mitigation Measure 4.2-3 would require the Proposed Project to join the Sacramento TMA.
- A9-5            The comment recommends that project applicant, the City, and RT work together to ensure that the 7 percent transit mode split is achieved and maintained. The comment does not raise any issues regarding the environmental analysis. The comment is noted and will be conveyed to the City Council for its consideration.

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Matthew Rodriguez  
Secretary for  
Environmental Protection



Department of Toxic Substances Control

Deborah O. Raphael, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



Edmund G. Brown Jr.  
Governor

January 31, 2014

Via E-Mail Only

Scott Johnson, SRJohnson@cityofsacramento.org

COMMENTS ON SACRAMENTO ENTERTAINMENT AND SPORTS CENTER AND RELATED DEVELOPMENT, DRAFT ENVIRONMENTAL IMPACT REPORT

Dear Mr. Johnson:

Department of Toxic Substances Control (DTSC) has received the December 16, 2013 Notice of Availability and reviewed the *Sacramento Entertainment and Sports Center & Related Development, Draft Environmental Impact Report* (ESC DEIR), dated December 2013, State Clearinghouse Number (SCH#) 2013042031. DTSC appreciates the opportunity to review and comment on the DEIR and is eager to participate and provide information to facilitate the implementation of the California Environmental Quality Act process at the site.

A10-1

DTSC previously provided comments dated May 13, 2013 on the April 12, 2013 Notice of Preparation (NOP). As stated in the NOP comments, DTSC is providing lead regulatory oversight for the cleanup of contaminated soil and groundwater at the Railyards.

In review of the DEIR, the entire ESC and a portion of Public Use Development (PUD) area are located above contaminated groundwater, and one of the proposed billboard sites is located on property with a land use covenant requiring proper soil management. Activities in areas of contamination would require prior approval from DTSC, development of a soil and/or groundwater management plan, and implementation of mitigation measures.

A10-2

**Downtown Project Site**

**Background**

The Downtown Project Site consists of the ESC and PUD area. The entire ESC and a portion of the PUD are located above contaminated groundwater in an area bounded by 5th, 7th, J and L Streets. The contaminated groundwater is called the South Plume Groundwater Study Area (South Plume) which originates from the Railyard. The South

A10-3

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Page 2

Plume is bounded by 5th, 10th to 11th, and Q Streets and is contaminated with metals, solvents, and petroleum based compounds at depths greater than approximately 40 feet below ground surface (beneath the upper sand zone which is not impacted). Cleanup in the South Plume has not been completed; however a Remedial Action Plan was approved on July 3, 2013 which lists institutional controls that are part of the remedy.

↑  
A10-3  
cont.

**Comments**

1. The following institutional controls should be included as mitigation measures:

- No remediation system, monitoring well network, extraction wells, associated conveyance piping, or treatment systems shall be altered, disturbed, or destroyed without prior approval by DTSC.
- All drilling for any water, oil, or gas shall be prohibited without prior approval by DTSC.
- Extraction or use of groundwater shall be prohibited without prior approval by DTSC.

A10-4

2. Dewatering activities shall not adversely affect remediation of the South Plume, or exacerbate it such that contamination expands or enters the upper sand zone. DTSC concurs with Section 2.0 of the DEIR which states, "Analysis of the ground water, both for contaminants and quantity would be performed in advance of installation of the construction dewatering system. Monitor wells will be used to gain historical data both prior to and during the construction dewatering period."

A10-5

3. Should construction have the potential to encounter contaminated soil, soil gas, and/or contaminated groundwater, applicable mitigation measures from *Railyards Specific Plan, Final Environmental Impact Report*, SCH 2006032058, dated November 2007, should be included as mitigation measures for the Downtown Project Site. The following are examples:

- Mitigation Measure 6.5-2:

In areas where the groundwater contamination has the potential to reach water, sewer or storm drainage pipelines due to fluctuations in the elevation of the groundwater table, or where volatile contaminants in soil vapor could enter porous utility lines, measures such as concrete trenches, membrane barriers and venting will be used to prevent infiltration in accordance with DTSC requirements. Routine monitoring shall be performed by the landowners, reported to DTSC and [Central Valley Regional Water Quality Control Board], and corrective actions implemented if the results indicate adverse changes in water quality.

A10-6



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- Mitigation Measure 6.5-3(e):

Compliance with building design requirements, to be included in the building code ordinance, for preventing the intrusion of subsurface vapors into buildings and enclosed spaces and the buildup of soil vapors in enclosed spaces where applicable, shall be required if determined by DTSC to be necessary.

A10-7

- Mitigation Measure 6.5-3(f):

Prior to approval of any grading permit, developers shall demonstrate access to a nearby secure holding area for interim storage of contaminated soil that could be uncovered during construction, and provide a plan for transport of soil to the holding area.

A10-8

- Mitigation Measure 6.5-3(g):

Developers shall be required to employ construction dewatering techniques, should they become necessary, that minimize the potential for pulling groundwater contaminants to the surface. Contingency plans for pretreatment of contaminated groundwater, if necessary, shall be in place prior to the start of construction in the event that extracted water cannot be sent to the regional wastewater treatment plant.

A10-9

4. DTSC guidance on vapor intrusion should be considered during construction. The most recent guidance is the *Final Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air (Vapor Intrusion Guidance)*, dated October 2011, and *Advisory – Active Soil Gas Investigation*, dated April 2012.

A10-10

**Digital Billboard Site 10**

**Background**

DTSC notes that the concept of offsite digital billboards was not mentioned in the NOP but is in the DEIR. The proposed Site 10 is located at Interstate 5 and the Railyards' Sacramento Station Study Area (Sac Station). Cleanup in Sac Station has been completed for commercial use with land use restrictions and soil management requirements.

A10-11

Scott Johnson, SRJohnson@cityofsacramento.org  
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**Comments**

- 1. Under “I-5 at Sacramento Railyards” on pages 4.6-9 and 4.6-10, the DEIR misidentifies Site 10 as being adjacent to the Central Corridor when it is adjacent to Central Shops. Furthermore, while Site 10 is adjacent to Central Shops, it is located on Sac Station. | A10-12
  
- 2. Should Site 10 be selected, coordination with the property owner would be needed for access. | A10-13
  
- 3. Should Site 10 be selected, Section 3.01.C of the May 19, 1994 covenant for Sac Station should be included as a mitigation measure. The restriction states:  

“No excavation at and/or removal of any soil from the Property shall be allowed, except as allowed pursuant to section 3.01.E [of this Covenant], without the prior written approval of the Department. Excavated soil must be tested for those compounds noted in the preamble of this Covenant and properly used, treated, and/or disposed of as required by law and the Department.”

| A10-14
  
- 4. Should Site 10 be selected and construction has the potential to encounter contaminated soil, soil gas, and/or contaminated groundwater, applicable mitigation measures from *Railyards Specific Plan, Final Environmental Impact Report*, SCH 2006032058, dated November 2007, should be included as mitigation measures. See Comment 3 for the Downtown Project Site. | A10-15

**General Comments**

- 1. Throughout the DEIR, there are references to using a Registered Environmental Assessor (REA) during site preparation and construction to identify hazards and hazardous materials; however, the signed 2012/2013 California budget removed the REA Program from statute, effective July 1, 2012. Instead, an Environmental Professional, as defined in Section 312.10 of Title 40 Code of Federal Regulations, should be used in place of an REA. | A10-16

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If you have any questions regarding site investigation and remediation, please contact me at (916) 255-3601 or Ruth.Cayabyab@dtsc.ca.gov.

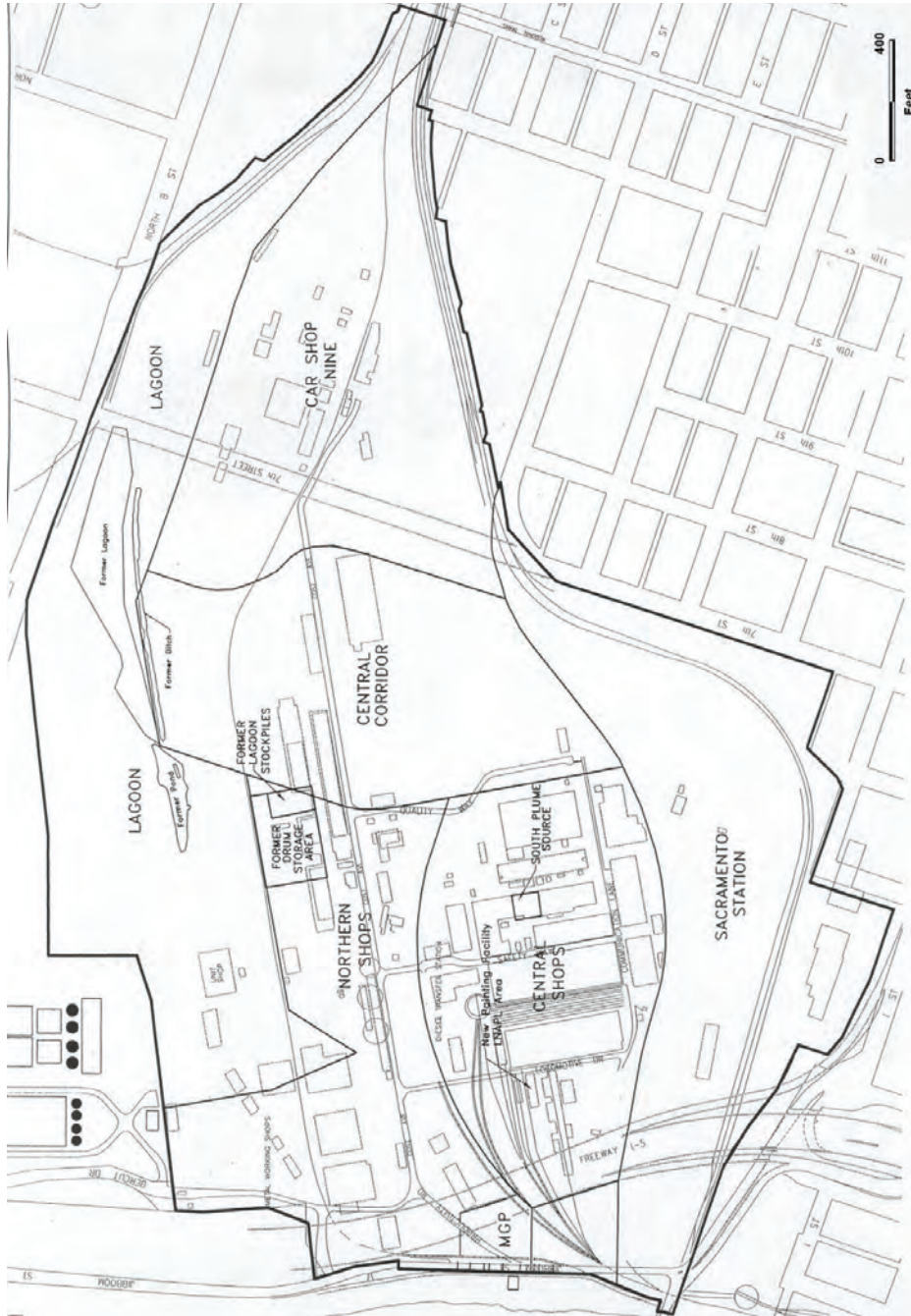
Sincerely,



Ruth Cayabyab  
Project Manager  
Brownfields and Environmental Restoration Program

Scott Johnson, SRJohnson@cityofsacramento.org  
January 31, 2014  
Page 6

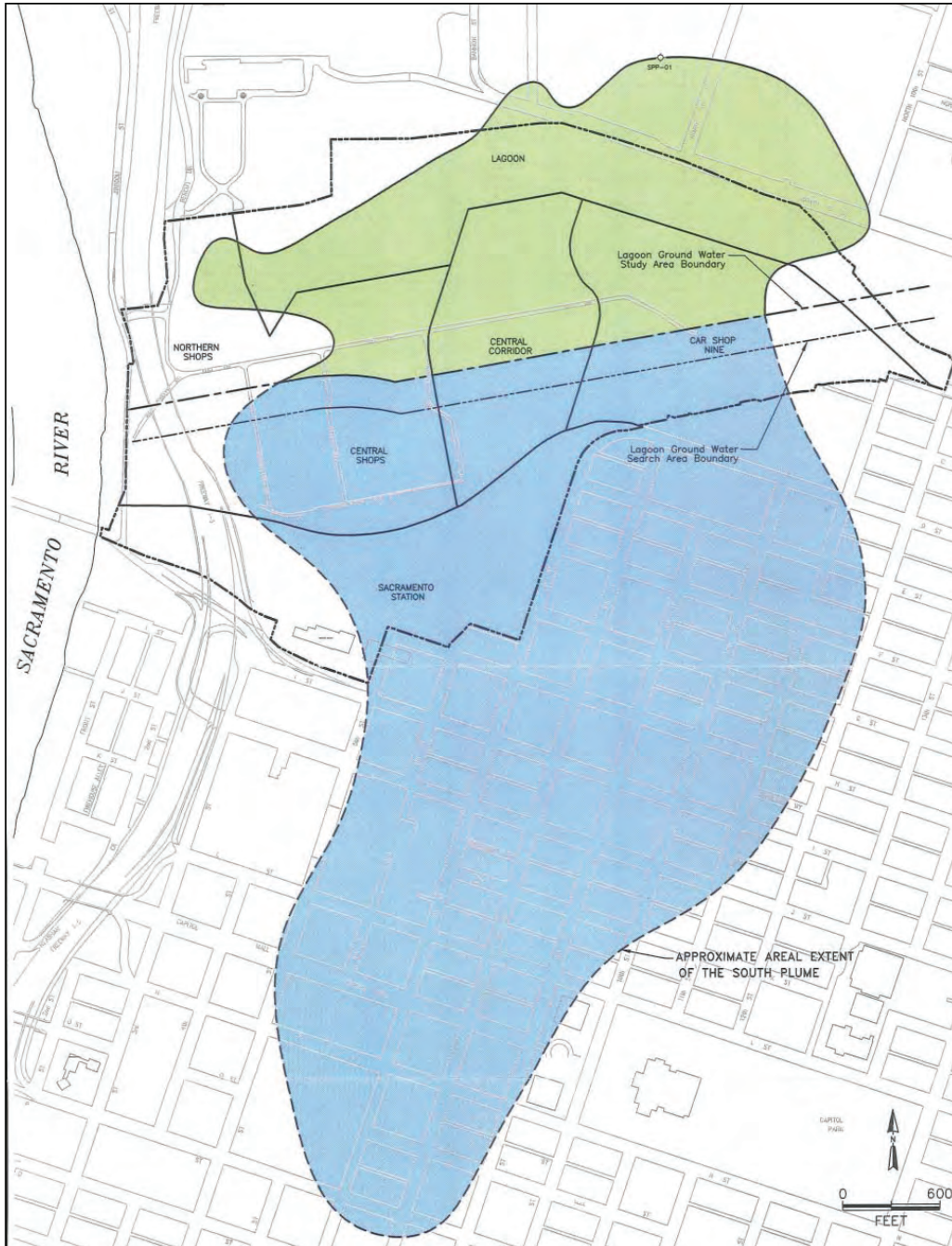
Attached Figure: Sacramento Railyards Study Areas (Soil)





Scott Johnson, SRJohnson@cityofsacramento.org  
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Attached Figure: Sacramento Railyards Study Areas (Groundwater)



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**Letter A10 Response**     **Ruth Cayabyab, Department of Toxic Substances Control**  
January 31, 2014

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- A10-1            The comment states that DTSC reviewed the Draft EIR, and previously provided comments on the Notice of Preparation (NOP). Comments received on the NOP are included in Appendix A of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- A10-2            The comment summarizes more detailed points made later in the letter, notably the presence of contaminated groundwater beneath a portion of the Downtown project site and one proposed digital billboard location (I-5 at Sacramento Railyards) requiring soil management. These issues are addressed specifically in Responses to Comments A10-3 through A10-15.
- A10-3            As noted in the comment and discussed in the Draft EIR, the Downtown project site is above the South Plume Groundwater Study Area (South Plume). Page 4.6-6 discusses the location of the South Plume and describes the existing plans for remediation. Figure 4.6-1 illustrates the South Plume's location relative to the Downtown project site. Impacts 4.6-3 and 4.6-4 discuss the Proposed Project's potential to expose people to contaminated groundwater and the potential for onsite dewatering to interfere with remediation of the South Plume, respectively. Mitigation Measure 4.6-4 requires that the City and project applicant obtain approval from DTSC prior to initiating dewatering activities at the Downtown project site.
- A10-4            With the exception of the potential billboard site on the Sacramento Railyards site, the Proposed Project is not located within the Sacramento Railyards, which is the source of the South Plume and the target area for groundwater remediation efforts. As stated on page 4.6-23 of the Draft EIR, if a billboard is located at the Sacramento Railyards site, it would be installed using a spread footing method that would not require excavation beyond 5 feet in depth. Further, Mitigation Measure 4.6-1(b) on page 4.6-17 requires that a Phase 1 Environmental Site Assessment be prepared prior to final design and any earth disturbing activities of a billboard at the Sacramento Railyards site to identify potential soil and/or groundwater contamination. If contamination were identified then implementation of Mitigation Measure 4.6-1(c) would ensure that required remediation is completed. The exact location of a billboard in the Railyards is not known at this time, but if it were located in the vicinity of Railyards groundwater remediation infrastructure, the Phase 1 ESA and follow-up characterization and recommendations for remediation would provide appropriate measures to address potential conflicts. In addition, the following sentence is added to the end of Mitigation Measure 4.6-1(b) on page 4.6-17 of the

Draft EIR to ensure that the billboard would not alter or destroy any of the remediation infrastructure without prior approval of DTSC:

The Phase 1 ESA for the Sacramento Railyards shall include contacting DTSC to obtain information to identify any remediation infrastructure within the vicinity of the proposed billboard site. No remediation system, monitoring well network, extraction wells, associated conveyance piping or treatment systems shall be altered, disturbed or destroyed without prior approval by DTSC.

While existing monitoring wells may be used to monitor groundwater during construction (with DTSC approval), the existing wells would not be removed or altered. Water supply would be provided through connections to the City's water system, which does not have existing or planned groundwater wells in the project vicinity. The Proposed Project would not involve oil or gas extraction.

Mitigation Measure 4.6-4 on page 4.6-24 of the Draft EIR already requires approval from DTSC for any dewatering activities for the ESC and/or SPD. See also Response to Comment I30-1.

A10-5 The comment supports a component of the Proposed Project that involves analysis of groundwater during dewatering (see Dewatering on page 2-67 of the Draft EIR). See also the discussion on page 4.6-21 and under Impact 4.6-4 on pages 4.6-23 and 4.6-24 which describes the project elements incorporated to analyze groundwater for effects on quality and quantity prior to initiating any dewatering activities. In addition, Mitigation Measure 4.6-4 requires that the City and the project applicant obtain approval from DTSC prior to dewatering. See also Response to Comment I30-1.

A10-6 These mitigation measures contained in the Railyards Specific Plan Final EIR were written specifically to provide protections for new development at the Railyards from soil and groundwater contamination on the Railyards site. The measures were not intended to address development outside of the Railyards. The ESC EIR does address the potential for exposure to contaminated groundwater (the South Plume) during dewatering (see Impact 4.6-3 in the Draft EIR) and contaminated soils (see Impact 4.6-1), and mitigation appropriate for the Proposed Project is identified. With respect to sewer and water lines, while dewatering could potentially alter the direction of the South Plume, project dewatering would not raise the elevation of the plume or install water or sewer pipelines within the plume. Therefore, the Proposed Project would not cause contaminated water to come into contact with sewer or water lines. See also Response to Comment A10-5 for a discussion on project elements incorporated to analyze groundwater for effects on quality and quantity prior to initiating any dewatering activities.

- A10-7 As stated on page 4.6-6 of the Draft EIR, the health risk assessment prepared for the South Plume Study Area as part of the Final Draft Remedial Action Plan concluded that the South Plume groundwater does not pose an unacceptable vapor intrusion risk for offsite uses, because volatile constituents are not routinely detected in the shallowest water-bearing zone of the plume. An unacceptable risk of vapor intrusion for the Proposed Project is not expected, and no mitigation is necessary.
- A10-8 As discussed on page 4.6-15 of the Draft EIR, past uses of the Downtown project site are not expected to constitute a significant environmental concern. Soil samples that were collected during the geotechnical investigation were analyzed for metals, petroleum and VOC concentrations, which were either not detected or detected at concentrations less than regulatory screening levels. Per Mitigation Measure 4.6-1(a), if unidentified or suspected contaminated soil is encountered during construction, work will stop until the soil can be investigated and remediated if needed. For the reasons discussed above, it is unlikely that this would involve a substantial amount of soil at the Downtown project site. The appropriate methods of appropriate storage, transport and disposal would be identified as part of implementing Mitigation Measure 4.6-1(a). Additional mitigation is not needed.
- A10-9 See Response to Comment A10-5 for a discussion on project elements incorporated to analyze groundwater for effects on quality and quantity prior to initiating any dewatering activities. As also discussed on page 4.6-21 of the Draft EIR, discharges to the City's sewer system would be regulated and monitored with the City's Utilities Department pursuant to Department of Utilities Engineering Services Policy No. 0001. As stated on page 4.6-22, groundwater discharges of duration of seven days or longer are subject to a Memorandum of Understanding that specifies the elements of planned discharges in order to ensure that contaminant levels comply with State standards or Sacramento County Regional Sanitation District (Regional San), who operates the regional wastewater treatment plant, and Central Valley Regional Water Quality Control Board (CVRWQCB) approved levels. All groundwater discharges from Proposed Project dewatering to the sewer would apply for Regional San discharge permit.
- In addition, Mitigation Measure 4.6-4 requires that the applicant receive DTSC approval prior to dewatering. See also Response to Comment I30-1. These regulatory processes would ensure that dewatering techniques would minimize the potential for groundwater contaminants to be pulled inadvertently to the surface, and ensure that any contaminated groundwater that exceeds applicable standards is treated prior to discharge. Additional mitigation is not required.
- A10-10 Please see Response to Comment A10-7.

- A10-11 The comment notes that soil remediation at the proposed I-5 at Sacramento Railyards digital billboard site has been completed, but that land use restrictions and soil management requirements remain in place for the site. Should the I-5 at Sacramento Railyards digital billboard site be developed, all applicable DTSC restrictions will remain in place and be adhered to.
- A10-12 Text on page 4.6-10 misidentifies the proposed I-5 at Sacramento Railyards digital billboard site as being adjacent to the Sacramento Railyards Central Corridor. Consequently, the first sentence in the first paragraph on page 4.6-10 is revised as follows:
- Two of these sites are located ~~adjacent to~~ near the potential I-5 at Sacramento Railyards billboard site.
- A10-13 The comment notes that access to the Sacramento Railyards would continue to be required for remediation purposes. Should the I-5 at Sacramento Railyards digital billboard site be selected for development, access would still be permitted to the DTSC and remediation providers. As stated on page 2-71, the column for the digital billboard would be approximately 42 inches in diameter. The design of the digital billboard would not preclude access by trucks, equipment or people to the Railyards for remediation purposes.
- A10-14 As discussed in Response to Comment A10-4, a Phase 1 ESA would be required if a billboard is proposed for the Sacramento Railyards site. If potentially contaminated soil were present, the Phase 1 ESA would recommend soil testing, and if soils are contaminated, appropriate treatment and remediation. In order to ensure compliance with the 1994 covenant, and as an abundance of caution, the following paragraph is added to Mitigation Measure 4.6-1(b):
- No excavation and/or removal of soil at the Sacramento Railyards billboard site, except as allowed pursuant to section 3.01.C of the 1994 covenant, shall occur without prior written approval of DTSC. Excavated soil must be tested for those compounds noted in the preamble of the 1994 covenant and properly used, treated and/or disposed of as required by law and DTSC.
- Section 3.01.C of the 1994 covenant requires compliance with Section 3.01.C, which states that no use of the Railyards property will be allowed to disturb the integrity of the overlying clean soil, unless it can be demonstrated that the disturbance can be accomplished in a manner that will not materially increase any hazard or potential hazard to human health and the environment.
- A10-15 Please see Responses to Comments A10-4 and A10-14. If a billboard were located at the Sacramento Railyards site, it would require only minimal grading, and no dewatering. Mitigation Measure 4.6-1(b), as amended, would ensure that any contaminated soils, if present, would be identified and remediated with

DTSC approval. Because no occupied structures would be built on the billboard site, vapor barrier intrusion would not be a concern.

A10-16

The only place that a “Registered Environmental Assessor (REA)” is referenced in Chapter 4.6 is in Mitigation Measure 4.6-1(a) on page 4.6-16 (fifth line), which states that the extent of contamination shall be identified by a Registered Environmental Assessor (REA) or qualified professional. If the REA Program is no longer in effect, than a “qualified professional” would need to evaluate the contamination. An Environmental Professional as defined by Title 40 of the Code of Federal Regulations would be considered a “qualified professional”, so no revisions to the mitigation measure are needed.

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City of Davis – City of West Sacramento – City of Winters  
City of Woodland – County of Yolo  
EX Officio – Caltrans District 3 – University of California, Davis

**Yolo County Transportation District**

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January 31, 2014

Desmond Parrington, Entertainment & Sports Project Manager  
Office of the City Manager  
915 I Street  
Sacramento, CA 95814

RE: Recommended Mitigations Associated with EIR for the proposed Sacramento Entertainment and Sports Center

Dear Mr. Parrington:

Please find the attached proposed alternative transportation mitigations the Yolo County Transportation District proposes for the above mentioned project.

Note that this communication is not inclusive of those mitigations recommended by Sacramento Regional Transit District—we anticipate they are sending their own letter. Attached you will find the recommended mitigations, as well as another copy of the November 27, 2013 letter we sent you on the project Draft EIR.

Consistent with SB 743, within five (5) days of the close of the public comment period, we will be requesting an opportunity to meet and participate in mediation of YCTD’s proposed mitigations. Meanwhile, feel free to call me at (530) 402-2812, or email me at [tbassett@yctd.org](mailto:tbassett@yctd.org) if you have any questions. Thank you.

Sincerely,

TERRY V. BASSETT  
Executive Director

Attachments

Cc: Bob Grandy, Fehr & Peers

A11 - 1

A11 - 2

**Yolo County Transportation District Proposed Alternative  
Transportation Mitigations Related to Environmental Impact Report  
for the Proposed Sacramento Entertainment and Sports Center  
(1/30/2014)**

- 1. **If possible, work with the NBA to schedule weekday evening games at 7:30 p.m. (similar to what the Golden State Warriors do), rather than 7:00 p.m.**

A11-3

1.1.1. This could free up rolling stock (buses in our case) for arena events, as more of our peak hour commute buses could be made available for assignments.

- 2. **Upon use of the ESC for events, pay YCTD \$113.52 per hour for added service to and from the ESC, capped at \$2,270 per weekday event and capped at \$2,554 per weekend day/holiday event.** Fares collected on the added trips shall be credited against these amounts. Depending on ridership levels, this amount will accommodate a 3.9-15.7% mode split.

A11-4

(Weekend/holiday service is more expensive because there are fewer existing trips to interline with on such days.)

2.1.1. **Events with an anticipated overall attendance of less than 5,000 shall not require additional service, unless the ESC and YCTD otherwise agree in writing.**

2.1.2. **If the mode split should exceed 20%, ESC and YCTD shall** renegotiate the cap amount in order to provide sufficient capacity to meet demand. If the two cannot reach agreement, the City of Sacramento shall mediate a solution, working with both parties.

2.1.3. **Each year, the above costs shall escalate by 3.5%,** which represents approximate annual adjustments YCTD pays to its bus contractor.

- 3. **YCTD shall be soley responsible for determining its routes, schedules and fares for any added Yolobus service. YCTD shall coordinate passenger drop-off and pickup points and bus layover locations with the ESC , Sacramento Regional Transit District and the City of Sacramento.**

A11-5

- 4. **All Yolobus fixed route bus trips shall be open to the general public,** not just event attendees. The added service information shall be posted, published, promoted and advertised. Fares that are collected shall be credited against the cost of the added service.

A11-6

- 5. **Upon the initiation of planned streetcar service (anticipated in Summer, 2017 or later), ESC shall pay a pro-rata share of streetcar service expenses, net of fares, associated with the ESC. The amount shall be subject to negotiation between the ESC and the City of Sacramento.**

A11-7

- 6. **To provide sufficient capacity on Yolobus intercity route 42 for employees, shoppers and other visitors of the ESC, the ESC shall pay for 20% of the cost, net of fares, of adding two bus trips EACH on routes 42A and 42B, on weekdays** (20% of the cost of approximately 2,560 Yolobus service hours per year). The annual ESC cost of this mitigation is \$66,600, less 20% of fares collected on each trip. This amount will pay for 20% of the annualized cost of approximately 10 hours of revenue

A11-8

service on weekdays (excluding holidays). Each year, the above costs shall escalate by 3.5%, which represents approximate annual adjustments YCTD pays to its bus contractor.

A11-8  
cont.

7. **Prior** to Demolition and Construction, ESC shall do the following:

7.1. **L/7<sup>TH</sup> Street Bus Stop**

7.1.1. ESC shall add sidewalk to the north sidewalk on the 700 block of L Street so that the overall sidewalk width is uniform from the northeast corner of L/7<sup>th</sup>, easterly to include ½ of the opening at the old Greyhound building. ESC shall also construct and paint a reinforced cinderblock wall to enclose ½ the L Street opening at the old Greyhound building. The intention is to provide enough room to accommodate three full-size buses at one time.

7.1.2. ESC shall take existing shelter on L Street between 6<sup>th</sup> and 7<sup>th</sup> Streets, sand, prime and repaint it, then relocate it, along with signage and related poles, to L Street just east of 7<sup>th</sup> Street at a spot to be approved by Sacramento Regional Transit District. ESC shall also provide power to the shelter, to accommodate lighting.

7.2. **6<sup>th</sup>/Capitol Mall Bus Stop**

7.2.1. ESC shall construct a concrete bus shelter pad, with power at the proposed replacement bus stop. The pad shall be of sufficient size to accommodate the shelter which will be installed permanently at that spot.

7.2.2. ESC shall relocate the existing 6<sup>th</sup> Street yellow curbed area to north of the building access driveway and ESC shall mark and delineate the entire bus curb area south of the building driveway for public transportation buses

7.2.3. ESC shall take the existing shelter on L Street east of 5<sup>th</sup> Street, sand, prime and repaint it, then relocate it, along with signage and related poles, to the west side of 6<sup>th</sup> Street just north of Capitol Mall, at a spot to be approved by Sacramento Regional Transit District. ESC shall also provide power to the shelter, to accommodate lighting.

A11-9

8. **As Part of the Demolition and Construction Project:**

8.1. **L/7<sup>TH</sup> Street Bus Stop**—ESC shall add improvements that will accommodate up to three buses at any time. (Exhibit A depicts a rough visual representation of the improvements.) The work would encompass covering the sidewalk with an awning architecturally compatible with the design of the new arena and able to accommodate at least 90 people under the awning, adding windscreens, seating pods, lighting, trash receptacles, , a two-sided real time information sign with each side having at least four rows of scrolling text in ADA complying size, map and schedule display kiosk. The design, engineering, permits, demolition, construction, inspection, utility, cleaning, trash pick-up, maintenance and communication costs shall be the responsibility of ESC. The design shall be subject to approval by the City of Sacramento, working in conjunction with Sacramento Regional Transit District and YCTD. Once the permanent improvements are completed, ESC will be responsible to clean, maintain and repair said improvements, to a standard acceptable to Sacramento Regional Transit District. Equipment and facilities that are either defective, damaged or determined to be functionally obsolete shall be replaced by equipment to be approved by the City of Sacramento, at ESC's expense.

8.2. **6<sup>th</sup>/Capitol Mall Bus Stop** --In correlation with removal of the bus stop and shelter at L/5<sup>th</sup> Street ESC shall design and install a new sheltered bus stop on 6<sup>th</sup> Street, just north of Capitol Mall. (Exhibit B depicts a rough visual representation of the improvements.) The shelter design shall be architecturally compatible with the building it will be in front of. . The improvement would include establishing enough space to accommodate at least two

(preferably three) buses, installing a concrete pad and new lighted bus shelter to accommodate at least 25 people inside the shelter, adding windscreens, seating pods, lighting, trash receptacles, a one-sided real time information sign with at least two rows of scrolling text in ADA complying size, map and schedule display kiosk. The design, engineering, permits, demolition, construction, inspection, utility, cleaning, trash pick-up, maintenance and communication costs shall be the responsibility of ESC. The design shall be subject to approval by the City of Sacramento, working in conjunction with Sacramento Regional Transit District and YCTD. ESC will be responsible to clean, maintain and repair said facilities, to a standard acceptable to Sacramento Regional Transit District. Equipment and facilities that are either defective, damaged or determined to be functionally obsolete shall be replaced by equipment to be approved by the City of Sacramento, at ESC’s expense.

↑  
A11-9  
cont.

**8.3. ESC shall conduct its demolition and construction activities in such a way as to maximize safety while minimizing service disruptions to existing transit users and bus operators.**

A11-10

9. **Bike Share Program**—ESC shall work in good faith with the Sacramento Air Quality Management District and the City of Sacramento for the planning, site location, installation and promotion of a bike share program being undertaken by the SAQMD.

A11-11

10. **Other Marketing Related Efforts—**

10.1. **The ESC shall pay for the purchase, installation, repair, utilities, operations and maintenance of at least four Connect Card** distribution and fare added value machines, to be installed at locations to be approved by Sacramento Regional Transit District. Such machines shall be located adjacent to the ESC, just outside the facility entrances at locations protected from rainy conditions.

A11-12

10.2. In addition to the above, **all project tenants, including the Sacramento Kings, shall offer their employees transit fare media (e.g., pass, declining value ticket, etc.) at the same discount rates that the City of Sacramento provides to its employees and shall pay the transit fare clearinghouse for the amount of the discounts.**

A11-13

10.3. Regarding Sacramento Kings season passes, the ownership shall work with SACOG to **integrate the upcoming “Connect Card” smart card with the Kings season pass**, thus giving patrons the opportunity to, on their own, add fare value to the Sacramento Kings pass and use it for riding buses, light rail and streetcars. The cost of designing, producing and distributing the combined card shall be borne by the Sacramento Kings ownership. Actual sales of the added value of fares shall be coordinated through the transit fare clearinghouse and SACOG. **The Sacramento Kings ownership is encouraged to issue the combined pass with an initial stored transit fare value of \$10 per card to all Kings season ticket holders**, passing said revenue to the transit fare clearinghouse.

A11-14

10.4. **The Sacramento Kings and the transit fare clearinghouse will share user data to the extent it is needed to administer the fare pre-payment program.**

10.5. **ESC shall establish an ongoing outreach program** to educate the public and promote public transportation, ridesharing, biking, walking. Such efforts shall include, but not be limited to:

A11-15

- 10.5.1. Announcements in all season ticket packets and employee orientation packets
- 10.5.2. Regular ongoing announcements and postings on the arena jumbotron, LED signage and public announcement systems
- 10.5.3. Permanent section and transit link on ESC and Sacramento Kings websites
- 10.5.4. Public transportation promotion in by-lines on media advertisements and media public service announcements
- 10.5.5. Installation and maintenance of public transportation information kiosks

10.5.6. Providing ongoing training regarding the availability of alternative transportation options to ESC customer service representatives

↑A11-15  
↓cont.

EXHIBIT A

Depiction of example of permanent bus stop improvements at L/7<sup>th</sup> Street (Old Greyhound Station)



A11-16

**EXHIBIT B**

Depiction of example of permanent bus stop improvements at 6<sup>th</sup> Street, north of Capitol Mall



A11 - 16  
cont .

Some examples of pre-manufactured shelters that might work on 6<sup>th</sup> Street:



-or-







City of Davis – City of West Sacramento – City of Winters  
City of Woodland – County of Yolo  
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November 27, 2013

Desmond Parrington, Entertainment & Sports Center Project Manager  
Office of the City Manager  
915 I Street  
Sacramento, CA 95814

RE: Feedback Regarding Administrative Draft EIR for the Entertainment and Sports Center

Dear Mr. Parrington:

This is the Yolo County Transportation District's response to the Administrative Draft EIR for the proposed Entertainment and Sports Center.

As the major intercity public transit operator in Yolo County, the only operator serving Sacramento International Airport, and as the Congestion Management Agency for Yolo County, I request that the final EIR address the following questions and issues. I suspect that many of them are already being researched.

A11-17

**Impacts During Demolition & Construction**

1. The draft EIR shows which bus stops will be affected during construction. As the attached spreadsheet data shows, some 1,132 Yolobus riders getting on or off the bus on L Street at 5<sup>th</sup> and 6<sup>th</sup> Streets each weekday will be impacted if those two stops are relocated. At J Street and 6<sup>th</sup> Street, 135 riders getting off the bus will be impacted. The two stops along L Street are served by 120 different Yolobus buses each weekday, while the stop along J Street is served by 75 different buses each weekday. In addition to the riders using the stops outlined above, it is anticipated that many, if not all, of the trips described above will experience delays due to traffic congestion caused by construction related activities and lane closures.
2. We've asked before if the L/6<sup>th</sup> Street bus stop could be moved to near side 7<sup>th</sup> Street. The project should pay for relocating the stop, shelters and related signage, as well as making certain there is enough room for at least two buses at a time, including ADA accessibility.

A11-18

A11-19

- 3. Is there any possibility that demolition or construction caused traffic congestion issues at freeway off-ramp and on-ramp locations could result in Caltrans or the City of Sacramento forcing re-routing of all traffic? If so, how will diverted auto and transit trips be accommodated from a customer service and expense perspective?
- 4. How will traffic between West Sacramento, Tower Bridge and downtown Sacramento be impacted? What sort of signage will exist and from what directions?
- 5. Is anyone taking a look at the Caltrans W/X Freeway work planned for next Summer to see what the net effect of both projects will be on traffic congestion?
- 6. If there are added Yolobus operational and marketing costs due to traffic delays and service reconfigurations, the project should cover those added costs.

A11-20  
 A11-21  
 A11-22  
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 A11-24

Issues After Completion of the Project

- 1. Is there any possibility that project and special event caused traffic congestion issues at freeway off-ramp and on-ramp locations could result in Caltrans or the City of Sacramento forcing re-routing of all traffic? If so, how will diverted auto and transit trips be accommodated from a customer service and expense perspective?
- 2. How many special events are planned per year on weekdays and weekends, daytime and in the evening?
- 3. How do you propose that auto and transit related traffic co-exist from a traffic flow and curb access perspective prior to, during and after special events?
- 4. For the Sacramento Kings, we were told that season ticket holders with addresses in West Sacramento, Davis, Woodland represent 4%, 2% and 2% of all attendees. Extrapolating that data and assuming a 20% mode split for attendees at special events, we propose Yolobus running two pre-event special trips and two post-event special trips each for Davis and Woodland, and two-post-event special trips for West Sacramento. (Yolo County boasts the highest mode split in the SACOG region.) Those trips would occur whenever there is a special event that takes up 70-100% of the arena seating capacity and could be cut in half if the capacity is less than 70%.
- 5. You are advised that Yolobus has limited capacity but could benefit the project from opening day forward.
- 6. We need to determine if this project pushes intercity route 42A and 42B service (which also serve the airport) from 60 minute headways to 30 minutes at least during peak hours. We also need to look at ADA mandated complementary paratransit service and if any additional trips will be necessary because of the project.
- 7. If there is extra service that is event specific, yet also open to the general public, can any sort of premium fare be charged?

A11-25  
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 A11-28  
 A11-29  
 A11-30



- 8. We also need to look at the implications of providing added service in terms of compliance with FTA requirements subject to charter bus service restrictions.
- 9. What provisions will be provided to accommodate streetcar access, as well as added streetcar service for special events? Are there opportunities to mitigate special event auto traffic congestion by establishing paid parking in West Sacramento, near Raley Field, and running shuttles (first by bus and eventually by streetcar)?
- 10. For special events, will there be staging opportunities for buses in preparation for post-event service? Can buses park anywhere near the stadium throughout the event? I suggest that an entire block be cordoned off for post-event transit buses to queue up.
- 11. Would this be the time to introduce the concept of the right-most lane on J and L Streets being designated for buses only, at least during peak hours? We'd define it as 6:30-9:00 a.m. and 3:30-6:00 p.m.
- 12. Will the proposed drop-off and pick-up locations be able to accommodate both bus traffic and riders queuing up for the buses?
- 13. Is there sufficient capacity provided for close drop-offs and pick-ups of people using paratransit services?
- 14. What shelter and signage will be provided? Could the project include real-time information signage, including coverage of all related costs, which the operators could use for posting arrival and departure information?

A11-31

A11-32

A11-33

I can be reached at [tbassett@yctd.org](mailto:tbassett@yctd.org) or at (530) 402-2812 if you have any questions. Thank you.



**TERRY BASSETT**, Executive Director  
Yolo County Transportation District

Attachment: Estimated YoloBus Weekday Ridership

Cc: Bob Grandy, Fehr & Peers  
James Drake, Regional Transit  
Erk Reitz, YCTD  
Sonia Cortes, YCTD

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**Letter A11 Response**     **Terry Bassett, Yolo County Transportation District**  
January 31, 2014

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- A11-1            CEQA requires that potentially feasible mitigation measures be described in an EIR for any significant impacts on the environment. As is described in Impact 4.10-4, page 4.10-97 of the Draft EIR, the Proposed Project's effects on transit system capacity (both for light rail and bus) were analyzed and found to be less than significant. No nexus exists to require the project to contribute funding as outlined in the commenter's suggested mitigation measures 2, 5, and 6 in this comment letter. Please also see Responses to Comments A11-4, A11-7, and A11-8.
- A11-2            The comment requesting an opportunity to meet and discuss transit issues is noted. In Comment A16-1, the same commenter, Yolo County Transportation District (YCTD), notified the City that it would not request mediation pursuant to section 21168.6.6(e)(5) of the Public Resources Code. As further noted in Response to Comment A16-9, the project team has requested that YCTD staff participate in a transportation advisory committee that would meet regularly throughout the design and construction process.
- A11-3            The Draft EIR anticipates no change in the current start time for NBA basketball games. This assumption is conservative from the point of view of analysis of impacts on the local roadway and highway system, an earlier start is conservative because overlap with the end of the end-of-day commute for workers in downtown Sacramento, using more of the roadway capacity. A later start time would tend to further separate the inbound travel to ESC events from the outbound commute travel.
- A later start time may have a positive effect on the availability of some transit resources but could have a negative effect on other transit resources. The commenter states that more peak hour commute buses would be available for assignments to carry ESC attendees to an event. Conversely, under current schedules the RT light rail system transitions from daytime service to evening service at 7:30PM, and thus less light rail service would be available to attendees arriving immediately after the scheduled start of a game.
- There are a variety of factors that are in determining the planned start of NBA games, including requirements of television networks, input from ticketholders, coordination with nearby businesses and agencies, and input from the National Basketball Association (NBA) which has the final authority to establish NBA game start times. The Kings would consider each of these factors in recommending to the NBA start times for games and in working with the management and sponsors of other events.

A11-4 A sold-out, completely filled NBA event at the ESC would have 17,500 attendees, with seven percent of those attendees forecast to travel by transit under the existing plus project (near term) conditions. Four percent of attendees are projected to travel to West Sacramento, and two percent of attendees to Davis or Woodland. The Draft EIR transportation assessment forecasts that 7 percent of event attendees would use transit for near-term conditions and 11 percent of attendees would use transit for cumulative conditions. Arrivals to an NBA game are typically spread out over a two hour window between 5:00 and 7:00 PM. Departures from an NBA game would typically occur over a one hour window starting at about 9:30-9:45 PM (assuming a 7:00 PM start). About 75 percent of all attendees would depart in the one-hour period after a game ends, while the remainder would remain in the area surrounding the ESC to visit shops, restaurants, and bars.

Assuming the demand for transit is uniform across all post-event destinations, there would be a demand for approximately 18 transit trips to Davis or Woodland, and 36 transit trips to West Sacramento in the hour after a completely sold-out game. Under longer-term cumulative conditions, which assume material improvements to the transit infrastructure and service in the region, there would be a demand for 29 transit trips to Davis and Woodland, and 58 transit trips to West Sacramento in the hour after the game. There are currently seven Yolobus routes that provide 11 pre-game bus trips and four post-game bus trips between West Sacramento and bus stops in close proximity to the ESC. Yolobus operates two routes that provide three pre-game and two post-game bus trips between Davis and bus stops in close proximity to the ESC. Yolobus operates two routes that provide two pre-game bus trips and one post-game bus trip between Woodland and bus stops in close proximity to the ESC. Given the number, timing and directionality of the bus trips that serve the ESC, it appears that sufficient capacity would be available in the near-term to serve the transit demands described above for a weekday NBA game. As specified in the Revised Draft Event TMP, transit demands, including the capacity of post-event buses, will be monitored in coordination with transit providers to determine if additional service is needed to meet demonstrated demand.

A11-5 YCTD, as operator of its service, is entitled to operate its buses with routes, scheduling, and fares as it deems appropriate. To the extent YCTD wishes to use bus stops under the jurisdiction of the City of Sacramento or Regional Transit, coordination with these agencies is required.

The Revised Draft Event TMP identifies the regular monitoring and coordination process that would be undertaken by the ESC operator. This includes monitoring transportation use and coordinating with responsible transportation agencies to respond to changing needs over time.



- A11-6 Please see Response to Comment A11-5.
- A11-7 As is required in Mitigation Measure 4.10-2, prior to the issuance of each building permit for the project, the project applicant is required to pay a fair-share contribution to fund planned transportation improvements which are included in the SACOG Metropolitan Transportation Plan (MTP) and are located within the I-5 freeway corridor in proximity to the project. As is noted in Comment A4-4, Caltrans notes that the SACOG MTP includes as a project the streetcar project between West Sacramento and Midtown Sacramento. If the Proposed Project fair-share contribution is directed to the streetcar project, those funds would contribute to the advancement of the streetcar project. There are currently no plans to require or request businesses to support the service costs for streetcar operations.
- A11-8 The residential, office, retail and office uses (i.e., non-arena land uses) would be developed in a phased manner over time. If fully developed, at build-out the mixed-use development is forecast to generate a total of 240 new transit trips during the AM peak hour and 200 new transit trips during the PM peak hour. The number of transit trips destined to Yolo County, assuming a share ranging from 10-20 percent of all transit trips, would be 24-48 AM peak hour transit trips and 20-40 PM peak hour transit trips. These trips would be distributed over 10 Yolobus bus lines that currently provide peak hour weekday service between Downtown Sacramento and Davis, Woodland, and West Sacramento. As is described in Impact 4.10-5, page 4.10-97 of the Draft EIR, “[g]iven the number of bus routes and estimated number of project riders, this analysis concludes that the Proposed Project would not adversely affect the bus system’s ability to accommodate the projected level of ridership.”
- A11-9 A new bus stop location that would replace two existing bus stops on L Street is being finalized through coordination of the City of Sacramento and Regional Transit, which is, in turn, coordinating with other transit providers that use the affected bus stops, including YCTD. The entities are collaborating to provide for the design and construction of the new bus stop location prior to the phase of ESC construction when the bus stops need to be relocated. Other related improvements including modifications to traffic signal timing, signing, and striping would be implemented in conjunction with the new bus stop location improvements. Please also see Response to Comment A7-4 for additional information regarding the relocation of bus stops that would be displaced from current L Street locations.
- A11-10 The City of Sacramento and Regional Transit will oversee construction of the new bus stop in a manner that minimizes impacts to transit operators and riders. It is anticipated that the new, replacement bus stop would be in place and operational prior to the closure of the existing L Street bus stops.

A11-11 Although an application is pending, a bike share program has not yet been initiated by the City of Sacramento and the Sacramento Metropolitan Air Quality Management District. As is stated on page 8 of the Revised Draft Event TMP (Draft EIR Appendix L), “the project applicant and ESC operator would coordinate with agencies and organizations as necessary to help implement the region’s bikeshare program, which would include a station at 7th and K Streets.” Please also see Response to Comment O2-7.

A11-12 Section 5.4 of the Revised Draft Event TMP, page 27, requires the applicant to “[c]ollaborate with RT to identify the means by which transit passes will be sold. This is particularly important for the peak demand during post-game conditions. Potential strategies (include but are not limited to): on-site transit pass sales, smart phone application, pre-purchasing daily RT passes or RT connect cards.” The commenter’s recommendation regarding the installation of Connect Card distribution and fair added value machines is noted. Consistent with the requirements of the Revised Draft Event TMP, the appropriate approach to facilitating ticket sales would be determined in coordination with RT prior to opening of the ESC, and would continue to evolve based on experience of the parties consistent with the Revised Draft Event TMP monitoring program.

A11-13 Please see Response to Comment A11-12.

A11-14 Please see Response to Comment A11-12.

A11-15 The ESC operators, supported by the Sacramento TMA, would conduct an ongoing transportation outreach program to educate patrons of the availability of alternative modes and encourage their use, as described in the Revised Draft Event TMP, section 9.1, which states:

Ticket purchase confirmation will include the following information:

- For attendees who do not purchase parking in the ESC garage, a statement explaining that parking will not be available at the ESC garage, and detailed information about alternative parking and other options for getting to the ESC, including:
  - List of transit options available, including links to schedules, fare information, and forms of payment
  - Reminder that RT fares will be checked on the street after NBA games, prior to walking up the RT platform; and that RT tickets must be purchased ahead of time.
  - Recommended walking paths to the ESC from transit hubs and other origins.

- Information on bicycle routes and bicycle valet.
- Alternative parking options near the ESC.
- For premium ticket holders who do purchase parking in the garage with their ticket:
  - Directions to the ESC from different origins and instructions describing how to access the ESC garage.
  - Information on controls that will be in place following game's end and how to successfully exit the ESC garage towards desired destinations.

The Sacramento Kings will put information transportation modes in the hands of all attendees through the team's smart phone app and website. Information on travel conditions and travel times by mode will lead to a transportation system that will become increasingly more user optimized.

A11-16 Please see Response to Comment A11-9.

A11-17 The introductory comment from the attached letter dated November 27, 2013 is noted.

A11-18 The construction traffic control plans for the ESC do not call for any closures of through-lanes on J and L Streets. The dedicated construction truck access lanes planned for segments of J Street and L Street, between 5<sup>th</sup> and 7<sup>th</sup> Streets, would be provided by eliminating on-street parking and would not impact through traffic in the existing travel lanes.

Since publication of the Draft EIR, the project has proposed closure of the two eastern northbound lanes of 5<sup>th</sup> Street between L and J Streets throughout the duration of demolition and construction, between May 2014 and October 2016. These closures would provide one northbound through-lane and would not change the southbound lanes on 5<sup>th</sup> Street. Northbound and southbound bike lanes would also be accommodated. Northbound 5<sup>th</sup> Street carries 660 vehicles during the AM and PM peak hours. The proposed lane closures would not pose a mid-block capacity for a single travel lane.

The only potential full road closure would be a closure of 5<sup>th</sup> Street, between J Street and L Street, during the portions of the demolition phase of construction. It is anticipated that 5<sup>th</sup> Street could require closure for up to 4-6 weeks. It is also possible that the demolition could be accomplished with only minimal late night closures (between 10:00 PM and 5:00 AM), or no closure of 5<sup>th</sup> Street. In the event that demolition activities do require closure of 5<sup>th</sup> Street to all traffic,

alternate routes for northbound traffic, such as the conversion of 3<sup>rd</sup> Street to two-way traffic between Capitol Mall and L Street, or rerouting around Capitol Mall, 4<sup>th</sup>, and L Streets would be provided during the closure. Opportunities for southbound travel include 3<sup>rd</sup> Street and 7<sup>th</sup> Street. During a temporary closure of 5<sup>th</sup> Street, bicyclists would not be permitted to use the northbound and southbound Class II bicycle lanes on 5<sup>th</sup> Street between J Street and L Street. To accommodate this movement, signage would be placed to detour bicyclists through Downtown Plaza either at 4<sup>th</sup> Street or the west side of 5<sup>th</sup> Street (above the road).

In order to accommodate refinements to the construction plans for the proposed ESC, the following revisions are made.

Page 4.10-104, the second bullet is revised to read:

- Closure of the eastern two northbound lanes on 5<sup>th</sup> Street, between L and J Streets, throughout the demolition and construction phases of the ESC project. Closure of 5<sup>th</sup> Street, between J Street and L Street, for approximately 6-8 weeks during the initial demolition period for the ESC project. All lanes on 5<sup>th</sup> Street would be closed. This closure would require implementation of detour routes for bicyclists, pedestrians, autos, buses, trucks, and emergency vehicles that travel along this segment of 5<sup>th</sup> Street.

Page 4.10-104, the following is added after the third bullet under “Non-ESC Land Uses Construction-Related Closures”:

- Potential closure of all lanes of 5<sup>th</sup> Street, between J Street and L Street, for up to 4-6 weeks during demolition of buildings on the 5<sup>th</sup> Street overpass. Temporary closure of all lanes would require implementation of detour routes for bicyclists, pedestrians, autos, buses, trucks, and emergency vehicles that travel along this segment of 5<sup>th</sup> Street.

Page 4.10-105, Mitigation Measure 4.10-10 (c) is revised to read:

- c) *In the event of closure of all lanes of 5<sup>th</sup> Street between L and J Streets, the project applicant shall implement the planned conversion of 3<sup>rd</sup> Street, from Capitol Mall to L Street, from its current one-way (southbound-only) configuration to a two-way configuration prior to the closure of 5<sup>th</sup> Street. This project will provide an alternative travel route during the 5<sup>th</sup> Street closure. This shall include the installation of lane/intersection restriping, signing, and traffic signal modifications. It may include the elimination of on-street parking on the east side of 3<sup>rd</sup> Street. The improvements shall include the provision for eastbound buses*

on Capitol Mall to turn left on 3<sup>rd</sup> Street and travel along 3<sup>rd</sup> Street to J Street.

Alternatively, if the conversion of 3<sup>rd</sup> Street is determined by the City to be infeasible or unnecessary as a result of project scheduling for nighttime (10:00 PM to 5:00 AM) when traffic disruption would be insignificant, the project could implement a detour that will reroute traffic around Capitol Mall, 4<sup>th</sup> Street, L Street, 3<sup>rd</sup> Street and J Street. This will require a temporary left-turn lane provided at eastbound Capitol Mall at 4<sup>th</sup> Street, and a detour of bicycle traffic on 4<sup>th</sup> Street through Downtown Plaza.

- A11-19 Please see Response to Comment A11-9.
- A11-20 The construction traffic control plans for the ESC do not call for any closures of freeway on-ramps or off-ramps.
- A11-21 The three signalized intersections on Tower Bridge Gateway in West Sacramento are projected to operate at Level of Service (LOS) D conditions or better, during the AM and PM peak hours, under Existing plus Project conditions. Under cumulative conditions, the three intersections would operate at LOS C-D conditions during the pre-event peak hour. The three intersections would experience LOS conditions ranging from LOS D to LOS F during the weekday AM and PM peak hour conditions. Previous studies have indicated that two of the three intersections (Tower Bridge Gateway/3<sup>rd</sup> Street and Tower Bridge Gateway/5<sup>th</sup> Street) would operate at LOS E-F conditions without the Proposed Project. Project impacts at these two locations were considered significant and unavoidable under cumulative conditions (please see Impact 4.10-12 on page 4.10-107 of the Draft EIR).
- A11-22 A construction management plan is required by City Code and is specifically addressed in Mitigation Measure 4.10-10. That measure requires that a Construction Traffic Management Plan at a minimum, include:
- The number of truck trips, time, and day of street closures
  - Time of day of arrival and departure of trucks;
  - Limitations on the size and type of trucks, provision of a staging area with limitation on the number of trucks that can be waiting;
  - Provision of a truck circulation pattern;
  - Identification of detour routes and signing plan for street closures;

- Provision of driveway access plan so that safe vehicular, pedestrian, and bicycle movements are maintained;
- Safe and efficient access routes for emergency vehicles
- Traffic controls, as necessary;
- Advance warning and posted signage concerning street closures; and
- Provisions for pedestrian and bicycle safety.

The City is developing a comprehensive public outreach and signage program to be implemented during the construction phase for the Proposed Project. The outreach program would provide information about current and upcoming construction activities through on-line sources, as well as fixed roadway signs in the vicinity. It is anticipated that when necessary, traffic routing information would be provided. In addition, it is anticipated that information about accessibility of ongoing businesses and other activities in the vicinity of the project site would be part of the communications program.

A11-23

Caltrans plans to partially close the W-X section of Highway 50 through central Sacramento in each direction for approximately nine weeks in April, May and June of 2014 for a major resurfacing and shoulder widening of the elevated freeway. Several of the key transition ramps to and from Highway 99 and a section of the Capital City Freeway are planned to be closed for several weeks during construction of the project. The freeway repair work is planned to occur on the stretch of the W-X freeway between 18<sup>th</sup> and 24<sup>th</sup> Streets. The Caltrans project is expected to temporarily affect operations on Highway 50 as well as Highway 99, I-5 and the Capital City Freeway. The lane and ramp closures may also affect surface streets in the Central City as vehicles look for alternate routes. Just as they did in 2008 when I-5 was closed through downtown Sacramento for similar resurfacing work, officials from the City Public Works, Police, and Fire Departments are working on a plan to address local congestion that may occur as a result of the freeway lane and ramp closures caused by the Caltrans resurfacing project. Caltrans is also working with transit providers to encourage commuters to use transit or bicycle during the six to eight week period when closures are in effect. Early demolition activity that may be ongoing at the project site concurrent with the Caltrans project would be routed to avoid the closed sections of Highway 50. It is not anticipated that the Caltrans project would have any material effect on the Proposed Project demolition and construction schedule. Similarly, it is not anticipated that the Proposed Project would adversely affect the Caltrans project schedule. Lastly, because most of the construction traffic to and from the project site would come from the north and west, the temporary closures on Highway 50 would not be expected to exacerbate construction traffic effects of the project on City streets or highways.



- A11-24 Please see Response to Comment A11-23.
- A11-25 The traffic analysis presented in the Draft EIR does not lead to a logical conclusion that freeway traffic would be sufficiently congested to require closure of freeways to all traffic. This is further reinforced by experience in pre- and post-game conditions on freeways serving Sleep Train Arena. Thus, the Revised Draft Event TMP does not call for any closures of freeway on-ramps or off-ramps, and it is not anticipated that any re-routing of all freeway traffic would occur.
- A11-26 As is presented in Table 2-4, page 2-16 of the Draft EIR, it is conservatively estimated that the ESC would be booked for approximately 189 event days annually. Most events at the ESC would occur on weekday evenings or weekends; it is estimated that 141 of the 189 annual event days would occur during these time periods. It is estimated that 48 events would occur during the day on weekdays, 78 would occur during the evening on weekdays, and 63 events would occur on weekends. It should be further noted that all foreseeable events with estimated attendance over 10,000 would occur on weekday evenings or weekends.
- A11-27 It is estimated that 8 percent of the attendees at a sold-out, full capacity NBA event at the ESC would park in the on-site garage based on its capacity. The remaining attendees arriving by car would be expected to park in other available parking facilities surrounding the ESC. Prior to major events at the ESC, congested conditions are expected to occur at the J Street/3<sup>rd</sup> Street intersection (junction for off-ramps from I-5 to J Street) and the J Street/6<sup>th</sup> Street intersection (primary entrance/exit to ESC garage). The Sacramento Police Department would manage traffic flows at these intersections to ensure safe conditions for transit vehicles as well as other vehicles, pedestrians, and bicyclists. It is anticipated that most transit passengers would access the ESC during pre-game conditions via existing stops on J Street, 7<sup>th</sup> Street, and relocated stops on or near L Street including 6<sup>th</sup> Street south of L Street. During major events, project-generated traffic levels would be relatively light and no conflicts with transit vehicles would occur. After major events, segments of several streets around the ESC would be closed by the Sacramento Police and Public Works Departments for a period of time expected to be 30-45 minutes. Likely street closures include portions of L Street, 7<sup>th</sup> Street, 5<sup>th</sup> Street, and 3<sup>rd</sup> Street. This is the standard traffic control protocol that the City of Sacramento Police Department implements after major events in Old Sacramento, including the New Year's Eve fireworks celebration. Westbound buses on L Street would be diverted to Capitol Mall during post-game conditions.
- A11-28 Please see Response to Comment A11-4.
- A11-29 Because the Proposed Project would be developed in phases over a period of time and would result in a reduced number of transit trips from non-ESC uses

during that period, additional intercity route 42A and 42B service is not anticipated in the near-term.

A11-30 Provision of the extra service described, as well as the fares charged, would be subject to compliance with 49 CFR 604 which regulates the operation of charter buses by federally-supported transit providers.

A11-31 Please see Response to Comment A11-30.

A11-32 The Revised Draft Event TMP outlines anticipated management practices for the initial operations of the ESC. The ESC vicinity would be served by light rail and bus routes during special events. The Revised Draft Event TMP provides for an ongoing review of the transportation program and would be updated when streetcar service opens. The Downtown/Riverfront streetcar, although not yet approved by the City of Sacramento, is currently planned have stops at multiple locations in close proximity to the ESC: on 3<sup>rd</sup> Street at K Street, at the Sacramento Depot, on 7<sup>th</sup>/8<sup>th</sup> Streets at I Street and K Street, and on K Street at 9<sup>th</sup> Street. As with light rail service, streetcar service would be accommodated during special events. Based on the analysis of near-term transit demand conducted for the Revised Draft Event TMP, it is not anticipated that additional streetcar service would be needed for special events in the near-term. The demand for streetcar service would be monitored as part of the ongoing Revised Draft Event TMP review process. Regarding the question about designating paid parking in West Sacramento with shuttles to connect attendees to the ESC, it is not expected that this strategy would be implemented for major events, virtually all of which occur during evenings and on weekends, given the amount of available parking within walking distance to the ESC.

A11-33 There are several candidate locations for staging special event buses waiting for post-event service including along J Street, 4<sup>th</sup> Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, and Capitol Mall. The Revised Draft Event TMP would be updated to reflect the exact location of staging areas as project completion nears and transit providers provide specific details on special event service. Please see Response to Comment A11-9 regarding the construction of new bus stops. The concept of dedicated bus lanes on J Street and L Street will be addressed separately by the City of Sacramento as part of its upcoming Downtown Transportation Study.



Central Valley Regional Water Quality Control Board

31 January 2014

Via Email Only

Scott Johnson,
SRJohnson@cityofsacramento.org
Associate Planner
City of Sacramento, Community Development
Department
Environmental Planning Services

COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT
PROJECT (P13-065), SCH NO. 2013042031, SACRAMENTO, SACRAMENTO COUNTY

Dear Mr. Johnson,

Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff have
reviewed the Draft Environmental Impact Report for the Sacramento Entertainment and Sports
Center and Related Development Project (Draft EIR), located in Sacramento County and dated
December 2013.

As noted in several places in the Draft EIR, the proposed location for the Sacramento
Entertainment and Sports Center (ESC) overlies the South Plume Groundwater Study Area and
associated groundwater contamination emanating from the historic Railyards property to the
north. The Draft EIR anticipates that construction of the ESC will encounter impacted
groundwater from the Railyards site, and that the City is anticipating dewatering and extracting 1
million gallons per day of groundwater for approximately 12 to 15 months. In addition, the ESC
will require excavating of soil down to 14 feet below the current subterranean garage.

First encountered groundwater in this area occurs in what is known as the Upper Sand Zone
(USZ), which extends approximately from 20 to 40 feet below ground surface (bgs). Directly
beneath the USZ is the Lower Sand Zone (LSZ) which is known to contain 1,1-dichloroethane,
cis- and trans-1,2-dichloroethene, 1,4-dioxane and vinyl chloride. Groundwater samples
collected from the USZ for the Phase II Environmental Assessment (Attachment I of the Draft
EIR) conducted in support of the ESC project in November of 2013 contained a similar suite of
contaminants found in the LSZ.

In anticipation of encountering impacted groundwater, Mitigation Measure 4.6-1(a) of the EIR
states:

If unidentified or suspected contaminated soil or groundwater evidenced by stained soil, noxious
odors, or other factors, is encountered during site preparation or construction

A12-1

Scott Johnson

- 2 -

31 January 2014

*activities at the Downtown project site and/or digital billboard site, work shall stop in the area of potential contamination, and the type and extent of contamination shall be identified by a Registered Environmental Assessor (REA) or qualified professional. The REA or qualified professional shall prepare a report that includes, but is not limited to, activities performed for the assessment, summary of anticipated contaminants and contaminant concentrations, and recommendations for appropriate handling and disposal. Site preparation or construction activities shall not recommence within the contaminated areas until remediation is complete and a "no further action" letter is obtained from the appropriate regulatory agency*

↑  
A12-1  
cont.

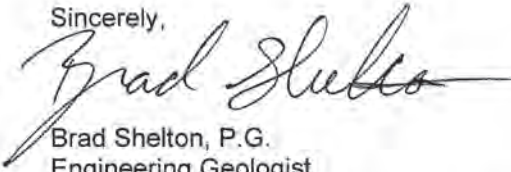
Based on our review of the EIR, the Central Valley Water Board staff have the following comments:

1. In 2013 the *Final Draft Remedial Action Plan, Central Shops Study Area – Soil and South Plume Study Area – Groundwater, The Railyards*, the timeframe for completion of the selected alternative to achieve remedial goals for the South Plume Groundwater Study Area is approximately 32 years, and the impacts span several aquifers over 150 feet deep. Due to the close proximity of the project to the Railyards and the large quantity of impacted groundwater that is expected to be extracted for dewatering purposes (possibly down to 40 feet bsg), contaminated groundwater needs to be handled and disposed appropriately with regulatory approval. Given that the ESC development lies over the Railyard's contaminated ground water plume, it would not be possible to "complete remediation" of Railyards impacted groundwater that was encountered or obtain a No Further Action (NFA) letter from the Central Valley Water Board for the removal and disposal of impacted groundwater. A more appropriate mitigation measure would be to handle and dispose of the impacted groundwater appropriately with regulatory approval and to include mitigation of risk to construction workers or other receptors who might be exposed to contaminated soils and/or groundwater during construction or development activities. The City would also need to appropriately address any potential indoor air threats to occupants of workers in the ESC. DTSC may have additional requirements.
2. Impacted soil should be handled and disposed of appropriately with regulatory approval. DTSC may have additional requirements and issue separate correspondence with regards to soil impacts found on the ESC project property during construction or development activities.
3. The REA program has been discontinued by the Department of Toxic Substances. This reference should be removed.

A12-2  
A12-3  
A12-4  
A12-5

If you have any questions regarding the above please contact me at (916)464-1588 or Brad.Shelton@waterboards.ca.gov.

Sincerely,



Brad Shelton, P.G.  
Engineering Geologist  
Site Cleanup  
Central Valley Regional Water Quality Control Board

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**Letter A12 Response**     **Brad Shelton, Central Valley Regional Water Quality Control Board (CVRWQCB)**  
January 31, 2014

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- A12-1            The comment reiterates construction specifications stated in the Draft EIR regarding depth of excavation and the need for dewatering, and provides additional details regarding the chemical composition of the groundwater in the South Plume. The comment reiterates Mitigation Measure 4.6-1(a) describing what measures shall be taken should contaminated soils be encountered during construction. The comment is noted and will be conveyed to the City Council for its consideration.
- A12-2            Mitigation Measure 4.6-1(a) on page 4.6-16 of the Draft EIR addresses a situation in which unanticipated soil or groundwater contamination is encountered during construction activities. The Draft EIR does acknowledge that the contaminated groundwater plume emanating from the Railyards flows under the Downtown project site, and explains in Impact 4.6-3 the steps that would be taken to ensure that groundwater that is extracted is dewatered and treated consistent with both City, Regional San and RWQCB requirements (see pages 4.6-20 through 4.6-22 of the Draft EIR). In addition, in order to ensure that ongoing remediation activities are not adversely affected by dewatering, Mitigation Measure 4.6-4 requires DTSC approval prior to dewatering. See also Response to Comment I30-1. The Proposed Project would not be responsible for remediating the source of groundwater contamination; that is under the purview of the Sacramento Railyards. Therefore, a “No Further Action” letter would not be expected for the Downtown project site as it pertains to contaminated groundwater. (If contaminated soils are encountered within the Downtown project site, the project applicant would be responsible for remediating those soils). Rather, if contaminated groundwater is encountered during construction dewatering, it would be treated prior to discharge to the sewer system. As explained on page 4.6-22, existing ongoing dewatering (which is unrelated to construction) would be phased out as the Proposed Project develops.
- A12-3            Please see Response to Comment A10-10.
- A12-4            Please see Responses to Comments A10-4, A10-6 through A10-10, and A10-14 and A10-15.
- A12-5            Please see Response to Comment A10-16.

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Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

January 30, 2014

Scott Johnson  
City of Sacramento  
300 Richards Blvd, Third Floor  
Sacramento, CA 95811

Subject: Sacramento Entertainment and Sports Center and Related Development Project (P13-065)  
SCH#: 2013042031

Dear Scott Johnson:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 29, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

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 contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures

cc: Resources Agency  
1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

A13-1

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2013042031  
**Project Title** Sacramento Entertainment and Sports Center and Related Development Project (P13-065)  
**Lead Agency** Sacramento, City of

**Type** EIR Draft EIR  
**Description** The Entertainment and Sports Center Project (proposed project) would be located in the Downtown project site and would include incremental demolition of up to 857,943 sf of the existing Downtown Plaza buildings and the below-grade parking garages, and the construction and operation of an approximately 780,000 sf, 17,500 seat entertainment and sports center, and up to 1,500,000 sf of office, retail, housing and hotel uses at the ESC Project Site. The ESC is intended to replace the existing Sleep Train Arena in North Natomas as a regional center for sports and entertainment events, and would include a practice and training facility and administrative offices for the Sacramento Kings. Upon opening of the proposed ESC, the existing Sleep Train Arena and adjacent practice facility would be closed. The ESC Project also includes a comprehensive signage program at the Downtown project site, as well as up to six digital billboards at other locations within Sacramento. The Proposed Project may be developed in one or more phases, with the ESC being developed in the first phase for opening by September 2016.

**Lead Agency Contact**

**Name** Scott Johnson  
**Agency** City of Sacramento  
**Phone** 916 808 5842  
**email**  
**Address** 300 Richards Blvd, Third Floor  
**City** Sacramento  
**Fax**  
**State** CA **Zip** 95811

**Project Location**

**County** Sacramento  
**City** Sacramento  
**Region**  
**Lat / Long**  
**Cross Streets** J, K and L Streets between 3rd and 7th Street  
**Parcel No.** Various  
**Township**

<i>Range</i>	<i>Section</i>	<i>Base</i>
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**Proximity to:**

**Highways** I-5, US50, CA99  
**Airports**  
**Railways** UPRR  
**Waterways** Sacramento River and American River  
**Schools**  
**Land Use** Retail, Commercial / C-3-SPD (Central Business District) / Central Business District.

**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Recreation/Parks; Sewer Capacity; Economics/Jobs; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Wildlife; Growth Inducing; Landuse; Cumulative Effects; Other Issues

**Reviewing Agencies** Resources Agency; Department of Fish and Wildlife, Region 2; Office of Historic Preservation; Department of Parks and Recreation; Central Valley Flood Protection Board; San Francisco Bay Conservation and Development Commission; Department of Water Resources; California Highway Patrol; Caltrans, District 3 S; Air Resources Board; Regional Water Quality Control Bd., Region 5 (Sacramento); Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

Document Details Report  
State Clearinghouse Data Base

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*Date Received* 12/16/2013    *Start of Review* 12/16/2013    *End of Review* 01/29/2014



**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-2380 FAX: (916) 574-0682



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JAN 14 2014

STATE CLEARING HOUSE

January 13, 2014

Mr. Scott Johnson  
City of Sacramento  
300 Richards Blvd, Third Floor  
Sacramento, California 95811

Subject: Sacramento Entertainment and Sports Center and  
Related Development Project (P13-065)  
SCH Number: 2013042031  
Document Type: Draft Environmental Impact Report

Dear Mr. Johnson:

Staff of the Central Valley Flood Protection Board (Board) has reviewed the subject document and provides the following comments:

The proposed project includes project features located adjacent to or within the Sacramento River and American River which are under the jurisdiction of the Central Valley Flood Protection Board. The Board is required to enforce standards for the construction, maintenance, and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance near or within the levee (CCR Section 6) including:

The proposed digital billboards located at the I-5 Water Tank Site (APN 031-0200-046); US 50 at Pioneer Reservoir (APN 009-0012-075); and Business 80 at Sutter's Landing Regional Park/American River (APN 001-0170-006).

The permit application and Title 23 CCR can be found on the Central Valley Flood Protection Board's website at <http://www.cvfpb.ca.gov/>. Contact your local, federal and State agencies, as other permits may apply.

A13-2



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Central Valley Regional Water Quality Control Board

29 January 2014

Scott Johnson  
City of Sacramento  
300 Richards Boulevard, 3<sup>rd</sup> Floor  
Sacramento, CA 95811

RECEIVED

JAN 30 2014

STATE CLEARING HOUSE

CERTIFIED MAIL  
7013 1710 0002 3644 0502

**COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, SACRAMENTO ENTERTAINMENT AND SPORTS CENTER AND RELATED DEVELOPMENT PROJECT (P13-065) PROJECT, SCH NO. 2013042031, SACRAMENTO COUNTY**

Pursuant to the State Clearinghouse's 16 December 2013 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environmental Impact Report* for the Sacramento Entertainment and Sports Center and Related Development Project (P13-065) Project, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

**Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml).

A13-3



**Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/).

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml)

**Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml).

**Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.



A13-3  
cont.



Sacramento Entertainment and Sport Center  
and Related Development Project (P13-065)  
Sacramento County

- 3 -

29 January 2014

#### **Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

#### **Waste Discharge Requirements**

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/help/business\\_help/permit2.shtml](http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml).

#### **Low or Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2013-0074.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf)

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2013-0073.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf)



A13-3  
cont.

Sacramento Entertainment and Sport Center  
and Related Development Project (P13-065)  
Sacramento County

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29 January 2014

If you have questions regarding these comments, please contact me at (916) 464-4684 or  
tcleak@waterboards.ca.gov.

A handwritten signature in cursive script that reads "Trevor Cleak".

Trevor Cleak  
Environmental Scientist

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento

**Letter A13**     **Scott Morgan, CA Governor's Office of Planning and Research**  
**Response**     **State Clearinghouse (OPR-SCH)**  
January 31, 2014

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A13-1            The comment is noted and will be conveyed to the City Council for its consideration.

A13-2            Please see Comment Letter A2 and the responses thereto.

A13-3            Please see Comment Letter A6 and the responses thereto.

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January 27, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

Dear Mr. Johnson:

SACOG received a Notice of Availability for the Draft Environmental Impact Report for the Entertainment and Sports Center & Related Development Project (SCH# 2013042031) (ESC project). Thank you for the invitation to comment on this unique downtown redevelopment project.

The ESC project proposes an entertainment and sports center as well as related development in a combination of office, retail/restaurant commercial, residential. In total the project could include up to 1.5 million square feet of mixed uses for a net increase of 1.0 million square feet of retail/commercial, office, hotel, and residential space in Downtown Sacramento. The project will redevelop and rejuvenate several blocks of the Downtown Plaza property.

The project site has several locational advantages for the ESC and related development. The site is well served by light rail and bus transit. The pedestrian and bicycle network serving the site is very good. In part because of these assets, our studies consistently show that residents and workers in the Downtown Sacramento area have unique travel characteristics. Based on analysis SACOG prepared for the 2012 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS), residents of Downtown Sacramento generate about 50 percent less VMT per capita than the regional average (about 10 miles per day, compared to over 19 for the region), and use transit, biking and walking at nearly five times the regional average (over 50 percent of person trips, compared to about 10 percent for the region). The project's mixed use development is an example of the type of development critical to achieving these and other performance benefits of the MTP/SCS, which projects a demand for 21,000 units and 22,000 jobs in the Downtown/Midtown area by 2035.

The peak hours of travel demand generated by the ESC for both auto and transit fall largely outside the current area-wide peak hours, and will improve the utilization of surrounding facilities and services. Because the daytime population in the ESC area is very high due to the number of workers near the site, the potential to capture ESC patrons already in the Downtown Sacramento area is another asset of the site. For all of these reasons, the ESC at the proposed site truly makes sense from the transportation and land use perspective. The analysis of the project in the EIR,

- Auburn
- Citrus Heights
- Colfax
- Davis
- El Dorado County
- Elk Grove
- Folsom
- Galt
- Isleton
- Lincoln
- Live Oak
- Loomis
- Marysville
- Placer County
- Placerville
- Rancho Cordova
- Rocklin
- Roseville
- Sacramento
- Sacramento County
- Sutter County
- West Sacramento
- Wheatland
- Winters
- Woodland
- Yolo County
- Yuba City
- Yuba County

A14-1

A14-2



though conservative, shows the results of the good fit between the project and the site.

↑A14-2  
|  
cont.

We also reviewed the estimation of VMT generated per event at the ESC, compared to that at the current arena site. This estimate was provided in part to respond to conditions stated in PRC Section 21168.6.6. The VMT estimation approach relied on data derived from cell phone locations for an actual basketball game event at the current arena site to establish the origins, destinations and timing of patron trips to the arena. This approach was innovative and sound. The adjustments to these data which were made to estimate VMT to an arena at the proposed ESC site were very conservative and reasonable. In particular, a very modest assumption was made regarding the "shift" of patron origins and destinations observed at the current site to origins and destinations in the Downtown Sacramento: only 3 in 100 patrons were assumed to make this shift. The parallel shift in mode of access by future patrons of the ESC was likewise conservative, but reasonable. As stated above, the large daytime population of workers around the proposed ESC site is an asset which can and should be utilized in future marketing and planning efforts. With effective marketing and planning, the actual shift of patron origins and destinations could be larger than 3 in 100, in which case the actual VMT savings would be greater than the estimated 22 percent reported in the DEIR.

A14-3

In terms of the SACOG Blueprint, the project is clearly supportive of the Blueprint smart growth principles (housing choice, transportation choice, use existing assets, compact development, mixed use development, natural resource conservation, and quality design). For the reasons described in the above paragraphs, the ESC project promotes transportation choice. It also supports principles of quality design by maintaining a K Street pedestrian/bicycle connection through the project site and maintaining connections to the surrounding street pattern. The project is appropriately compact and mixed use for its downtown location, and by adding up to 550 housing units to Downtown, will serve demand for an underserved housing market in the region. Finally, as a re-use project in Downtown, the ESC supports natural resource conservation because it will accommodate demand for residential and employment growth that might otherwise to be accommodated at the urban edge.

A14-4

Thank you again for inviting SACOG's input on this very important project.

Sincerely,

  
Mike McKeever  
Chief Executive Officer

MM:lo



**Letter A14 Response**     **Mike McKeever, Sacramento Area Council of Governments (SACOG)**  
January 31, 2014

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A14-1     The comment cites the locational advantages to the Downtown project site including access to transit and pedestrian and bicycle networks. The comment says the Proposed Project's mixed use development is an example of the type of development critical to achieving lower VMT and higher use of alternative modes of travel. The comment is noted and will be conveyed to the City Council for its consideration.

A14-2     The comment states that placing the ESC at the proposed site makes sense from a transportation and land use perspective. The comment does not raise any issues regarding the environmental analysis. The following statements are included in this comment:

- “The peak hours of travel demand generated by the ESC for both auto and transit fall largely outside the current area-wide peak hours, and will improve the utilization of surrounding facilities and services.”
- “Because the daytime population in the ESC area is very high due to the number of workers near the site, the potential to capture ESC patrons already in the Downtown Sacramento area is another asset of the site.”
- “The analysis of the project in the EIR, though conservative, shows the results of the good fit between the project and the site.”

The comment is noted and will be conveyed to the City Council for its consideration.

A14-3     The comment provides several statements regarding the VMT estimation methods including:

- “The VMT estimation approach was innovative and sound.”
- “The adjustments to these data which were made to estimate VMT to an arena at the proposed ESC site were very conservative and reasonable. In particular, a very modest assumption was made regarding the “shift” of patron origins and destinations observed at the current site to origins and destinations in the Downtown Sacramento: only 3 in 100 patrons were assumed to make this shift.”
- “With effective marketing and planning, the actual shift of patron origins and destinations could be larger than 3 in 100, in which case the actual VMT

savings would be greater than the estimated 22 percent reported in the DEIR.”

The comment is noted and will be conveyed to the City Council for its consideration.

A14-4

The comment reiterates that the Proposed Project is supportive of the SACOG Blueprint smart growth principles including promoting transportation choice, maintaining pedestrian and bicycle connections through the Downtown project site, and providing compact residential development in the downtown core. The comment is noted and will be conveyed to the City Council for its consideration.

Powering forward. Together.



January 31, 2014

Mr. Scott Johnson, Senior Planner  
City of Sacramento Community Development Department  
300 Richards Blvd., Third Floor  
Sacramento, CA 95811

Subject: Draft Environmental Impact Report for the Entertainment and Sports Complex

Dear Mr. Johnson,

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the Entertainment and Sports Complex (ESC). As the primary electrical service provider for the City of Sacramento and the proposed ESC project, SMUD aims to be a collaborative partner in the safe and sustainable delivery of this region-defining project. SMUD’s vision is to empower our customers with solutions and options that increase energy efficiency, protect the environment, reduce global warming, and lower the cost to serve our region. As a Responsible Agency, SMUD would like to ensure that the proposed ESC project limits the potential for significant environmental effects within the vicinity of SMUD facilities, our employees, and customers.

A15-1

As stated in our NOP comment letter, it is SMUD’s desire that the ESC EIR acknowledge any project impacts related to SMUD facilities and operations. Based on our review of the Draft EIR and our understanding of the proposed project, SMUD offers the following input:

- 1. Project Description:** SMUD appreciates the details provided in the Draft EIR related to the overall project description. The provision of an accurate and consistent project description allows SMUD to adequately plan the appropriate pre-construction support activities for the existing and future users of the proposed ESC site. The information about the project’s construction impact footprint and the proposed design components, including references to “green walls/panels” and other proposed LEED strategies, is very important to SMUD and our customer service team. SMUD would like to be kept aware of any potential changes or clarifications to the project description, particularly as they impact SMUD facilities or service activities during construction and operation. In particular, the timing of construction activities that directly or indirectly impact existing SMUD facilities (vaults, transmission lines, distribution lines, etc.) could affect the timing of SMUD preconstruction activities, which could, in turn, impact the overall project schedule. SMUD currently has extensive subsurface utility infrastructure located throughout the project area and needs to maintain close coordination with the City and the project applicant to ensure

A15-2  
A15-3



that the project goals and SMUD's service goals are both met. SMUD looks forward to continuing our partnership with the City in finding solutions to avoid or limit significant impacts to SMUD facilities and services.

- A. **Project Schedule:** SMUD appreciates the provision of the detailed demolition and construction schedule in the Draft EIR. Please keep SMUD apprised of any potential schedule changes, as they could impact the timing of SMUD's preconstruction activity with the existing service users onsite.
- B. **Project Access:** SMUD would like to ensure that adequate access to on-site SMUD equipment is provided to our trucks and service vehicles during construction and operation.
- C. **Energy Delivery (Capacity):** Please continue to coordinate with SMUD staff regarding the proposed energy delivery assumptions associated with the proposed project site. SMUD is looking forward to partnering with the City to ensure that the project is designed in an energy efficient and sustainable way.
- D. **Energy Delivery (Infrastructure):** The EIR provides a solid analysis of the proposed on-site and off-site energy infrastructure improvements needed to construct and operate the proposed project. We are confident that the proposed EIR mitigation measures adequately address anticipates SMUD infrastructure work given the proposed project description. Please continue to coordinate with SMUD staff regarding potential changes in the delivery design. Additionally, the Mitigation Monitoring and Reporting Program should clearly delineate the responsibilities of SMUD and the City of Sacramento, as it pertains to infrastructure improvements.

- 2. **Biological Impacts:** SMUD would like to clarify that while we would be responsible for providing electricity to the project site and the digital billboards, the City and/or the applicant would be generally responsible for the implementation of any potential biological resource mitigation measures at these locations. In particular, all biological resource impacts related to the proposed ESC site and the off-site digital billboard implementation should be mitigated prior to SMUD activity. In turn, SMUD would ensure that any subsequent activities we perform comply with the approved Mitigation Monitoring and Reporting Program and any required permits. Additionally, please ensure that the final digital billboard locations are designed in a manner that allows for safe and clear access by SMUD vehicles.



3. **Cultural Resources:** SMUD appreciates the valuable information provided regarding the potential for cultural resource impacts within the project area. SMUD would like some clarification regarding the statement below.

A. Paragraph two on page 4.4-29 references the installation of subsurface electrical infrastructure by SMUD. Please note that any onsite subsurface excavation associated with SMUD infrastructure would occur during the project demolition and construction schedule and would therefore be covered by the impact analysis and mitigation measures provided in the ESC Draft EIR. SMUD will continue to coordinate with the City and the project applicant to avoid and minimize potential impacts to cultural resources.

A15-9

4. **Noise:** SMUD appreciates the clarification that the Draft EIR noise analysis addresses all construction activity associated with the project including utility development. SMUD shall continue to coordinate with the City to ensure that SMUD related construction noise levels are reduced to the degree feasible.

A15-10

5. **Utilities and Service Systems:** SMUD would like the record and the section to note that a formal letter was submitted to the City during the NOP review period. In addition SMUD would like to clarify that our site activities during the construction schedule are addressed in the ESC Draft EIR impact analysis. Additionally:

A15-11

A. The last paragraph on page 4.11-49 and the first paragraph on page 4.11-50 erroneously state that the digital billboards will be supplied by SMUD. SMUD will supply energy to the billboards, but it is our assumption that either the City or the applicant will provide the actual billboard. Please clarify this in the final EIR.

A15-12

B. The last paragraph on page 4.11-51 states that construction power would be provided via a combination of existing utility connections and portable generators. Please continue to coordinate with SMUD to ensure that if the project assumptions regarding construction power change, we are informed as soon as possible. Significant changes to the construction power plan could impact the project timing and implementation.

A15-13

Please continue to keep SMUD apprised of the planning and development of the proposed ESC project. We see ourselves as partners with the City of Sacramento in the efficient and sustainable delivery of the proposed ESC project. Environmental leadership is a core value of SMUD and we look forward to collaborating with you on this project. Again, we appreciate the opportunity to provide input on the DEIR. If you have any questions regarding this letter,

A15-14



please contact Jose Bodipo-Memba, SMUD Environmental Specialist at (916) 732-6493.  
Jose will be the primary environmental point of contact for SMUD on this project.

↑  
A15-14  
cont.

Sincerely,



Rob Ferrera  
Environmental Specialist  
Environmental Management  
Legislative & Regulatory Affairs  
Sacramento Municipal Utility District

Cc: Jose Bodipo-Memba  
Pat Durham  
Greg Hribar  
Steve Johns  
Beth Tincher  
Joseph Schofield



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**Letter A15 Response**     **Rob Ferrera, Sacramento Municipal Utility District (SMUD)**  
January 31, 2014

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- A15-1            The comment provides background information about SMUD. The comment is noted and will be conveyed to the City Council for its consideration.
- A15-2            The comment is noted and will be conveyed to the City Council for its consideration. The Sustainability Targets presented in Table 2-6 are unchanged, including the target to achieve energy reduction of at least 15% better than Title 24, and would be achieved through specific design features of the proposed ESC. The features included in the proposed ESC would include heat recovery, displacement ventilation, underfloor radiant heating and cooling, free cooling, high efficiency lighting, and demand control ventilation.
- Table 2-6 identifies a target of achieving “up to 1%” on-site generated renewable energy. Based on updated design studies, the current design of the proposed ESC does not include on-site renewable energy generation. Several options continue to be studied and could ultimately be included. In the event that on-site renewable energy generation is not included in the project as constructed, the project design would allow for future installation of renewable energy generation systems.
- A15-3            The City and the project applicant have coordinated with SMUD and other service and infrastructure providers through the process of design and construction planning for the proposed ESC, including having met with SMUD planners and engineers numerous times. The parties are committed to continuing such coordination through the construction period, as well as long-term coordination during operation of the ESC. The comment is noted and will be conveyed to the City Council for its consideration.
- A15-4            SMUD maintenance vehicles and technicians will continue to have access to SMUD facilities and equipment at the Downtown project site throughout project construction and operation.
- A15-5            As described in Impact 4.11-1, the Proposed Project would increase the demand for electricity. The Proposed Project would be required to comply with SMUD’s pre-construction schedule requirements, which would ensure that sufficient electricity would be provided to the facility during and after construction, and also to existing facilities that would remain operational following completion of Project elements, including the proposed ESC. The project applicant will continue to coordinate with SMUD regarding the timing and location of electrical infrastructure needed to serve the Proposed Project and ensure continued delivery of electricity to surrounding properties.

As is discussed in Chapter 4.11 of the Draft EIR, the Sacramento Municipal Utility District provides electrical power service to the project site. The 2030 General Plan Master EIR includes information on regional and local energy supplies, and documents that SMUD generates approximately 1,200 megawatts (Mw) of electricity and delivers it to an approximately 900 square mile area within Sacramento County, including the City of Sacramento. SMUD obtains its electricity from a variety of renewable and non-renewable sources, including hydroelectric generation, co-generation, wind, solar, and biomass/landfill gas power. The majority of SMUD's generated power is produced by the Upper American River Project (UARP), a series of hydroelectric facilities on the western slope of the Sierra Nevada consisting of eleven reservoirs and eight powerhouses; the UARP generates enough electricity to meet about 20 percent of SMUD's customer demand.

SMUD's Cosumnes Power Plant is a 500-Mw gas fired power plant that, along with a planned 500 Mw second phase, is anticipated to support growth in electricity demand in the SMUD service area for decades to come. In addition to these sources, SMUD also operates the Solano Wind Project, two photovoltaic generation facilities, and two geothermal units. These renewable energy facilities account for a small but important portion of the electricity generated by SMUD.

Chapter 4.11 of the Draft EIR also notes that natural gas service would be provided to the proposed Project by Pacific Gas & Electric Company (PG&E). The 2030 General Plan Master EIR indicates that PG&E serves approximately 4.1 million natural gas customers. Approximately 87% of California's natural gas supply is imported. During the winter, approximately 70% of natural gas supplies are imported from Canada, with 30% supplied from California production wells. During the summer, the percentages are reversed. Current natural gas supplies are adequate to meet demands.

The proposed Project would result in the consumption of a modest amount of energy in comparison to other projects of similar size and scale. The proposed Project would have many features to make it sustainable and energy efficient. Chapter 2, Project Description, describes the sustainability features of the proposed ESC, including energy efficiency measures such as the use of heat recovery, living or green walls/panels, thermal displacement ventilation, underfloor radiant heating and cooling, free cooling, high efficiency lighting, and demand control ventilation. The building may also include the potential use of onsite thermal energy storage to reduce peak cooling and electrical demands, and on-site renewable energy generation such as roof mounted photovoltaic solar panels or fuel-cell technology. In the event that roof mounted solar panels or other on-site renewable energy generation features are not determined to be feasible as an initial part of the design, the proposed ESC would be designed to allow for future installation of renewable energy facilities. These features would be part of the project characteristics that would achieve LEED Gold certification and would contribute to achievement of sustainability targets including energy

reduction 15% better than Title 24 and up to 1% of energy demand from on-site generated renewable energy.

The proposed Project would replace the existing inefficient, suburban Sleep Train Arena and would redevelop the underperforming Downtown Plaza. As noted above, the new buildings constructed would be highly efficient, consistent with the requirements of LEED Gold for the proposed ESC and meeting the requirements of the City's Climate Action Plan for both the ESC and the mixed use development planned for the SPD area. The 2030 General Plan Master EIR evaluated the effects of the increased demand for electricity and natural gas to accommodate buildout of the 2030 General Plan as well as cumulative demands in the relevant service areas. The conclusion of the analysis in the Master EIR is that both SMUD and PG&E have available supply to meet the City's long-term needs and that impacts to energy resources would be less than significant. The ESC is replacing an existing facility that was part of the existing condition in the Master EIR, and the proposed Project is consistent with the 2030 General Plan land use diagram. SMUD and PG&E facilities are also adequate to meet the Proposed Project's peak demand, as discussed on page 4.11-52 of the Draft EIR. It therefore is reasonable to conclude that the effects of providing energy to the proposed Project are also less than significant.

Energy consumed for transportation primarily involves the use of fuel for internal combustion engines that power passenger vehicles. The proposed ESC would be substantially more efficient than the existing Sleep Train Arena by reducing the relative distances to be travelled to and from the proposed Project compared to the existing Sleep Train Arena or other suburban development patterns. As documented in Chapter 4.10, under Existing Plus Project conditions the vehicle miles travelled per attendee at events would be reduced from an existing 11.57 miles (at Sleep Train Arena) to a future 9.4 miles (at the proposed ESC), a reduction of 18.8 percent. Under Cumulative conditions the reduction would be from 11.56 miles per attendee at Sleep Train Arena to 9.03 miles at the ESC, a reduction of 21.9 percent. These reductions would be directly translatable to proportional reductions in energy consumption. Transportation energy consumption for non-ESC land uses would also be highly efficient as a result of high levels of non-automotive travel. As documented in Chapter 4.10, under Existing Plus Project conditions, only 75% of trips are assumed to be automobile based, with 8% transit, 15% walk, and 2% bicycle trips. Under Cumulative conditions, the automobile-based trips are further reduced to 69%, with 12% transit, 17% walk, and 2% bicycle trips. These high levels of non-automotive travel are, in large part, due to the location of the Proposed Project in downtown Sacramento in close proximity to transit and urban neighborhoods, along with the mixed-use characteristics of the project itself. The decrease is predicted to be greater in the Cumulative condition due to reasonably foreseeable expansion of the transit system and increased residential development in the Central City, resulting in increases in travel by transit or walking. The result of these factors,

as demonstrated above, is that transportation energy use would be much more efficient than if the proposed uses were developed in more traditional suburban locations and forms.

As discussed on page 4.11-41, project construction would require limited amounts of electricity, natural gas and diesel through the use of existing utility connections, construction vehicles and small, construction site generators. There would also be energy consumed at secondary facilities that would produce construction materials that would be used in the construction of the proposed Project. Although specific information about the secondary facilities to be engaged in construction of the project is not practically available, it is reasonably assumed that suppliers would use energy conservation practices in order to minimize costs associated with energy use in the fabrication and transport of construction materials. Energy consumed through the demolition and construction period, from June 2014 to October 2016, would be temporary in nature and in the context of regional supplies would be minimal. As such, it can be concluded that construction-related energy consumption would not result in a wasteful, inefficient and unnecessary use of energy, or place a significant demand on regional energy supplies, or require substantial additional capacity with regards to energy consumption during the construction phase.

- A15-6 As required under section 15097 of the State CEQA Guidelines, a Mitigation Monitoring Plan (MMP) has been prepared is included as Chapter 4 of this Final EIR. For each adopted mitigation measure, the MMP identifies the party that is responsible for implementation, the party responsible for monitoring of compliance with the mitigation measure, and the required timing of the mitigation measure. If the Proposed Project is approved by the City Council, part of that approval will involve the adoption of the MMP. The comment is noted and will be conveyed to the City Council for its consideration. Please see Response to Comment A15-3 regarding ongoing coordination between the City, the project applicant, and SMUD.
- A15-7 The project applicant would be responsible for implementing biological resources mitigation measures, as described in the Mitigation Monitoring Plan (MMP, see Chapter 4 of the Final EIR).
- A15-8 Digital billboards would be constructed in a way that would allow SMUD maintenance vehicles and personnel to access the billboard and SMUD facilities and infrastructure around the digital billboard site. As shown in Figure 2-30a in the Final EIR, the base structure of the digital billboard would be a column approximately 42 inches in diameter and would not be surrounding by a wall or other barrier that would prevent access by SMUD vehicles and personnel.
- A15-9 Impact 4.4-2, which addresses the potential for discovery of unexpected archaeological remains during excavation and other ground-disturbing activities,

includes consideration of and therefore covers SMUD's potential subsurface activities. Because Impact 4.4-2 is considered potentially significant, Mitigation Measure 4.4-2 (a-c) also applies to any subsurface activity by SMUD or other infrastructure providers.

A15-10 As noted in the comment, all construction activities associated with the Proposed Project, including construction noise related to electrical infrastructure, would be required to comply with the maximum noise levels identified in the EIR and implement mitigation measures to reduce construction noise levels, as necessary.

A15-11 The comment notes that SMUD submitted a comment letter on the NOP. The NOP comment letter requests that the Draft EIR acknowledge the Proposed Project's transmission line easements, electrical load and infrastructure demand, energy efficiency, utility line routing, and GHG emissions. For clarification, the second paragraph on page 4.11-1 is revised as follows:

The City received comments on the NOP related to utilities and service systems, which are addressed in this chapter to the extent they pertain to potential project impacts (see Appendix A). NOP comment letters received relevant to this section include a letter from the Sacramento Regional County Sanitation District (SRCSD), requesting that the City evaluate potential impacts on SRCSD facilities, noting that SRCSD has recently entered into an agreement to provide additional wastewater treatment capacity to the City's combined sewer system, and outlining applicable fees. Several questions were received regarding the ability of City utilities to serve the Proposed Project and the funding of needed upgrades. In its NOP comment, SRCSD inquired as to whether the City would replace the existing combined sewer system soon. The Sacramento Municipal Utility District also submitted a comment letter requesting that the Draft EIR acknowledge the Proposed Project's transmission line easements, electrical load and infrastructure demand, energy efficiency, utility line routing, and GHG emissions. This section addresses these items except for issues that do not pertain to the physical impacts of the Proposed Project, such as fees and funding of upgrades.

A15-12 It is noted that the Draft EIR addresses SMUD's activities associated with the Proposed Project are included in the analysis. Examples of such activities could include installation of additional pad mounted transformers, transformer vaults, network and distribution manholes, and additional distribution lines throughout the Downtown project site and to the proposed digital billboards (see page 4.11-52).

In addition, the comment identifies Draft EIR text that requires clarification. The last sentence on page 4.11-49 (and carries over to the top of page 4.11-50) is revised as follows:

Therefore, electricity for all proposed offsite digital billboards would be supplied by SMUD.

- A15-13 As stated on page 4.11-51, construction period power would be provided on site by a combination of existing utility connections and small, portable, construction site generators. Should assumptions regarding construction power change, the project applicant and/or contractor would coordinate with SMUD.
- A15-14 The comment summarizes previous comments made in the letter and provides contact information for SMUD's primary environmental point of contact. The comment is noted and will be conveyed to the City Council for its consideration.





City of Davis – City of West Sacramento – City of Winters  
City of Woodland – County of Yolo  
EX Officio – Caltrans District 3 – University of California, Davis

**Yolo County Transportation District**

350 Industrial Way  
Woodland, CA 95776  
530.661.0816 FAX: 530.661.1732  
www.yolobus.com

February 5, 2014

Desmond Parrington, Entertainment & Sports Project Manager  
Office of the City Manager  
915 I Street  
Sacramento, CA 95814

RE: Follow-up Letter Regarding Transportation and the Proposed Sacramento Entertainment and Sports Center

Dear Mr. Parrington:

I would like to follow up on my letter of January 31, 2014 regarding the above mentioned project. We are very pleased that all parties have been working in good faith to address transportation issues--we will therefore not be requesting mediation; rather, we ask that the Sacramento City Council endorse the transportation advisory committee concept described in the attached letter from Jeffrey Dorso, dated February 4, 2014, with the requirement that this approach will also be used throughout the life of the ESC.

A16-1

We at the Yolo County Transportation District (YCTD) applaud the City of Sacramento and the project applicant for placing the proposed Entertainment and Sports Center at a location that encourages increased use of alternative transportation modes. This project is consistent with and promotes the policies of SACOG’s award winning Preferred Blueprint, “a bold vision for growth that promotes compact, mixed-use development and more transit choices as an alternative to low density development.” We think it will be a key catalyst in increasing transit ridership and the mode split of trips going into and out of downtown Sacramento. The benefits will go beyond the ESC project by showcasing transit services and their availability for other purposes, as well. We should be able to draw more riders onto existing transit services and look forward to partnering to enhance our capacity, where needed, such as for large events.

A16-2

Our previous comments can be placed into two categories: Yolobus Specific and General.

**Yolobus Specific**

1. **Relocation of Bus Stops.** We ask that the project applicant work jointly with the City of Sacramento, YCTD and Sacramento RTD to provide replacement transit bus stop facilities (with lighted shelters) to cover the ones Yolobus might lose on L or J Streets, paying particular attention to riders who may want to choose from more than one bus route. We hope the new stops will offer an improvement over the ones they replace, with modern amenities that encourage and support public transportation. We recognize that some possible bus stop locations may take time to design, receive approvals on and build and are prepared to work with all parties to establish interim bus stops until the permanent bus stop improvements are finished.
2. **Coordination of Services.** We ask that the project applicant work with the City of Sacramento, YCTD and Sacramento RTD to coordinate schedules, routes and bus layover and staging locations. This

A16-3  
A16-4

effort should include contingency re-routes which may be necessary due to periodic road section closures caused by various activities (e.g., demolition, construction, ESC events, parades, rallies, marches, bicycle races, etc.) which might affect Yolobus routes. In doing such, please stay mindful of the needs of the riders we are serving.

↑  
A16-4  
cont.

- 3. **Service enhancements.** If there are opportunities where Yolobus can participate and contribute to a strong transit mode split from a Yolo County perspective, we'd like to be part of that. This includes maximizing the use of existing transit services where possible, considering pre and post event shuttles between our cities (Davis, Woodland, West Sacramento) and downtown Sacramento, and developing solutions to provide capacity to meet transit demand related to ESC at other times of the day.

↑  
A16-5

**General**

- 1. Make certain light rail, buses run by various operators, paratransit services, inter-regional passenger rail (the Capitol Corridors and San Joaquins), bike share and pedestrian related activities are considered and coordinated where possible. Shared bus stops need to be looked at closely.
- 2. Consider other marketing efforts to promote alternative transportation (transit, bicycling, walking) to ESC, such as:
  - o Offering discount transit passes to employees associated with the ESC project, Sacramento Kings games, and other events
  - o If possible, determine if future Sacramento Kings season passes could also incorporate CONNECT (Smart card) technology, where the season pass holders can add transit fare value onto their pass.
  - o Announcements in all season ticket packets and employee orientation packets
  - o Regular ongoing announcements and postings on the arena jumbotron, LED signage and public announcement systems
  - o Permanent section and transit link on ESC and Sacramento Kings websites
  - o Public transportation promotion in by-lines on media advertisements and media public service announcements
  - o Provision of public transportation information and CONNECT card kiosks
- 3. Understand that if weekday major event start times could be shifted (from 7:00 p.m. to 7:30 p.m., for example) there may be more transit rolling stock available to meet pre-event demand.

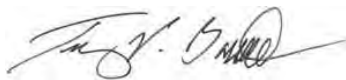
↑  
A16-6

↑  
A16-7

↑  
A16-8

Please feel free to call me at (530) 402-2812, or email me at [tbassett@yctd.org](mailto:tbassett@yctd.org) if you have any questions. We look forward to working with you on this exciting project. Thank you.

Sincerely,



TERRY V. BASSETT  
Executive Director

Attachment

Cc:

- Yolo County Transportation District Board of Directors
- Bob Grandy, Fehr & Peers
- Jeffrey Dorso, Pioneer Law Group, LLC
- Mark Friedman, President, Fulcrum



Jeffrey K. Dorso  
Partner

Joel Patrick Erb  
Partner

Andrea A. Matarazzo  
Partner

Blair W. Will  
Of Counsel

February 4, 2014

Terry Bassett, Executive Director  
Yolo County Transportation District  
350 Industrial Way  
Woodland, California 95776

Re: Sacramento Entertainment and Sports Center ("ESC")

Dear Mr. Bassett:

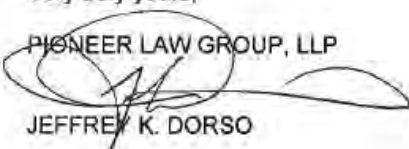
I am writing this letter on behalf of my client, Sacramento Basketball Holdings ("SBH"), the current applicant for the Sacramento Entertainment and Sports Center ("ESC").

We view transportation as a critical element to the future success of the ESC. To maximize the efficiency of all transportation modes from pedestrian to public transit – we believe it is essential that your organization and others continue to participate with the City of Sacramento ("City") and SBH to ensure that we work collaboratively to address and solve for future transportation issues as we complete design and development of the ESC.

To that end, we are forming a transportation advisory committee that will consist of key transportation providers. This group will meet regularly throughout the design and construction process (e.g., once a month or as otherwise appropriate) to update everyone on key progress points, and to address future transportation related issues.

As we have discussed, we look forward to you participating in this committee and being part of the transportation network to serve this exciting regional project.

Very truly yours,

  
PIONEER LAW GROUP, LLP

JEFFREY K. DORSO

JKD:jis

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431 I Street Suite 201 • Sacramento, CA 95814  
v. (916) 496-8500 • f. (916) 496-8500 • www.pioneerlawgroup.net

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**Letter A16 Response**     **Terry V. Bassett, Yolo County Transportation District**  
February 5, 2014

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- A16-1            The comment requesting endorsement of the transportation advisory committee approach by the Sacramento City Council is noted and will be conveyed to the City Council for its consideration.
- A16-2            The comment regarding support for the location of the ESC is noted and will be conveyed to the City Council for its consideration.
- A16-3            Please see Response to Comment A11-9 for information on new bus stop improvements.
- A16-4            Coordinating future transit service among providers such as RT and YCTD is a key aspect of the Transportation Advisory Committee proposed by the project applicant. The Revised Draft Event TMP also calls for an ongoing coordination process and refinement of the Revised Draft Event TMP document as needed to respond to changing conditions.
- A16-5            The project applicant has indicated its commitment to working with transit providers, including RT and YCTD, to encourage the use of transit by attendees and monitor transit service levels.
- A16-6            The project applicant has indicated its commitment to, and the Revised Draft Event TMP requires, coordinating with the various transit providers referenced as well as the new bike share program being administered by the Sacramento Metropolitan Air Quality Management District.
- A16-7            The Revised Draft Event TMP describes ongoing marketing efforts that would be undertaken to promote the use of transit, bicycling, and walking. The project applicant would explore various fare options including connections to the CONNECT (Smart card) technology for season ticket holders. Please also see Response to Comment A11-12.
- A16-8            Please see Response to Comment A11-3.
- A16-9            The attachment to Comment Letter A16 is a February 4, 2014 letter from Jeffrey K. Dorso (representing the project applicant) to Terry Bassett, Executive Director of YCTD requesting the participation of YCTD in a transportation advisory committee that would meet regularly throughout the design and construction process to coordinate transportation issues. The comment is noted and will be conveyed to the City Council for its consideration.

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Scott Johnson  
City of Sacramento  
916 808 5842  
300 Richards Blvd, Third Floor  
Sacramento, CA 95811

Re: **Sacramento Entertainment and Sports Center and Related Development Project (P13-065)**

Dear Mr. Johnson,

The undersigned represents Citizens Advocating Rational Development (“CARD”), a non-profit corporation dedicated to issues in development and growth.

This letter contains comments on the Draft Environmental Impact Report on the Sacramento Entertainment and Sports Center and Related Development Project (P13-065), in accordance with CEQA and the Notice of Completion and Availability. Please ensure that these comments are made a part of the public record.

ENERGY

The DEIR does not discuss any requirements that the Project adopt energy saving techniques and fixtures, nor is there any discussion of potential solar energy facilities which could be located on the roofs of the Project. Under current building standards and codes which all jurisdictions have been advised to adopt, discussions of these energy uses are critical; the demolition of up to 857,943 sf of the existing Downtown Plaza buildings and the below-grade parking garages, and the construction and operation of an approximately 780,000 sf, 17,500 seat entertainment and sports center, and up to 1,500,000 sf of office, retail, housing and hotel uses at the ESC Project Site, will devour copious quantities of electrical energy, as well as other forms of energy.

01-1

WATER SUPPLY

The EIR ( or DEIR – the terms are used interchangeably herein) does not adequately address the issue of water supply, which in California, is a historical environmental problem of major proportions.

What the DEIR fails to do is:

1. Document wholesale water supplies;
2. Document Project demand;
3. Determine reasonably foreseeable development scenarios, both near-term and long-term;
4. Determine the water demands necessary to serve both near-term and long-term development and project build-out.
5. Identify likely near-term and long-term water supply sources and, if necessary, alternative sources;
7. Identify the likely yields of future water from the identified sources;
8. Determine cumulative demands on the water supply system;
9. Compare both near-term and long-term demand to near-term and long-term supply options, to determine water supply sufficiency;
10. Identify the environmental impacts of developing future sources of water; and
11. Identify mitigation measures for any significant environmental impacts of developing future water supplies.
12. Discuss the effect of global warming on water supplies.

01-2

01-3

There is virtually no information in the DEIR which permits the reader to draw reasonable conclusions regarding the impact of the Project on water supply, either existing or in the future.

01-4

For the foregoing reasons, this EIR is fatally flawed.

AIR QUALITY/GREENHOUSE EMISSIONS/CLIMATE CHANGE

The EIR lacks sufficient data to either establish the extent of the problem which local emissions contribute to deteriorating air quality, greenhouse emissions or the closely related problem of global warming and climate change, despite the fact that these issues are at the forefront of scientific review due to the catastrophic effects they will have on human life, agriculture, industry, sea level risings, and the many other serious consequences of global warming.

01-5

This portion of the EIR fails for the following reasons:

1. The DEIR does not provide any support or evidence that the Guidelines utilized in the analysis are in fact supported by substantial evidence. References to the work of others is inadequate unless the document explains in sufficient detail the manner and methodology utilized by others.

01-6

2. Climate change is known to affect rainfall and snow pack, which in turn can have substantial effects on river flows and ground water recharge. The impact thereof on the project’s projected source of water is not discussed in an acceptable manner. Instead of giving greenhouse emissions and global warming issues the short shrift that it does, the EIR needs to include a comprehensive discussion of possible impacts of the emissions from this project.

01-7

3. Climate change is known to affect the frequency and or severity of air quality problems, which is not discussed adequately.

01-8

4. The cumulative effect of this project taken with other projects in the same geographical area on water supply, air quality and climate change is virtually missing from the document and the EIR is totally deficient in this regard.

01-9

For the foregoing reasons, the EIR is fatally flawed.

ALTERNATIVE ANALYSIS

The alternative analysis fails in that the entire alternatives-to-the-project section provides no discussion of the effects of the project, or the absence of the project, on surrounding land uses, and the likely increase in development that will accompany the completion of the project, nor does it discuss the deleterious effects of failing to update the project upon those same surrounding properties and the land uses which may or have occurred thereon.

01-10

Thank you for the opportunity to address these factors as they pertain to the referenced DEIR.

Very truly yours,

CITIZENS ADVOCATING RATIONAL DEVELOPMENT

NICK R. Green

President

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**Letter O1      Nick Green, Citizens Advocating Rational Development (CARD)**  
**Response      January 22, 2014**

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O1-1      As discussed on pages 2-36 through 2-38 of the Draft EIR, the proposed ESC would be designed and constructed to meet the requirements of the US Green Building Council's Leadership in Energy and Environmental Design (LEED) Gold certification. Although the details of the design process are not yet complete and, thus, many of the design details that would be measured to achieve the Gold certification have yet to be determined, Table 2-6 presents the targets to be met through project design. Those targets include 15% better energy efficiency than Title 24 standards and 25% greater water reduction than required under the CalGreen Baseline, among others.

In addition, the discussion of Global Climate Change in section 4.5 of the Draft EIR evaluates energy consumption as part of the analysis of greenhouse gas (GHG) emissions that would be generated by the Proposed Project. As noted on page 4.5-15, in accordance with CEQA Guidelines section 15183.5, the threshold of significance used to determine the significance of GHG emissions generated by the Proposed Project (including emissions related to building energy consumption) is whether the Proposed Project would be consistent with the City's Climate Action Plan (CAP). As stated on page 4.5-16 of the Draft EIR, the Proposed Project would be consistent with all applicable performance standards in the City's CAP.

Additionally, as noted in Appendix B under the response to Question 6 in the CAP Checklist, the Proposed Project would include design features that would reduce the Proposed Project's total energy demand onsite by 15% including the energy demand of ESC and non-ESC land uses. Unless otherwise reduced through efficiency of systems not regulated by Title 24, energy efficiency mitigation would reduce electricity and natural gas energy use by 20% beyond Title 24. The resulting 20% reduction in energy use for sources subject to Title 24 would result in an overall onsite energy reduction of 15%.<sup>2</sup> The CalEEMod calculations showing this reduction are included in Appendix B. It should be noted that on January 1, 2014, the new 2013 Building Energy Efficiency Standards went into effect. Under those standards, minimum code requirements will already exceed the 2008 standards by 20% for residential buildings and 25% for commercial buildings. By meeting an energy efficiency performance standard that is considerably more stringent than the minimum assumptions in the CAP, GHG reductions equivalent to or better than 15% onsite renewable energy

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<sup>2</sup> Title 24 applies to the major building envelope systems such as space heating, space cooling, water heating, and ventilation. Energy use from appliances, electronics, and certain lighting systems are not regulated by Title 24.

generation would be achieved. Consequently, the Proposed Project would meet the CAP Consistency Checklist item for onsite energy conservation.

O1-2 Section 4.11, Utilities and Service Systems, discusses water supply and demand under Impact 4.11-1 and Impact 4.11-2 (see pages 4.11-15 through 4.11-20 of the Draft EIR). As stated in Impact 4.11-1, the existing water demand of Downtown Plaza and Sleep Train Arena combined is 122.9 acre-feet per year. The Proposed Project could result in an annual water demand of 321.56 acre-feet per year, a net increase of 198.70 acre-feet per year over existing conditions. As discussed in Chapter 2, Project Description, the project proponents plan to obtain LEED Gold certification for the proposed ESC, and have identified a goal of reducing water levels by 25% below the amounts resulting from compliance with CalGreen Baseline. Water demand for the ESC portion of the Proposed Project is likely to be lower than anticipated and depicted in Table 4.11-7.

The 2010 Urban Water Management Plan (UWMP) addresses the City's wholesale water supplies. As discussed on page 4.11-18 of the Draft EIR, the 2010 UWMP does not identify specific individual projects that are considered within that plan's water demand projections. The planning figures that the UWMP relies upon do, however, consider continued development within the downtown area, including the Downtown project site and vicinity. While an ESC project was not explicitly included in the downtown area planning in the UWMP, the water use from the existing Sleep Train Arena was assumed. Also, other development consistent with the remainder of the Proposed Project was considered in support of the UWMP water demand analysis.<sup>3</sup> Based on the findings of a WSA completed by the City in October 2013, the City has sufficient water supply to provide water to the Proposed Project through 2035.<sup>4</sup>

The comment also states generally that the Draft EIR fails to determine reasonably foreseeable development scenarios for water supply; the comment does not refer to any specific near-term or long-term development scenario. The Draft EIR is an analysis of the development of the Proposed Project, which is the foreseeable development scenario. Impact 4.11-3 of the Draft EIR addresses the Proposed Project's contribution to a cumulative impact on water supply, which includes future demand in the water service area for the City of Sacramento, including reasonably foreseeable increases in water demand as identified in the City's 2030 General Plan Master EIR and 2010 UWMP. Impact 4.11-3 concludes that the Proposed Project would be consistent with development anticipated in the downtown area, including the Downtown project site, under the 2010 UWMP. As described under Impact 4.11-3, the City has sufficient water

<sup>3</sup> City of Sacramento Department of Utilities, 2011. *2010 Urban Water Management Plan*. October, 2011. Carollo Engineers. pp. 1-1 – 2-11.

<sup>4</sup> City of Sacramento, 2013b. *City of Sacramento SB 610/SB 221 Water Supply Assessment and Certification Form*. October 15, 2013. p. 4. (See Appendix E of the Draft EIR).



production capacity to meet anticipated demands through the year 2030, but not beyond that year, due to anticipated Hodge flow restrictions. The Master EIR prepared for the 2030 General Plan, and certified in 2009, concluded similarly that the City would need additional diversion and treatment capacity to meet peak demand under Hodge flow conditions. (Master EIR, p. 6.11-33) The Master EIR referenced General Plan policies calling for sound planning for new development and reducing peak demand (Master EIR, p. 6.11-34). While the City's existing water rights would be sufficient to provide water to meet foreseeable development within the City, including the Proposed Project, at least through 2030, the City's ability to divert water from existing facilities could become insufficient in or before 2030. Mitigation Measure 4.11-3 would result in implementation of action for increasing diversion and treatment capacity. The timing and location of any such improvements are unknown. Nor can the effectiveness of the mitigation be known with certainty. As a result, the Impact 4.11-3 discloses that the cumulative impact is significant and unavoidable.

- O1-3 The comment states that the Draft EIR fails to discuss the effect of global warming on water supplies. Water supply to the Proposed Project would be provided through the City of Sacramento, which regularly plans for water supply and demand, as documented in its 2010 Urban Water Management Plan (UWMP). Consideration of the effects of climate change on water supply is included in UWMP requirements, under California Water Code Section 10631. Chapter 7 of the City of Sacramento UWMP addresses climate change and its potential threats to Sacramento, including more frequent, intense or persistent periods of drought due to decreasing snow pack in the Sierra Nevada mountains. Part of the City's response to these threats includes the development of greenhouse gas emission reduction and climate change adaptation strategies as part of Phase 1 of the City's Climate Action Plan. As described in section 4.11, Utilities and Service Systems, of the Draft EIR, the UWMP analysis concluded that the City has sufficient water supply entitlements to meet projected water demands during various hydrologic conditions, ranging from normal water years to severe drought, to the year 2035. As described in Impact 4.11-1, the City has sufficient water supply to provide water to the Proposed Project through 2035; thus, based on water supply and demand planning, adequate water is available to serve the project in the foreseeable future.

The City will continuously update the UWMP, as required by the Urban Water Management Planning Act, to maintain efficient use of urban water supplies, continue to promote conservation programs and policies, ensure that sufficient water supplies are available for future beneficial use, and provide a mechanism for response during water drought conditions.

- O1-4 The comment incorrectly states that the Draft EIR contains no information on the Proposed Project's impact on water supply. Please see Responses to Comments

O1-2 and O1-3 for information on the Draft EIR’s discussion of water supply and demand for the Proposed Project. The EIR includes adequate information regarding the project’s demand for, and impact on, water supply in the City of Sacramento.

O1-5 The comment incorrectly states that the Draft EIR lacks sufficient data to establish how local emissions contribute to GHG emissions and climate change. Section 4.5, Global Climate Change, includes a discussion of the current state of climate change science, and greenhouse gas (GHG) emissions sources in California; a summary of applicable regulations; and a description of project-generated GHG emissions and their contribution to global climate change.

O1-6 The comment states that the Draft EIR does not provide any support or evidence that the Guidelines utilized in the analysis are in fact supported by substantial evidence. Section 4.5, Global Climate Change, discusses Standards of Significance and the City’s CAP on page 4.5-15. It is unclear as to which “Guidelines” the comment refers. Pages 4.5-15 and 4.5-16 of the Draft EIR includes a discussion of the City’s Climate Action Plan (CAP)—which addresses climate change considerations in Sacramento—as well as the methodology used for determining the project’s impacts. Appendix B includes the detailed model outputs for construction- and operation-related impacts, and includes the CAP Consistency Checklist and supporting documentation.

With the passage of Senate Bill 743, Section 21168.6.6 was added to the Public Resources Code (PRC Section 21168.6.6).<sup>5</sup> In order to meet the definition of “Downtown arena” under PRC Section 21168.6.6, the proposed ESC must receive Leadership in Energy and Environmental Design (LEED) Gold certification for new construction within one year of completion of the first NBA season. The “Downtown arena” also must take the following steps to minimize operational traffic congestion and reduce global climate change impacts:

1. Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases from private automobile trips (automobiles and light vehicles) to the Sacramento ESC as compared to the baseline, and as verified by the Sacramento Metropolitan Air Quality Management District (SMAQMD);
2. Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035

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<sup>5</sup> A copy of PRC Section 21168.6.6 is contained in Appendix F of the Draft EIR and Appendix A of the Final EIR.

achieved in the Sacramento Area Council of Governments (SACOG) sustainable communities strategy; and

3. Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the ESC that is no more than 85 percent of the baseline.

Information presented on pages 4.5-11 through 4.5 13 of the Draft EIR describe how the ESC would meet the requirements set forth by Senate Bill 743.

- O1-7 The comment states that the Draft EIR should include a comprehensive discussion of possible impacts of the emissions from the Proposed Project. The Proposed Project's contribution to GHG emissions is discussed under Impact 4.5-1 on page 4.5-16. As noted in CEQA Guidelines section 15183.5 (b), "a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances." The Proposed Project would generate GHG emissions during short-term construction and long-term operation that would not be cumulatively considerable because the Proposed Project is consistent with the City's CAP. This impact would be considered less than significant. The project's direct impact on the project's projected supply of water is discussed under Impacts 4.11-1 and 4.11-2.
- O1-8 The comment states that the discussion of climate change affecting the frequency and/or severity of air quality problems is not adequate. The comment does not identify specific shortfalls, but rather generally criticizes the analysis. Please see section 4.2, Air Quality and section 4.5, Global Climate Change. Short-term construction-related and long-term operation-related impacts (regional and local) were assessed in accordance with Sacramento Metropolitan Air Quality Management District (SMAQMD)-recommended methodologies. As stated on page 5.4-10 of the Draft EIR, Chapter 6 of the SMAQMD CEQA Guide to Air Quality Assessment outlines expectations and methodologies for the analysis of GHG emissions, and guidance on determining the significance and appropriate mitigation. SMAQMD recommends that both construction and operations-related GHG emissions be quantified for a proposed project, and that the significance of GHG emissions be determined in a manner based on whether such emissions are cumulatively considerable. SMAQMD also recommends that any thresholds of significance for GHG emissions be related to AB 32's GHG reduction goals, and supported by substantial evidence.
- O1-9 The comment incorrectly states that the cumulative effect of the project taken with other projects in the same geographical area on water supply, air quality and climate change is missing from the document. Please see pages 4.11-21 through 4.11-27 for a cumulative discussion on water supply, pages 4.2-30 through 4.2-33 for a cumulative discussion on air quality, and page 4.5-16 for a cumulative

discussion on climate change. As discussed extensively in section 4.5, Global Climate Change, GHG impacts related to global climate change are inherently cumulative. Accordingly, the EIR impact discussions analyze the Proposed Project's potential contribution to the cumulative climate change effect.

O1-10 The comment incorrectly states that the alternatives analysis provides no discussion of the effects of the Proposed Project, or the absence of the Proposed Project, on surrounding land uses. The EIR analyzes four alternatives to the ESC and Mixed Use Development: Alternative 1: No Project Alternative; Alternative 2: ESC at Railyards Alternative; Alternative 3: ESC in Natomas Alternative; and Alternative 4: Reduced Mixed Use Development Alternative. A comparison of the impacts of the Proposed Project versus each of these alternatives begins on page 6-19 of Chapter 6, Alternatives, of the Draft EIR. Table 6-5 beginning on page 6-46 summarizes the environmental analyses provided for the project alternatives.

In addition to the ESC and Mixed Use Development component, a total of ten offsite digital billboard sites were evaluated, although, as identified in the March 2013 preliminary nonbinding term sheet, no more than six sites would ultimately be selected. For the most part, the impacts of the digital billboards have to do with location and orientation of the billboard face, and the billboard construction activities. Because there is such limited feasible variation in the size, height, or specifications of digital billboards, the primary potential variation that can be captured in alternatives involves the location of the site. A discussion regarding alternative sites for the digital billboards begins on page 6-12. The impacts of building a digital billboard at each of the ten sites are summarized in Table 6-1.

The comment also states that the alternative analysis fails to discuss the likely increase in development that will accompany the completion of the project. Growth-inducing impacts are discussed in Chapter 5, Other CEQA Considerations, specifically pages 5-5 through 5-9. Potential growth inducing effects may occur when the Downtown project site zoned for an entertainment and sports center along with dense mixed-use urban development. The growth inducement could result in the additional development of services and facilities that encourage the development of urban uses in surrounding areas. However, while the Proposed Project would connect to existing roadways, the Downtown project site is located within a developed area and traffic improvements would not induce growth elsewhere. The Proposed Project would be able to tie into existing utility infrastructure and planned expansions of utilities infrastructure. Furthermore, the Proposed Project is located in an existing urban area, and is surrounded on all sides by existing development. As a result, the Proposed Project would be considered an infill project that would redevelop a site on which previous development occurred. Therefore, the Proposed Project would not result in growth inducing effects.

The comment also states that the alternatives analysis in the Draft EIR does not “discuss the deleterious effects of failing to update the project upon those same surrounding properties and the land uses which may or have occurred thereon.” This comment is unclear and no further response can be provided regarding the alternatives analysis. As discussed above, the Draft EIR discusses potential cumulative conditions and the Proposed Project’s contribution to potential cumulative effects, which takes into consideration future buildout of the City of Sacramento per the City’s 2030 General Plan. Please see pages 5-15 through 5-17 of the Draft EIR, as well as the cumulative impact discussions in each technical section.

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**SACRAMENTO AREA  
BICYCLE ADVOCATES**

909 12th St, Ste. 116  
Sacramento, CA 95814

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January 23, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811-0218  
srjohnson@cityofsacramento.org

Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (SCH # 2013042031)

Dear Mr. Johnson:

Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) & Related Development project.

Sacramento Area Bicycle Advocates is dedicated to helping transform the region by making it convenient and comfortable for more people to choose bicycling as a means of everyday travel. Participating as a stakeholder in projects like the Entertainment & Sports Center is one of the most important ways we fulfill our mission.

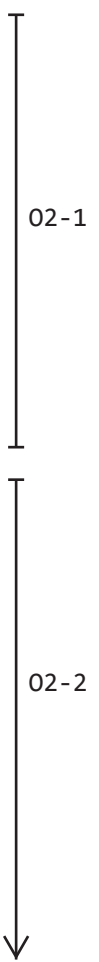
We believe that, properly done, the Proposed Project could make an important and substantial contribution to Sacramento's quality of life and vibrancy as a 21<sup>st</sup> century city. Sacramento has the opportunity to make the ESC one of the country's most bike-friendly facilities. All the elements for success are here: a large base of enthusiastic bicyclists in downtown, large events that already draw large numbers of cyclists downtown, the motivating necessity to maximize the bicycle modal split in order to reduce auto traffic at ESC events, and relatively mild weather that encourages cycling. We provide our comments in the spirit of making sure that vision is brought to reality.

This letter focusses on the following main areas of inadequacies in the DEIR.

**Project objectives and general plan policy:** The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with important General Plan policies.

**Failure to adequately provide for access by bicycle:** The Proposed Project fails to adequately provide for access by bicycle and therefore would cause significant adverse impacts. These adverse impacts on bicycle access would result from: 1) inadequate bicycle parking, 2) inadequate access to bicycle parking, and 3) inadequate bicycle access to and from the ESC site.

**Inadequacy of the Event Transportation Management Plan:** Mitigation Measures 4.10-1, 4.10-6, 4.10-8, 4.10-11, 4.10-17, and 4.10-19 all require the project applicant to prepare and implement an Event Transportation Management Plan (ETMP). These mitigation measures are flawed, however, and do not comply with CEQA. The ETMP itself is flawed and does not include infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access.



Below is a more detailed explanation of these inadequacies and our recommendations for resolving them. This content is summarized in Attachments 1 and 2.

02-2  
↑ cont.

**Project objectives and general plan policy**

We wholeheartedly support the City’s objectives for the Proposed Project as adopted by City Council on October 29, 2013. Particularly crucial for bicycle transportation are these City objectives for the ESC:

- *Sustainable Project:* “encourages public transit as well as pedestrian and bicycle transportation”
- *Connect Downtown:* “connects with and enhances downtown from the waterfront to the Convention Center and from the Capitol to the Railyards and intermodal facilities”
- *Multimodal Place:* is “an entertainment and sports center that complements a variety of transportation modes including . . . bicycling”.

02-3

Many policies in the City of Sacramento’s 2030 General Plan require that the Proposed Project ensure excellent access for bicycling. DEIR pages 4.10-36 and -37 cite policies from the General Plan’s Mobility Element including “M5.1.4. The Proposed Project shall not result in conflicts between bicyclists and motor vehicles on streets, and bicyclists and pedestrians on multi-use trails and sidewalks.” However, neither DEIR Table 3-1 nor Chapter 4.10 on transportation impacts and mitigation measures discusses how the Proposed Project is consistent with Mobility Policy M5.1.4.

02-4

The Sacramento General Plan also states key urban form characteristics to be achieved by development within the Central Business District (Land Use and Urban Design section) including #12 that specifies that street design shall integrate “pedestrian, bicycle, transit, and vehicular use” and shall incorporate “traffic-calming features . . .”. Also, as discussed in DEIR Table 3-1, General Plan Policy LU2.6.1 Sustainable Development Patterns states that the City shall promote development patterns that “facilitate walking, bicycling, and transit use.” General Plan Policy LU5.6.2 Family-Friendly Downtown states that the City shall promote the Central Business District as “a family-friendly area . . .”. The DEIR must explain how the ESC’s provision of walking and bicycling facilities will qualify as family friendly.

02-5

The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with the General Plan policies stated above. For example, page 2-3 of the DEIR states the project applicant’s objectives for the Proposed Project. Unfortunately, the 8th and 9th objectives among the applicant’s objectives are not consistent with the City’s objectives for the project and are not consistent with General Plan policies. To be consistent, the 8th objective should be amended to read “Ensure that adequate vehicle and bicycle parking for ESC patrons and employees is available and accessible for use during events (underline and italicizes added for emphasis).” Similarly, the 9th objective should be amended to read “Ensure that adequate vehicle and bicycle parking is available and sufficient and accessible to support patrons and employees of the mixed use development and other adjacent uses.”

02-6

**Failure to adequately provide for access by bicycle**

The DEIR findings of less than significant impacts on bicycle access are not supported by substantial evidence (Transportation Impacts 4.10-7 and 4.10-18, DEIR page 4.10-101 and -111). A more detailed explanation of these inadequacies and our recommendations for resolving the inadequacies is provided below and in Attachments 1 and 2.

02-7  
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**1. Inadequate Bicycle Parking**

The Proposed Project fails to adequately provide for access by bicycle as it does not include sufficient quantity of bicycle parking or specificity of a bicycle parking plan. The DEIR acknowledges that the Proposed Project must comply with the City’s bicycle parking requirements (Planning and Development Code Chapter 17.608 and Table 17.608.030C) as stated on DEIR page 2-54.

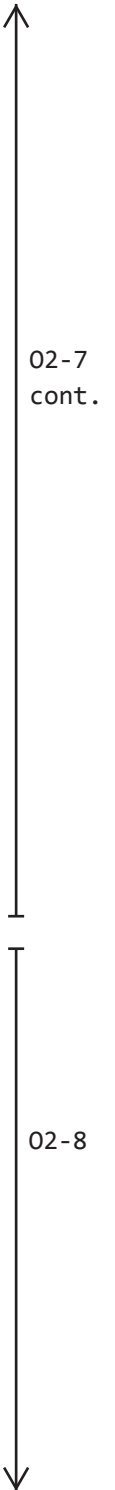
The project description, however, presents only a very conceptual Bicycle (parking) Plan for ESC operations depicted in Figure 2-24 (DEIR page 2-55): Long-term bike parking for employees would be provided in the underground parking garage; some undefined amount of short-term bike parking would be provided along the north edge of the ESC plaza whereas short-term bike parking for events with sufficient demand would be provided in temporary bike-valet operations. The project description fails to describe how decisions will be made to provide bike-valet operations and how and where they will be implemented.

Using the City’s bicycle-parking requirements in Planning and Development Code Chapter 17.608, we have calculated required amounts of long- and short-term bicycle parking for the mixed uses proposed for the ESC SPD/PUD based on sizes of the uses stated in DEIR Table 2-2 and for ESC events based on employment (DEIR page 2-17) and event scenarios (DEIR Appendix L ETMP page 8). Attachment 1 shows the calculated bicycle parking requirements for each proposed use. The DEIR should include this information about required bicycle parking spaces in the Project Description section on bicycles at DEIR page 2-54. For example, the ESC must provide one long-term bicycle-parking space per 13 employees and short-term bicycle-parking spaces for 5% of attendees at events. Using this formula, a sold-out NBA game with 17,500 attendees and 1,200 employees would require 875 short-term spaces and 92 long-term spaces.

The DEIR does not describe how the required amounts of bicycle parking will be provided for ESC operations, either for employees or for event attendees. The bicycle parking plan must describe how it will provide long-term parking consisting of at least 20 spaces for permanent employees plus 92 spaces for temporary employees that staff events. The DEIR currently only mentions providing “approximately 20 long-term” spaces for employees in the underground parking (page 2-54).

The DEIR estimates a mode share of 0.5% for bicycling by attendees to typical NBA events, meaning only about 90 attendees will arrive on bicycles for NBA games (ETMP page 27). This low estimate may be appropriate for the initial season or two of NBA events at the ESC and for games in wintertime inclement conditions. However, Sacramento is a very favorable area for bicycling and bicycling to NBA events at the ESC will be much more attractive in spring and fall months when evening bicycling in Sacramento can be quite pleasant. Bicycling to other ESC events will also be more frequent for daytime events (e.g., matinee events attractive to families). The summer Concert in the Park series at Cesar Chavez Park, for example, regularly draws several hundred bicyclists to bike-valet parking for an attendance of several thousand persons.

The DEIR fails to account for the likely growth of bicycling mode share over the timeframe of the cumulative impact analysis to 2035. Currently, although bicycle access to downtown Sacramento can be difficult because of an incomplete network of low-traffic-stress bikeways, bicycles are an increasingly popular mode of transportation for commuters and for simply moving around downtown and midtown. As Sacramento’s bikeway network becomes more comfortable and continuous, the bicycling mode share to downtown Sacramento will quickly grow. Tables 3-2 and 3-3 in the ETMP show that approximately 40% of NBA event attendees will come from or go home to neighborhoods within a 20- to 30-minute bicycle ride of the ESC (about 3-5 miles); these neighborhoods include Downtown Sacramento, Midtown, East Sacramento, Land Park, Curtis Park, Oak Park, North Sacramento, West



Sacramento, and South Natomas. So, as Sacramento’s bikeway network improves, the bicycling mode share to the ESC can also be expected to steadily grow. The DEIR must relate likely bicycling mode share to the projections for 2035 in the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan.

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02-8  
cont.

The project description for the Proposed Project therefore must specify short-term parking for ESC events that is readily scalable (i.e., able to adaptively grow in capacity with more favorable bicycling conditions) and adequately secure. Security must not only protect against theft of entire bicycles but against theft or vandalism of important bicycle equipment such as wheels, seats, seats and speedometers. Bicycle racks that are not guarded or otherwise protected during events will not suffice for attendee bicycle parking.

02-9

For the required bicycle parking in future SPD/PUD uses, we recommend that the Proposed Project adopt a strategy of bicycle-parking facilities that are integrated into the mixed-use structures. For example, several high-volume parking facilities like the Folsom Pedal Stop, which has a capacity of 60 bicycles, located at two or more points around the SPD/PUD buildings could fulfill much of the long-term bicycle parking requirement for employees, tenants and residents, and also make short-term bicycle parking convenient for customers and visitors.

In conclusion, the DEIR must present a bicycle-parking plan that fully complies with City requirements for bicycle-parking capacity and that is specific about how short-term bicycle parking will be provided for ESC events. Short-term event parking must be provided sufficiently near the ESC that it not be a deterrent to bicycling use (e.g., in the ESC plaza or immediately adjacent). Such parking must be fully secured to protect bicycles and their auxiliary equipment, and must be scalable for handling the expected amounts of bicycle use for the different kinds and conditions of ESC events.

02-10

**2. Inadequate access to bicycle parking**

The Proposed Project fails to provide access to the bicycle parking depicted in Figure 2-24 of the DEIR. This figure shows that some amount of short-term bicycle parking for small events would be located along the north side of the ESC entry plaza near future SPD/PUD developments for a hotel and retail/commercial uses. The retail/commercial uses would largely be “oriented to have front doors mainly onto the entry plaza and the K St. alignment” (DEIR page 2-40). Short-term parking for customers of the retail/commercial uses should be in this location as required by the City’s bicycle-parking ordinance: “Required short-term bicycle parking facilities shall be located in an area visible from and within 200 ft of the primary entrance of the building served” (Section 17.608.040 N.2.a). Figure 2-24 of the DEIR also shows that long-term bicycle parking for employees would be provided within the parking garage at this location.

02-11

The DEIR fails to describe access routes for bicycles to these locations for short-term and long-term bicycle parking. So that people traveling by bike can actually use this parking, the Proposed Project must establish routes for bicycles to access these parking locations from each of the access points shown on ETMP Figure 10 Bicycle Access Routes and Facilities. Key bicycle routes to the ESC under current conditions will approach from K St. to the east, 5th St. from the south, the K St. pedestrian/bicycle connection from the west and Old Sacramento, and J St. and the Intermodal Station to the north. Figure 6 of the PUD Guidelines (page 6-25) shows an access and open space easement providing pedestrian, bicycle, and vehicular access along the K St. alignment between 4th St. and the ESC plaza across 5th St.

02-12  
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To mitigate this significant impact, the Proposed Project must delineate bicycle access paths across the ESC entry plaza from these access points to the bicycle parking that are separate from pedestrian areas, using

pavement surface treatments and wayfinding signage. The access paths for bicycles to the short-term parking can also serve to direct bicycle travel across the entry plaza during non-event periods (e.g., for customers of the retail/commercial uses at the north side of the entry plaza).

02-12  
cont.

Table 3-1 (DEIR page 3-13) states that “the public ownership of K St. would be vacated through the ESC project site . . . “. The DEIR must fully explain this statement, reveal the existing status of public ownership of K St., and disclose whether this action would significantly and adversely impact bicycle access to and through the project site in the transportation impact analysis.

02-13

**3. Inadequate bicycle access to and from the ESC site**

The DEIR fails to disclose that the Proposed Project would adversely affect bicycle access to and from the ESC site from within the surrounding Central Business District. DEIR Figure 4.10-4 shows the existing bicycle network in the vicinity of the ESC site, including striped bicycle lanes along 5th St., J St., I St., and Capitol Mall. K St. has a combination of Class 1 bicycle path and Class 3 bicycle route approaching the ESC site from the east. As stated in the ETMP (page 26), “the recent addition of striping to provide on-street bicycle lanes on Capitol Mall, 5th St., and J St. make[s] them ideal routes for bicyclists to access the ESC.”

02-14

The DEIR must disclose that event vehicle-traffic operations will adversely affect most of these facilities, as shown by Figure 2-22 (entrances/exits to/from VIP parking and loading/delivery/service bays, zones of auto drop-off) and Figure 2-25 (temporary street closures and traffic control stations to manage vehicle and pedestrian flows for NBA games). Likewise, ETMP Figures 13 and 14 (Pre- and Post-Event Vehicle Routes) show which street segments and intersections will be heavily affected by vehicle traffic to and from parking facilities for NBA games. Figure 4.10-15 (Pre-Event Peak Hour Pedestrian Flows) and Table 4.10-24 (Pedestrian Volumes – Existing plus Project Conditions) show that numerous intersections will be subject to spillover of pedestrians from cross-walks because of excessive pedestrian flow rates before typical NBA events. Those adverse effects must be mitigated.

02-15

The DEIR fails to disclose that the concentrated vehicle and pedestrian flows for NBA-type events will cause conflicts between vehicles and bicyclists and between pedestrians and bicyclists, as prohibited by General Plan Mobility Policy 5.1.4. For example, closure of 7th St. between J and L streets would appear to adversely affect bicycle access to the Class 1 bicycle path on K St. These significant impacts on bicycling in the vicinity of the ESC will also occur although to a lesser extent for smaller events. ETMP Table 2-1 estimates 50 NBA events and large concerts (28%), 53 events of 5,000-10,000 attendees (30%), and 74 events of 5,000 attendees or less (42%) each year. These conflicts will adversely affect both bicyclists attending events and those simply passing by between other parts of the SPD/PUD, Old Sacramento, and the Central Business District.

02-16

To avoid these conflicts and thus mitigate the significant impacts, the Proposed Project must result in improvements to bicycling infrastructure to and from the ESC site. Bicycling infrastructure improvements will be needed on 5th St. for access from north (e.g., Sacramento Valley Station) and south (e.g., Capitol Mall), on J St. for access from the east, and on L St. for access from the east. These improvements should consist of dedicated bikeways separated from pedestrian paths (e.g., to and from key transit stations), vehicle access routes (e.g., into and out of ESC underground parking), and truck access routes to the ESC. Because vehicular traffic into and out of large ESC events, especially NBA games, will be very high volume and high speed, these bikeways must offer low-traffic-stress conditions as described by Mekuria et al.<sup>1</sup>. Appropriate protected bikeways would be two-way cycle

02-17

<sup>1</sup> Mekuria, Maaza, Peter Furth, and Hilary Nixon. 2012. Low-Stress Bicycling and Network Connectivity. Mineta Transportation Institute, San Jose State University. May. Report 11-19.

tracks (<http://streetswiki.wikispaces.com/Two-Way+Cycle+Tracks>) installed on the north side of J St. (opposite ESC parking entrance/exits and drop-off zones), the south side of L St. (opposite ESC parking entrance/exits and drop-off zones), and the west side of 5th St. (opposite the ESC truck exit ramp and the double northbound right turn lanes at J St.). These sides of these blocks have few driveways, thus minimizing turning conflicts with cars, and making these blocks optimal for cycle-track installations. A two-way bikeway along the 5th St. alignment could also be placed across the entry-plaza bridge over 5th St.

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02-16  
cont.

The Proposed Project should partner with the City of Sacramento’s Department of Public Works to make these bicycle infrastructure improvements and thereby mitigate the significant impacts to bicycle access to and from the ESC site.

**Inadequacy of the Event Transportation Management Plan (ETMP)**

The DEIR has proposed Mitigation Measure 4.10-1 to mitigate the significant worsening of intersection conditions in the vicinity of ESC (DEIR page 4.10-93). This measure would require the preparation and implementation of the ETMP, subject to the review and approval of the Sacramento Traffic Engineer in consultation with affected agencies such as Caltrans and Regional Transit.

02-17

The ETMP would “manage vehicular circulation near the project site” and “optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC” (DEIR page 4.10-92). The DEIR also proposes the ETMP as mitigation for Transportation Impacts 4.10-6 (access to light rail) and 4.10-8 (pedestrian access) and for mitigation of impacts to intersections, light rail, and pedestrian facilities under cumulative conditions projected for 2035.

Mitigation Measures 4.10-1, 4.10-6, and 4.10-8 do not comply with CEQA guidelines and fail to mitigate the significant impacts in 2 ways:

1. The ETMP has not been finalized and approved by the City so that it cannot be determined that the project would adequately reduce the significant impacts, as stated on DEIR page 4.10-93.
2. CEQA Guidelines Section 15126.4(a) requires that “mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” Mitigation Measures 4.10-1, 4.10-6, and 4.10-8 do not identify the minimum required contents of the ETMP. To be enforceable, the ETMP must have performance standards for what it will achieve, how its efficacy will be measured during ESC operations, how success of the ETMP will be demonstrated, and what corrective actions will be taken and by when if its efficacy is inadequate.

02-18

The ETMP must be reworked by the Project Applicant and the City to include enforceable performance standards about what it will achieve. The ETMP should encompass not only traffic-operations measures but also infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access. More than half of ESC events are expected to have more than 5,000 attendees (ETMP Table 2-1). Therefore, the ETMP should also include measures for these events in addition to “sold-out NBA games” with 17,500 attendees. Such smaller events also can be expected to adversely affect travel operations in the ESC vicinity.

02-19

Because the ETMP would be intended not only “to manage vehicular circulation near the project site” but also “to optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC” (DEIR page 4.10-92), its final approval should rest with the City of Sacramento Director of Public Works whose responsibilities

02-20  
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encompass all types of transportation services. Finalizing the ETMP must include Caltrans and Regional Transit and also other entities responsible for managing Sacramento transportation (e.g., Sacramento Transportation Management Association) and representatives of non-auto travel modes (e.g., WALKSacramento and Sacramento Area Bicycle Advocates).

↑ 02-20  
cont.

The Bicycle Element of the ETMP should be greatly expanded to serve as mitigation for significant impacts to bicycle access as follows:

Adequate bicycle parking for ESC Events: This section should establish a performance standard to provide all long- and short-term bicycle parking required by Sacramento Planning & Development Code including a bicycle valet parking program that is readily scalable for 5% of expected event attendees, is adequately secure from bicycle theft and vandalism, is located in or immediately adjacent to the ESC, and that has clearly described implementation responsibilities.

02-21

Adequate access to bicycle parking: This section should detail how routes across the ESC plaza will be provided to direct bicyclists to parking locations at the ESC, whether short- or long-term. These routes must be provided for bicyclists arriving at the ESC from north (Sacramento Valley Station and Natomas), south (Land Park), east (Midtown, East Sacramento, Curtis Park), or west (Old Sacramento, Sacramento River Parkway Bicycle Path, West Sacramento). These routes must be delineated with pavement treatments and wayfinding signage.

02-22

Adequate access to and from the ESC site: This section should have a performance standard that specifies that the Proposed Project will join in partnership with the City of Sacramento Department of Public Works to install low-traffic-stress bikeways connecting the ESC site in all 4 cardinal directions. These bikeways would serve the several blocks in each direction affected by vehicular and pedestrian conflicts before, during, and after ESC events. This section must also address bicycle travel through the streets proposed for temporary closure after ESC events. These bikeways would have the auxiliary benefit of allowing bicyclists of all ages and abilities to ride to the ESC plaza and the SPD/PUD during non-event periods.

02-23

One of the objectives of the ETMP is “to facilitate and maximize bicycle use by ESC event attendees and employees” (ETMP page 1). The ETMP’s plan for monitoring and refinement aims to “ensure that a high proportion of project employees and visitors . . . are traveling to and from the site via transit, bicycle, and walk modes” (ETMP page 49). Therefore, the monitoring part of the ETMP must be enhanced to fully encompass all modes of transportation to the ESC, such as its effectiveness in accommodating pedestrians and bicyclists.

02-24

The ETMP must describe how the monitoring results will be documented in annual reports, available for public review, and how the results will be used to modify ETMP operations and infrastructure in the ESC vicinity. Modifications and improvements to the ETMP should be done in consultation with the same entities and representatives of all travel modes as help finalize the ETMP in its initial year and subject to approval by the City of Sacramento Director of Public Works. Monitoring and refinement of the ETMP should continue through the life of the ESC in response to improvements in multi-modal transportation opportunities and further build-out of the Central Business District (e.g., the ESC SPD/PUD).

The mitigation measure adopted by City Council in the EIR will guide preparation of the ETMP and must specify necessary details regarding ETMP content, success criteria, responsibilities for approval and implementation, and

↓ 02-25

enforceability.

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cont.

**Other Comments**

We have attached additional detailed comments on the DEIR as Attachment 2. The comments in Attachment 2 are to be considered in addition to the comments provided in this letter.

┌ 02-26

DEIR Section 2.4.10 discusses the proposed ESC SPD/PUD. We hereby incorporate by reference as additional comments on the DEIR all comments provided in our letter to Stacia Cosgrove of the Community Development Department, City of Sacramento, dated December 31, 2013. The letter provided detailed comments on the draft SPD/PUD and should be carefully compared against the contents of Section 2.4.10 of the DEIR. Included in that letter are comments on the following: the change to Planning Director approval for certain uses in lieu of the Planning and Design Commission; the inappropriate limiting of allowable residential uses to one-and two-bedroom units (which is not consistent with General Plan Policy LU5.6.2 Family-Friendly Downtown); comments on specific PUD Design Guidelines including the proposed reduction in minimum sidewalk width; and comments that suggest additional modifications to the Central City Urban Design Guidelines relevant to the PUD area. The December 31 letter to Ms. Cosgrove is included as Attachment 3.

┌ 02-27

We also fully support the comments provided by the Capitol Corridor Joint Powers Authority, as submitted by email on Jan. 22, 2014, by James Allison, Manager of Planning. We hereby incorporate this email, by reference, as additional comments on the DEIR, as Attachment 4.

┌ 02-28

SABA works to ensure that bicycling is safe, convenient, and desirable for everyday transportation. Bicycling is the healthiest, cleanest, cheapest, quietest, most energy efficient, and least congesting form of transportation.

┌ 02-29

Thank you for considering our comments.

Sincerely,



Jordan Lang  
Project Analyst

CC: Paul Philley, SMAQMD (pphilley@airquality.org)  
Ed Cox, City of Sacramento Alternative Modes Coordinator (ecox@cityofsacramento.org)

- Attachments:
1. Bicycle-Parking Requirements for Proposed ESC and ESC SPD/PUD
  2. Additional DEIR Comments
  3. SABA letter to Stacia Cosgrove, Community Development Department, City of Sacramento, dated December 31, 2013



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**Attachment 1  
Bicycle Parking Requirements for Proposed ESC PUD/SPD  
Based on uses described in Table 2-2 in ESC DEIR page 2-11**

Use	Proposed size	Long-Term Bicycle Parking		Short-Term Bicycle Parking	
		City requirement	Spaces	City requirements	Spaces
retail/commercial (sq. ft)	350,000	1 space per 10,000 ft <sup>2</sup>	35	1 space per 2,000 ft <sup>2</sup>	175
office (sq. ft)	475,000	1.5 spaces 10,000 ft <sup>2</sup>	71.3	1 space per 20,000 ft <sup>2</sup>	23.8
hotel (rooms)	250	1 space per 30 rooms	8.3	1 space per 60 rooms	4.2
residential (units)	550	0.5 space per unit	275	0.1 space per unit	55
<b>TOTAL</b>			<b>390</b>		<b>258</b>

02 - 30



Attachment 2 Additional DEIR Comments

The comments on the DEIR provided below are to be considered in addition to the comments provided in SABA's letter to Scott Johnson at the City of Sacramento, dated Jan. 23, 2014. and Attachments 1 and 3 to that letter.

Chapter 2, Project Description

All details of the Proposed Project must be fully disclosed in Chapter 2, Project Description, and fully analyzed in subsequent chapters. Currently, some details of the project can only be found in chapters other than Chapter 2. Examples of these missing and hidden details are included in comments below.

02-31

Short-term bike racks are proposed for the north side of the ESC, yet most riders are (correctly) anticipated to arrive from the south. The project description fails to explain how riders are to be accommodated without requiring them to walk their bikes through the facility or take the long way around to the north side. The project description does not consistently address bicyclists' needs and how they will be accommodated in a manner that is compatible with pedestrian accommodations. For example, the discussion of street closures (page 2-56) focus on pedestrians, but do not describe what will be done for bicyclists.

02-32

Further, the project description fails to mention the bicycle barricade proposed on 7th St., where exactly it would be located and how and when it would be operated. These details must be added to the project description and Event Transportation Management Plan (ETMP) and fully analyzed in subsequent chapters. The barricade is currently only mentioned on page 3-13 in Table 3-1.

02-33

The project description mentions use of post-game street closures for the peak event, including 7th St. between J and L Streets, and L St. between 8th and 5th Streets (page 2-56). Is a post-event bicycle barricade proposed on L St.?

02-33

The Project Description chapter must describe how bicycles are to be accommodated on the streets proposed for closure. Prohibiting bicycle access along the closed streets is unacceptable because it would force cyclists into the auto stream and away from their most logical and convenient routes (i.e., 5th, 6th, 7th, and L Streets) to and from the venue.

The project description fails to provide the details of proposed sidewalk widths in the project area. Page 2-45 identifies a proposed reduction in the minimum sidewalk width currently specified in the existing Central City Urban Design Guidelines. This reduction is proposed at the project boundaries on 5th St., the south side of J St. and the west side of 7th St. As documented in the January 16, 2014 Report to Planning and Design Commission, City staff recommendation is to maintain the minimum sidewalk width specified in the Central City Urban Design Guidelines and remove the proposed sidewalk reduction from the PUD. The language must be removed from the DEIR.

02-34

There is no description of other proposed sidewalk widths in the project description chapter. Instead, widths are disclosed in Table 3-1 on page 3-13. The details of all proposed sidewalk widths must be included in Chapter 2, Project Description.

In Table 3-1 on page 3-14 is the following statement: The Proposed Project would maintain and enhance City sidewalks along J St., 7th St., and L St. On page 3-13 a similar sentence is used but the word enhance is omitted. Are sidewalk enhancements being proposed? Where in the EIR is there a description of the enhancements? If

02-35

enhancements are being proposed, they should be described in Chapter 2, Project Description.

02-35  
cont.

The project description includes providing permanent changeable message signs on freeways that could be used to facilitate pedestrian, bicycle, and vehicle access (page 2-56). However, since freeways are used for vehicular traffic, justification is needed for how adding message signs on freeways would facilitate pedestrian and bicycle access.

02-36

The project description describes the use of the northern lane of L St. between 6th and 7th streets for media truck parking (page 2-50). This contradicts earlier public statements regarding the “activation” of L St. and City Councilmember requests to prevent the L St. side of the ESC from being an unattractive back door to the site. How will the placement of media trucks along the southern wall of the ESC enhance and activate L St. between 5th and 6th streets?

02-37

**Chapter 3, Land Use, Population and Housing**

**Land Use Consistency and Compatibility**

The discussion in Chapter 3 is inadequate in that it fails to identify the inconsistencies of the Proposed Project with General Plan policies. For example, the DEIR does not provide a discussion of how the project is consistent with Mobility Policy M 5.1.4. This analysis is absent from Chapter 3 as well as Chapter 4, section 4.10, Transportation.

02-38

In Table 3-1, the discussion of Policy LU 5.6.2 states that the PUD would allow for development of high-density residential uses but fails to mention that the project is anticipating smaller-sized one-and two-bedroom units, as described in the Project Description on page 2-41. This fact must be disclosed in the discussion of this policy and an explanation provided for the project’s lack of family-friendly housing called for in Policy LU 5.6.2.

02-39

The proposed reduction in the minimum sidewalk width is inconsistent with General Plan Policy LU 4.4.4. The reduction in the minimum sidewalk width would not allow for an “ample public realm” and broad sidewalks furnished with pedestrian amenities that provide comfortable and attractive settings to accommodate high levels of pedestrian activity. Further, as stated on pages 3-9 and 3-10, the General Plan establishes that development in the Central Business District must be designed to reflect an urban form that is characterized by elements including broad sidewalks appointed with appropriate pedestrian amenities, including sidewalk restaurant/café seating. Reducing minimum sidewalk widths is inconsistent with the General Plan. As documented in the January 16, 2014 Report to Planning and Design Commission, City staff recommendation is to maintain the sidewalk with specified in the Central City Urban Design Guidelines and remove the proposed sidewalk reduction from the PUD. The language must be removed from the DEIR as well.

02-40

**Chapter 4, Environmental Impacts, Setting, and Mitigation Measures**

**4.1, Aesthetics, Light and Glare**

Reasonably Foreseeable Development. The Aesthetics, Light and Glare discussion completely fails to address the visual impacts of reasonably foreseeable development of the now-vacant city parcels that will be deeded to the Kings as part of this deal. This includes two parcels adjoining Crocker Art Museum and the adjoining park. Reasonably foreseeable development would potentially affect the museum, the park, and the high-density residential community to the east of the park. Reasonably foreseeable development can be based on existing general plan and zoning land use allocations.

02-41

The analysis of the digital billboards, which are by definition and location intended to be seen by drivers and passengers on the city's major highways, does not employ any discernible standard visual impact analysis methodology. The analysis should at least use the Federal Highway Administration's (FHWA's) "Visual Impact Assessment for Highway Projects" Publication No. FHWA-HI-88-054. That's the standard methodology for projects adjoining freeways.

02-42

The FHWA methodology identifies drivers and passengers as a viewer group. The DEIR analysis ignores the impact of the digital billboards on this group.

A related concern is the presentation of state law regulating message boards. The discussion on page 4.1-30 is confused and may not accurately portray the "relocation" provisions of state code. If it is correct, then the proposed amendment to city ordinance that would eliminate the ordinance's relocation provisions (page 4.1-40) would seem to be contrary to state law. Those discussions need to be harmonized.

Photosimulations. The analysis lacks even the most simple photosimulations of what the proposed digital billboards would look like from the view point of the highway, nearby trails (Hwy 50/Pioneer Reservoir and Bus 80/Sutters Landing, in particular adjoin biking and/or walking trails), offices, and residential areas. This is particularly important for the US 50 at Pioneer Reservoir site where the billboard is described as being 45 feet higher than the Pioneer Bridge. The actual height is not provided, but it is probably in the neighborhood of 115 feet. Without photosimulations, neither the analyst nor the reader of the DEIR can possibly understand what the visual impact might be. The digital billboard at the US 50 at Pioneer Reservoir site may have a base that is broad enough to intrude into the visual quality of the adjoining bike trail. At the proposed height, it may be visible from West Sacramento and would certainly block existing rather pleasing views of the downtown from the Pioneer Bridge. Similarly, the impact of the Business 80 at Sutter's Landing Regional Park billboard on trail users' visual quality along the American River corridor, as well as on views from Business 80 cannot be determined. As written, the analysis of the digital billboards lacks the substantial evidence necessary to support its impact conclusions and fails to fully disclose the breadth and character of the significant effects that it purports to disclose.

02-43

Nighttime Visual Impacts. The analyses do not consistently address nighttime visual impacts. The impacts of the US 50 at Pioneer Reservoir and Business 80 at Sutter's Landing Regional Park sites will be particularly vibrant at night. The former may dominate the existing view of downtown from US 50 as well as views of the City from West Sacramento; the latter will intrude upon the rural character of the American River recreational corridor. While all of the digital billboards will arguably have significant visual impacts during the day, those impacts will be magnified at night. This is easily seen at the auto dealership digital billboard in Fairfield, the Cal State message board on US 50, and the State Fair digital billboard on Business 80.

02-44

State Scenic Highways. The analysis casually dismisses the impact on state scenic highways suggested by Appendix G of the State CEQA Guidelines because none of the highways affected by the proposed digital billboards are designated scenic highways (see page 4.1-42). However, Appendix G by its own terms is not intended to be the only criterion by which to determine whether there is an impact. Depending upon the project and its circumstances, there may be impacts that are not listed in Appendix G that are nonetheless pertinent to an analysis of that project. Here, all of the highways in question are "landscaped freeways" (see page 4.1-30) that are provided some level of protection by the Outdoor Advertising Act from sign intrusion. "Substantially damage views along landscaped highways" should be substituted for the scenic highway criterion found in Appendix G and the project's impact evaluated on that basis.

02-45

Mitigation. Mitigation Measures 4.1-1(a) and 4.1-1(b) are inadequate (beginning on page 4.1-68). They improperly defer mitigation by delaying the development of mitigation until after the signs are designed. The visibility studies

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required by these measures lack performance standards, a means of measuring effectiveness, and even a commitment to mitigate the impacts that might be found during this delayed study.

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Digital billboards are the most intrusive of all highway signs. Placing six new boards on Sacramento highways will greatly change the way in which visitors and residents visually perceive of the city. This will not be a positive change and the EIR must disclose that fact.

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**4.6, Hazards and Hazardous Materials**

The following significance criteria is included in the DEIR for the analysis of hazards and hazardous materials: The project would result in a significant impact if it would interfere with an adopted emergency response plan or emergency evacuation plan. However, there is no analysis in the DEIR of the project’s potential effects on emergency response or evacuation. Considering the high volumes of vehicle and pedestrian traffic anticipated (resulting in up to LOS F for both), the high seating capacity of the arena and the capacity of the other planned land uses, this omission is a significant error in the DEIR. This impact must be analyzed for the Existing Plus Project condition as well as the 2035 cumulative condition for which the project’s contribution to a cumulative impact must be clearly shown.

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In the introduction to Cumulative Impacts for Hazards and Hazardous Materials, page 4.6-25, the DEIR states that “the Proposed Project would contribute to potential cumulative exposure associated with interference with remediation of the South Plume, accidental or inadvertent release of hazardous substances during transportation, and interference with adopted emergency response or evacuation plans. Each of these cumulative impacts is further discussed.” As stated previously, the impact discussion for interference with adopted emergency response or evacuation plans is missing from the DEIR. Because an EIR must discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable, this statement implies that the project would result in a cumulatively considerable impact; however it fails to disclose it.

**4.10, Transportation**

DEIR pages 4.10-36 and -37 cite policies from the General Plan’s Mobility Element including “M5.1.4. The Proposed Project shall not result in conflicts between bicyclists and motor vehicles on streets, and bicyclists and pedestrians on multi-use trails and sidewalks.” However, neither the analysis in section 4.10 nor Table 3-1 (relevant goals and policies) discusses how the Proposed Project is consistent with Mobility Policy M5.1.4. The DEIR is lacking an analysis of how the Proposed Project would prevent conflicts between bicyclists and motor vehicles and bicyclists and pedestrians. This discussion must be added to the DEIR.

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Under Analysis Methods, in the discussion under *Existing Plus Project Trip Generation (Auto, Transit, Walk, Bike)*, tables are provided to show the AM Peak Hour, PM Peak Hour and Pre-Event Peak hour volumes for vehicles, transit ridership and pedestrians. Absent is the equivalent presentation of bicycle volumes. As identified in Table 4.10-7, bicycles are assumed to represent 2% of the travel modes for the for non-ESC land uses. A complete, equivalent discussion of bicycle use as a travel mode must be included in the DEIR. Similar to the travel routes and access points described for motor vehicles, transit riders and pedestrians, the DEIR must provide a description of the travel routes (not just designated bikeways) and access points for bicycles. The current lack of information prevents an adequate understanding of the analysis of the project’s effects on bicycle use.

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The analysis of *existing plus project* bicycle operations must be added to the DEIR. The discussion of *Existing Plus Project Traffic Operations* lacks an adequate discussion and analysis of the bicycle mode. A table equivalent to Table 4.10-24 should be added. An analysis of how the routes used by bicycles would be affected by vehicular traffic and pedestrian flows and how proposed road closures would affect bicycle use should also be added to the

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DEIR. The lack of analysis prevents an adequate understanding of the project’s effects on bicycle use.

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cont.

Under Analysis Methods, the discussion of *Cumulative Conditions* (starting on page 4.10-77), fails to describe the bicycle travel conditions and bicycle systems anticipated in 2035. There is no mention of reasonably foreseeable bicycle system improvements nor anticipated increases in the bicycle mode volumes. The DEIR must relate likely bicycling mode share to the projections for 2035 in the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan. The absence of data regarding the 2035 bicycle system and 2035 bicycle operations leads to the inadequate discussion of the project’s contribution to cumulative effects (discussed further below).

02-52

**Impact 4.10-1**

To conform to the General Plan, Policy M 1.2.2(a) calls for transportation infrastructure improvements to be implemented so that a project would not be required to provide mitigation for vehicular traffic impacts to road segments. Those improvements are required within the project site vicinity or within the area affected by the project’s vehicular traffic impacts. These improvements can consist of increases in system-wide roadway capacity, intersection improvements, or enhancements of non-auto travel modes.

02-53

Impact 4.10-1 claims that the Proposed Project will “accommodate bicycle travel through bike share/valet programs and designated bike parking areas” as part of multi-modal improvements. The DEIR must acknowledge that these bicycling improvements are actually part of the No Project Alternative because 1) bike-share stations in the project vicinity are already identified in Sacramento’s Bike Share Business Plan<sup>1</sup> and 2) Sacramento’s Planning and Development Code already requires specified amounts of long- and short-term bicycle parking for new developments. Therefore, these improvements are existing and reasonably foreseeable conditions instead of elements of the Proposed Project that would enhance non-auto travel modes.

To mitigate for the worsening of intersection conditions in compliance with Policy M 1.2.2, the impact discussion should include infrastructure improvements proposed by the project to improve other parts of the citywide transportation system in the vicinity of the project site, to make intersection improvements, or enhance non-auto travel modes in ways that are not already mandated by City Code or included as part of other projects.

02-54

Impact 4.10-1 discloses that, even with the two “generalized travel benefits and specific multi-modal improvements” described, the street system in the vicinity of the project could experience substantial congestion unless circulation is managed effectively. The impact discussion also discloses the lack of finality and approval of the draft ETMP and the inability to determine if it would adequately “improve other parts of the citywide transportation system in the vicinity of the project site.” As stated in the draft ETMP executive summary, the ETMP is a management and operating plan, not an infrastructure or capital improvement plan. Further, no infrastructure improvements other than wayfinding signs are proposed by the draft ETMP (the same signs already identified in the Project Description on page 2-56). It is “with the provision of such other transportation infrastructure improvements [that] the project would not be required to provide any mitigation for vehicular traffic impacts to road segments in order to conform to the General Plan” (Policy M 1.2.2). Therefore, use of the ETMP to improve vehicular traffic is not consistent with Policy M 1.2.2. The DEIR must be modified so that the ETMP is not identified as a way for the project to comply with Policy M 1.2.2.

The findings in Impact 4.10-11 are not supported by substantial evidence. Impact 4.10-1 identifies the worsening of conditions at intersections in the City as a significant impact and offers as mitigation the implementation of the

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<sup>1</sup><http://airquality.org/bikeshare/MediaAdvisory20131014.shtml>

ETMP. However, in the words of the DEIR, "because the ETMP has not yet been finalized and approved by the City, it cannot yet be determined that the project would adequately improve other parts of the citywide transportation system in the vicinity of the project site." Immediately following this statement, the DEIR incorrectly claims that implementation of Mitigation Measure 4.10-1 would reduce Impact 4.10-1 to less-than-significant levels; there is no evidence to support this conclusion. Since it cannot yet be determined that the transportation system improvements needed to reduce the level of this impact would occur through implementation of the ETMP, this impact must be identified as **significant and unavoidable**. This unavoidable impact must be disclosed in the DEIR.

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cont.

**Impact 4.10-6**

While elements of the ETMP that relate to Impact 4.10-6 are included in Mitigation Measure 4.10-6, mitigation for access to light rail transit also requires implementation of the ETMP itself. Therefore, Mitigation Measure 4.10-1 is also required to reduce the significant impact identified.

02-56

**Impact 4.10-7**

The DEIR findings of less than significant impacts on bicycle access are not supported by substantial evidence. For additional information regarding the lack of evidence, refer to the *Failure to Adequately Provide for Access by Bicycle* section of SABA's letter to Scott Johnson at the City of Sacramento, dated Jan. 23, 2014.

Impact 4.10-7 also fails to disclose the potentially significant impacts to bicycle circulation caused by the proposed bicycle barricade (see DEIR page 3-13). The barricade could cause an impact to existing bicycle facilities as well as impacts on access to and from the site by bicycle. K St. between 7th and 8th is identified as a Class I bicycle facility on Figure 4.10-4. How will the barricade affect access to, and use of, this existing bicycle facility? This, and impacts to other existing and proposed bicycle facilities, must be disclosed in the DEIR. Also, how will the closure of L St. between 5th and 8th streets affect the Class II bicycle facility on 5th St.? Modify the discussion in Impact 4.10-7 to include analysis of these potentially significant impacts.

02-57

The Proposed Project's inadequate access to bicycle parking, inadequate access to and from the ESC site and the effects of event vehicle traffic operations on existing bicycle facilities are considered **significant** impacts and should be identified as such in the DEIR. In addition, the DEIR must identify specific feasible mitigation to attempt to reduce the impacts to a less-than-significant levels. Recommendations for mitigation are included in SABA's letter to Scott Johnson at the City of Sacramento, dated Jan. 23, 2014.

**Impact 4.10-9**

The DEIR findings of less than significant impacts on emergency access are not supported by substantial evidence. This impact fails to disclose and properly analyze the potentially significant impacts on emergency access caused by LOS F motor vehicle conditions on adjacent roadways, the thousands of pedestrians using sidewalks and crosswalks during pre-event and post-event peak hours causing pedestrian flows of LOS E or F, post-event road closures, and longer light rail transit trains that would block more roadway. It also omits discussion of how road closures would be operated to maintain emergency access and how bicycle access and use would be maintained and allowed. The complete lack of analysis, disclosure of potentially significant impacts and identification of suitable mitigation must be corrected. The DEIR must be corrected to indicate that this impact is considered **significant**. In addition, the DEIR must identify specific feasible mitigation to attempt to reduce the impacts to a less-than-significant levels.

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**Impact 4.10-11**

02-59

The impact must clearly identify the project’s specific contribution to cumulatively considerable impacts then identify mitigation to reduce that contribution. This impact is worked too similarly to Impact 4.10-1 and does not identify the cumulative analysis that was conducted, nor the project’s cumulative contribution to the unacceptable intersection operations. This is a major flaw in the analysis that must be corrected.

Refer to and follow CEQA Guidelines section 15130 when preparing the cumulative analysis for this and other impacts, including but not limited to the direction provided in the following subsection.

15130(a)(3) An EIR may determine that a project’s contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project’s contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

The findings in Impact 4.10-11 are not supported by substantial evidence. Refer to the comments above under Impact 4.10-1 and apply them to the Impact 4.10-11 discussion, as well. Since it is unknown whether implementation of the ETMP would reduce this impact to less-than-significant levels, the project’s contribution to cumulative unacceptable intersection operations is not adequately mitigated by Mitigation Measure 4.10-1. Therefore this impact must be identified as **significant and unavoidable** after mitigation. This unavoidable impact must be properly disclosed in the DEIR.

**Impacts 4.10-12 through 4.10-21**

Impacts 4.10-12 through 4.10-21 are inadequate in that they completely lack a cumulative analysis and in several cases use the exact text that was presented for the Existing Plus Project impact discussion. This omission in analysis must be corrected. The cumulative analysis must be presented in the cumulative impact discussions and the project’s contribution to significant cumulative impacts clearly identified for each impact type.

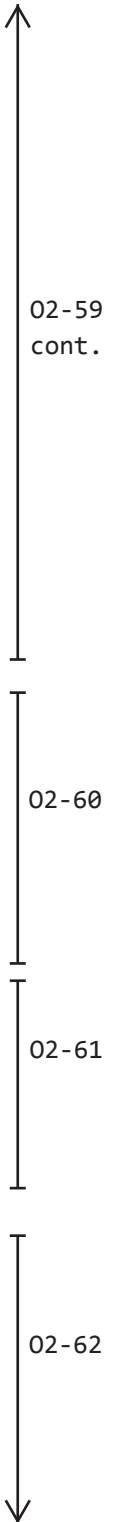
Also, though they appear to be within the Cumulative Impacts section, the headers for Impacts 4.10-18, -19, -20, and -21 fail to identify that they are for cumulative conditions.

Impact 4.10-18. The DEIR findings of less than significant cumulative impacts on the bicycle system are not supported by substantial evidence. Lacking in the DEIR is an actual presentation and analysis of the cumulative conditions for bicycle facilities and access by bicycle, and an analysis of the project’s contribution to those conditions. This impact discussion must be rewritten to include the analysis and a clear reasoning for the impact findings. For additional information regarding the lack of evidence, refer to the *Failure to Adequately Provide for Access by Bicycle* section of SABA’s letter to Scott Johnson at the City of Sacramento, dated Jan. 23, 2014.

**Mitigation Measure 4.10-1**

An EIR must describe feasible measures which could minimize significant adverse impacts. Mitigation must be identified to reduce each significant impact, even if the impact cannot be reduced to less-than-significant levels by the identified mitigation.

For intersection operation impacts, the DEIR relies on the use of Mitigation Measure 4.10-1, implementation of an Event Transportation Management Plan, and states that it reduces the significance of Impacts 4.10-1 and 4.10-11 to less-than-significant levels. Mitigation Measure 4.10-1 is flawed for two reasons. The first reason is clearly disclosed in the DEIR on page 4.10-93: “because the ETMP has not yet been finalized and approved by the City, it



cannot yet be determined that the project would adequately “improve other parts of the citywide transportation system in the vicinity of the project site.” Therefore, the mitigation measure does not adequately reduce vehicular traffic impacts to less-than-significant levels.

02-62  
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Second, CEQA Guidelines section 15126.4(a) requires that “mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.” Measures also “may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” Mitigation Measure 4.10-1 calls for the preparation and implementation of a ETMP, but does not identify the minimum required contents of the ETMP or any performance standards for how the implementation of the ETMP will be enforced, how its efficacy will be measured during operation of the ESC, how success of the ETMP will be identified and demonstrated, and what corrective actions must be taken, and by when, if its efficacy is shown to be inadequate. This level of detail is required for mitigation to be properly implemented and monitored by the Mitigation Monitoring and Reporting Plan.

02-63

The Project Description chapter references an active monitoring process that would occur during the first year of project operation, however, this level of detail is not provided in the mitigation measure language that will be adopted and implemented. One year also does not provide enough time to monitor the effects of buildout of the PUD area in addition to the ESC site.

02-64

The draft ETMP included with the DEIR is just that, a draft, and its contents cannot be guaranteed until it is finalized and adopted. Because the mitigation measure adopted by the City as part of the Mitigation Monitoring and Reporting Plan will guide the preparation of the final ETMP, this measure must include the necessary details for content, performance criteria and enforceability.

**Mitigation Measure 4.10-6**

Mitigation Measure 4.10-6 identifies a 7th St. closure between J St. and L St. However, there is no mention of the proposed bicycle barricade identified in Table 3-1 on page 3-13. Mitigation Measure 4.10-6 must identify how the 7th St. closure to vehicular traffic would affect bicycle-rider’s access to the Class I bicycle facility on K St. The effect of this measure on the existing bicycle system is potentially significant. The DEIR must discuss the significant impacts of proposed mitigation, as required by CEQA Guidelines section 15126.4(a)(1)(D).

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CEQA Guidelines 15126.4(a)(1)(D): If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed.

Mitigation Measure 4.10-6 also specifies that the five strategies listed shall be implemented to improve access to light rail transit. Lacking in the measure is mention of any performance standards regarding how implementation of these five strategies will be enforced, how their efficacy will be measured during operation of the ESC, how success of the strategies will be identified and demonstrated, and what corrective actions must be taken, and by when, if their efficacy is shown to be inadequate.

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Mitigation Measure 4.10-6 goes on to state that the five strategies will be documented in the ETMP. The detailed requirements for the contents of the ETMP should be identified in Mitigation Measure 4.10-1.

**Mitigation Measure 4.10-8**

Mitigation Measure 4.10-8 specifies that the enhancements listed will be consistent with the ETMP. Since the detailed requirements for the contents of the ETMP are not identified in the DEIR, it is unclear how these enhancements will be made consistent. Further, measure 4.10-8 does not state that the enhancements are required to be contained in the ETMP.

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The detailed requirements for the contents of the ETMP should be identified in Mitigation Measure 4.10-1 and the enhancements identified in Measure 4.10-8 should be included in those content requirements. Separating out some of the details of the ETMP adds confusion to the understanding of the proposed mitigation.

**Chapter 6, Project Alternatives**

The description of the Proposed Project includes possible provisions for a Bikeshare docking station. However, the discussion of the No Project Alternative fails to mention that bike-share stations in the project vicinity are already identified in Sacramento's Bike Share Business Plan<sup>2</sup> and should therefore be a reasonably foreseeable part of no-project conditions.

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**Appendix L: Draft Event Transportation Management Plan**

The ETMP must state specific objectives, such as minimizing disruption of existing bike facilities, making sufficient bike parking conveniently available to attendees, minimizing opportunistic parking in neighborhoods within walking distance of the ESC, etc., and then providing specific management activities that will achieve each of those objectives. At present, the ETMP sometimes reads like a report on what might be done, rather than a program describing what will be done.

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The event scenarios are aimed at daytime events and basketball events and do not address the most common sorts of anticipated events: non-basketball, night events. Further, note that Section 8.4 states that "the controls described below are for sold-out NBA game" (sic)", defined as 17,500 fans, and may also apply to "large sold-out concert or community event." This implies that much of the ETMP would not apply (or be required) for games that are not sold out or for smaller concerts and community events. That really isn't acceptable, given the traffic impacts generated by any large event. The ETMP must be employed for all NBA games (even non-sell outs) and for major events that have scheduled performance times. Small events that are day-long are less a concern since arrivals and departures will occur over a longer period.

Pre-event controls at J and 3rd streets (page 39) state that Caltrans message boards will help direct drivers away from the J St offramp when traffic is backing up there. The next most convenient exit to the south is Q St. However, the ETMP fails both to account for higher traffic volumes on Q and 5th resulting from such diversions (and how those will be managed) and how disruption of the surrounding neighborhoods by opportunistic parkers arriving via Q St. will be avoided. If the plan is to use the parking lots along the R St. corridor for event parking, that must be disclosed in this plan. Further, there must be management of traffic at those parking lots, too.

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Short-term bike racks are proposed for the north side of the ESC, yet most riders are (correctly) anticipated to arrive from the south. The ETMP fails to explain how riders are to be accommodated without requiring them to walk their bikes through the facility or take the long way around to the north side. The ETMP does not consistently address bicyclists' needs and how they will be accommodated in a manner that is compatible with pedestrian accommodations. For example, the objectives for street closures (section 8.4.3 on page 41) focus on pedestrians,

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<sup>2</sup> <http://airquality.org/bikeshare/MediaAdvisory20131014.shtml>



but do not describe what will be done for bicyclists.

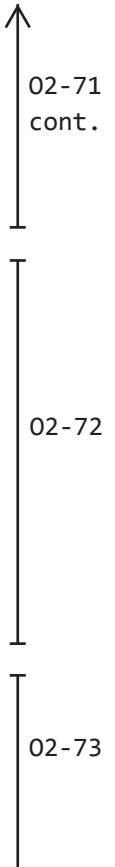
Also, there is no discussion on who will be responsible for implementing the proposed bicycle valet parking.

The ETMP also must describe how bicycles are to be accommodated on the streets proposed for closure. Prohibiting bicycle access along the closed streets is unacceptable because it would force cyclists into the auto stream and away from their most logical and convenient routes (i.e., 5th, 6th, 7th, and L streets) to and from the venue.

The monitoring methods in Section 10.2 explain how monitoring will be done, but fail to establish what is to be done with the results of the monitoring. The ETMP must describe the objectives of monitoring and of the ETMP itself, and how monitoring results will be used to achieve the ETMP objectives by modifications to the ETMP. Missing from the list of monitoring activities is monitoring of the effectiveness of the program in accommodating cyclists and pedestrians. Also missing is monitoring of the use of distant light rail parking lots by attendees (at Freeport and Vallejo, at City College, etc.). If fans begin parking at those lots and riding light rail to games, there may be a need for traffic management at those lots, too.

Monitoring Documentation (page 50) must include City review and input in the drafting of the report. Further, it isn't acceptable to leave review and approval of the updated ETMP to the sole discretion of the City Traffic Engineer. The ETMP must include an outreach component to allow affected communities effective input into the ETMP updates.

Sacramento has the opportunity to make the ESC one of the country's most bike-friendly facilities. All the elements for success are here: a large base of enthusiastic bicyclists in downtown, large events that already draw large numbers of cyclists downtown, the motivating necessity to maximize the bicycle modal split in order to reduce auto traffic at ESC events, and relatively mild weather that encourages cycling. The Proposed Project and the ETMP need to live up to that promise by making attendance by bicycle convenient, safe, and compatible with pedestrian and auto traffic.





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**Attachment 3**

**SABA letter to Stacia Cosgrove, Community Development Department, City of Sacramento, dated December 31, 2013**

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**SACRAMENTO AREA  
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December 31, 2013

Stacia Cosgrove  
Senior Planner  
Community Development Department  
City of Sacramento  
300 Richards Boulevard, 3rd Floor  
Sacramento, CA 95811

SUBJECT: Entertainment and Sports Center Project: Planned Unit Development, and Special Planning District (P13-065)

Dear Ms. Cosgrove,

Thank you for this opportunity to provide comments on the Entertainment & Sports Center zoning documents being considered by the Sacramento Planning & Design Commission.

Sacramento Area Bicycle Advocates is dedicated to helping transform the region by making it convenient and comfortable for more people to choose bicycling as a means of everyday travel. Participating as a stakeholder in projects like the Entertainment & Sports Center is one of the most important ways we fulfill our mission.

In my December 12, 2013, letter to you, I noted that SABA would be submitting substantive comments on the draft zoning documents. Those additional comments are attached. Implementing the comments will ensure that the ESC-PUD area will be developed in a way that accomplishes the Project Goals adopted by City Council on October 29, 2013 and will create a high quality urban lifestyle that accommodates and encourages more and safer trips by bicycle. Below is an overview of our comments.

First, the draft zoning documents fail to include the site-specific land use and design requirements that will help the City realize the twelve Project Goals adopted by the City Council on October 29, 2013. For example, the *Sustainable Project* goal specifically refers to making the site accessible by all modes of transportation, yet the draft documents contain no requirements for accomplishing this goal. This must be corrected.

Second, land uses will be regulated under the SPD in Planning and Development Code section 17.442, however, in order to realize the City's vision for the site, the design of the ESC-PUD site must also be regulated by city code and not addressed only through unenforceable guidelines. The draft zoning documents fail to indicate how the PUD will be codified. We suggest giving the Design Guidelines their own Planning and Development Code section number to ensure that they are enforceable.

Finally, we've identified many errors in the maps that are included in the draft PUD. All such errors should be corrected so that the maps accurately depict the existing roadway network, direction of traffic flow, and motor



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vehicle connectivity. A separate figure that accurately depicts the current bikeway network should be added to the document.

Similarly, the images in the PUD should reflect urban development types, consistent with the City's adopted Project Goals. We suggest that you to delete and replace images of the existing Downtown Plaza and images of suburban development, as they do not forward the design for the proposed project.

We expect to see the attached comments reflected in the zoning documents to be presented to the Planning & Design Commission for consideration on January 16, 2014. If you have any questions about the comments, please feel welcome to contact me directly at any time.

Respectfully,



Jim Brown  
Executive Director  
916-444-6600  
jim@sacbike.org

Attachment

cc: Gregory Bitter, AICP, gbitter@cityofsacramento.org

John Rinehart  
Sacramento Basketball Holdings, LLC  
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Councilmember Steve Hansen, SHansen@cityofsacramento.org



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cont.



## **Entertainment and Sports Center**

### **Comments to draft Planned Unit Development and Special Planning District documents**

#### **General Comments**

These two zoning documents are the City of Sacramento's documents. Thus, they need to clearly reflect the City's vision for the ESC-PUD area, consistent with the adopted Project Goals. The documents need to specify the site-specific zoning regulations and design standards that will apply to this site. The draft documents dated November 20, 2013, fall short on both accounts.

The documents should include site-specific land use and design requirements to achieve the twelve Project Goals adopted by Sacramento City Council on October 29, 2013. For example, the *Sustainable Project* goal calls for developing an ESC project that encourages pedestrian and bicycle transportation. To ensure that this goal is accomplished, the project's zoning documents must include standards for safe and adequate bicycle parking for the variety of proposed uses, design requirements for bicycle access to the proposed land uses, and design requirements to create and maintain north-south and east-west connectivity to adjacent downtown areas.

Through the PUD, or preferably, in a single document – the SPD – the City should modify the *Central City Urban Design Guidelines* to reflect the adopted Project Goals and the site-specific project standards necessary to achieve those goals. Specifically, amend *Chapter 3-Public Realm Guidelines* and *Chapter 4-Private Realm Guidelines* to include specific design guidelines that allow for and encourage in modern and innovative ways the use of bicycles as a mode of transportation downtown and through the ESC-PUD area (see specific comments below). This amendment should include guidelines for bicycle parking for various uses, design requirements for access, etc. These should modify the generic standards included in the zoning ordinance and the General Plan so that they reflect the vision for this site.

Minimize cross references to other standards and guidelines, particularly when they are generic and will not guide the design of the site in the direction defined by the City's adopted Project Goals.

The document should be illustrated with examples taken from urban, not suburban designs. For example, the photo on page 6-3 in the PUD shows a suburban mall and should be replaced or deleted.

All errors in the map figures should be corrected so that the figures accurately reflect the existing roadway network, direction of traffic flow and motor vehicle connectivity currently present. A separate figure that accurately depicts the current bicycle network should be added to the document.

Page references included below are taken from the PDF versions of the documents date-stamped November 20, 2013.

#### **SPD Comments**

The ESC-SPD ordinance needs to be substantially revised to take advantage of the provisions of the SPD zone allowing it to change the list of allowable uses otherwise found in the C-3 base zone. This revision can be accomplished in the following ways:

##### Section 17.442.040 – Uses

Make the following revisions:

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- Under subsection A, insert a table of allowable uses. The listed uses should exclude all C-3 uses that are not to be allowed in the ESC-SPD. Provide a note for retail stores that there will be no CUP requirement related to their size (this is item 1 on page 4-2 of the ordinance). Revise the table of uses allowable by CUP to delete the following uses that are clearly not consistent with the ESC-SPD (there's only so much room for development within the ESC-SPD site, it needs to be limited to a concise list of complementary uses): dwelling, single-unit; fraternity house; residential care facility; residential hotel; auto sales, storage, rental; kennel; major medical facility; non-residential care facility; school, K-12; tobacco retailer; veterinary clinic; and community garden.
- Delete subsection B and replace it with a statement indicating that those uses that are not listed in the table are not allowed in the ESC-SPD zone.
- Revise subsection C so that it relates directly to Section 17.422.040, rather than "adding" uses to a table found in a different section of the zoning code.

#### Section 17.442.050 – Development and Design Standards

This section needs to be greatly expanded to include all of the building siting standards in the C-3 zone, as modified by the language found in the *Performance and Development Standards* section of the PUD. The modifications currently proposed in the PUD include changes to *Building Siting* and *Building Massing and Scale*. These modifications should be moved to Section 17.442.050.

Apparently, some standards are not proposed for change from the C-3 or other zoning ordinances (i.e., *Small Public Spaces; On-site Circulation, Loading Areas and Parking; Landscaping and Paving*). Where that is the case, a cross-reference to the applicable standard under the C-3 or other zoning code is justified, and the standards need not be repeated in Section 17.442.050.

The standards must provide project-specific development requirements to ensure that bicycle parking and pedestrian access are tailored to the ESC-PUD site and land uses. Section 17.442.050 should reflect best practices for wayfinding to lead pedestrians and bicyclists to and from nearby destinations and routes that connect to the ESC-PUD site. If implementing appropriate wayfinding requires modifying the provisions of code sections 17.600.135, 17.608, 17.612, and 17.620, then the modified provisions need to be described in Section 17.442.050.

The current approach to Section 17.442.050 is backwards – it should contain the performance and development standards and the PUD should cross reference to Section 17.442.050, not vice versa. As currently proposed, the PUD provides no code sections that amend the C-3 standards (in fact, the currently proposed PUD lacks even an overall code section to indicate where it is to be found in Title 17, the City's zoning code). This omission calls into question whether any amendments are actually being made. The bulk of the *Performance and Development Standards* section of the PUD needs to be moved into the SPD document to make explicit those site-specifically modified zoning requirements.

#### PUD Comments

The PUD is unnecessarily wordy and should be trimmed to eliminate discussions that do not set out the specific design visions for the project. This is not a specific plan and should not be written like one.

Delete images of the existing Downtown Plaza and of suburban development. These do not forward the design for the proposed project. The PUD should reflect urban development types, consistent with the City's adopted Project Goals – suburban development images are out of place.

02-74  
cont.



Introduction

Page 6-13, Existing Conditions. Second paragraph notes the abandonment of 4th and 6th Streets surrounding the PUD. Specify the exact portions of these streets that have been abandoned and note on Figures 5 and 6.

Page 6-13, Existing Conditions, second paragraph. K Street is described as a pedestrian-only open space that connects the ESC-PUD site with K Street Mall to the east. This is confusing. K Street does not exist within the existing Downtown Plaza, as it has long since been abandoned. Specify the portions of what was once K Street that have been officially abandoned as City streets.

Page 6-13, Existing Conditions, second paragraph. Specify the portions of this K Street alignment that are pedestrian-only and the portions on which other uses, such as bicycles, are allowed (e.g., west of 4th Street for connection with Old Sacramento).

Page 6-14. Delete Figure 1. This has no relation to the design standards. As a PUD adopted by the City of Sacramento, it is obviously located in Sacramento and no figure is needed.

Pages 6-14 and 6-15. The brief discussion of the existing Downtown Plaza is enlightening and provides context. However, the accompanying photos of the existing shopping mall are superfluous and should be deleted. They bear no relationship to the ESC-PUD.

Page 6-16. Make the following corrections:

- Correct Figure 2 to indicate that light rail travels on H and 7th streets between the Sacramento Valley Station and K Street.
- Replace "Sacramento Amtrak" with "Sacramento Valley Station," the official name of the facility.

Page 6-17. Under Project Purpose and Objectives, insert a reference to the adopted Project Goals. Otherwise the impression is given that the five objectives currently listed will direct design.

Page 6-17. Under Administration, specifically state that the ESC-PUD standards and guidelines are zoning regulations and will be implemented and enforced as such. It needs to be clear that while uses are regulated under the SPD district, design will be regulated by the PUD. The ESC project is the most substantial, important, and influential project that has come to the City's downtown and may remain the most important for years to come. Because of this, the ESC-PUD should not be seen as simply a general guide to, or suggestions for, development design on the site. If the ESC is to reflect the City's vision and provide a complementary addition to downtown, then the site-specific design guidelines ultimately set out in the ESC-PUD must be part of City code.

Page 6-17. Under *Administration* make the following changes:

Uses and performance and development standards within the ESC-PUD site will be regulated by the requirements of 17.442, Entertainment and Sports Center Special Planning District, in the Planning and Development Code. Design guidelines in the ESC-PUD will be regulated by the requirements of 17.453, Entertainment and Sports Center Planned Unit Development.

Plan Overview

Page 6-21. Eleven of the 12 Project Goals adopted by the Sacramento City Council apply directly to the ESC-PUD site. The contents of the PUD (and SPD, if combined) should be written to ensure that these goals are achieved. At the very least, after the first paragraph, add the following text:

02-74  
cont.

### Project Goals

On October 29, 2013, the City Council reviewed and adopted the following list of ESC project goals to direct the design, construction, and operation of the ESC and surrounding public spaces, office, commercial, and residential development: [insert the full text of the 12 goals].

Page 6-21. Revise the first sentence under *Design Principles*:

In addition to the City Project Goals, the following design principles were considered to develop the schematic land use map, development standards and design guidelines for the ESC-PUD site:

Page 6-21. Revise the second paragraph under *Design Framework* to clarify that these design standards are specific to this site:

The zoning classifications for the site describe the allowable uses there. The design standards and guidelines define its design. The standards and guidelines are based on the Central City Urban Design Guidelines but are further refined for application to the ESC-PUD site.

Page 6-23. Figure 5. Revise the figure title to read “Motor Vehicle Circulation Framework,” as this map includes routes where bicycling is not authorized, such as freeway entrance and exit ramps.

Make these additional revisions to Figure 5:

- Indicate that J Street does not connect between 3rd and 2nd streets. Delete the line segment under I-5 and the “to Old Sacramento” text.
- Indicate that 3<sup>rd</sup> Street is two-way between L and I Streets and one-way south of L Street.
- Indicate that 5th Street is one-way northbound south of L Street, between J and I streets, and between the entrance to the Sacramento Valley Station and H Street, and is two-way between L and J streets and between I Street and the entrance to the Sacramento Valley Station.
- Replace “Sacramento Amtrak” with “Sacramento Valley Station,” the official name of the facility.
- Indicate that 7th Street is two-way north of H and one-way southbound south of H.
- Label the light rail lines in the figure's legend, show the full line along 7th Street (i.e., between K Street and the Sacramento Valley Station, via H Street), and add the station locations (which are only listed in the legend, but not shown on the figure).

Add a separate figure that accurately depicts the current bicycle network.

Page 6-24. Revise the first sentence under *Land Use Development* to read as follows:

Development of the properties within the ESC-PUD site must be designed so that it will integrate and connect with the neighboring ESC and surrounding urban fabric both visually and functionally.

Page 6-24, Uses. Move this text to the introduction of the Land Use Development section, after the first paragraph, to make it clear where the description of allowed uses is located, before describing the desired land use development program.

Page 6-24, Land Use Development, Residential. The PUD document should provide a high-quality urban lifestyle that includes a variety of high-density housing designs within walking and bicycling distance to employment centers and shopping. Limiting allowable residential uses to one- and two-bedroom sizes may unnecessarily limit the variety of potential residents in this neighborhood and is narrower than what is currently allowed in the C-3 zone.

On page 6-24, delete the fourth sentence under *Residential*. Change the fifth sentence as follows:

The total residential square footage would be approximately 500,000 square feet, including residential units, common areas, and mechanical and other support spaces.

Page 6-25. Figure 6, Schematic Land Use Map. Make the following corrections:

- The arrows misleadingly suggest direction of travel and should be removed. For example, J Street is one-way eastbound and 5th Street is one-way northbound south of L Street.
- Delete the dashed line under I-5 and line west of I-5 on J Street. J Street does not connect between 3rd and 2nd streets.
- At the K Street tunnel under 3rd Street and I-5, replace “pedestrian connection” with “pedestrian-bicycle connection.” Bicycling is allowed on K Street west of 4th Street.
- On K Street between 7th and 8th streets, add a dashed line and this text: “Existing pedestrian-bicycle connection”.
- Replace “Amtrak Station” with “Sacramento Valley Station,” the official name of the facility.

#### Performance and Development Standards

There is a fundamental drafting problem with parts of the performance and development standards that are supposed to modify or replace provisions in the Planning and Development Code. The current approach to this section and Section 17.442.050 of the SPD is backwards. The SPD document should contain the performance and development standards and the PUD document should cross reference to Section 17.442.050, not vice versa. This section needs to be cleaned up to clearly specify the standards to be applied within the ESC-SPD and moved to that ordinance. The clean-up requires revising the proposed Section 17.442.050 so that it contains all of the zoning standards from the C-3 zone, as modified, that are to apply to this project. Include a cross reference to Section 17.442.050 in the PUD.

Figure 7 indicates a main building envelope along J Street that fails to clearly provide adequate, welcoming access to the plaza from J Street and areas to the north between 5th and 7th streets, despite a vague reference in Figure 6 to a mid-block entrance into the plaza along J Street. The development standards in the code should be amended to indicate that the main building envelope should be reduced and broken to provide for multiple entrances and viewpoints to the plaza.

Delete the photograph on page 6-31. It does not depict a downtown, high-density development and therefore does not apply to this PUD.

#### Design Guidelines

The Design Guidelines should be given their own section number under Planning and Development Code Chapter 17. In the introductory language to this section, state that these guidelines are part of a new Chapter 17.453, Entertainment and Sports Center Planned Unit Development, in the Planning and Development Code. This will ensure that the guidelines are enforceable.

This chapter needs editing to delete superfluous references to the Central City Urban Design Guidelines.

This chapter should contain specific guidelines and/or headings within each of its sections DG1 (public realm) and DG2 (private realm) that describe the specific bicycle and pedestrian improvements expected of the project. The current draft fails to account for three of the 12 adopted Project Goals – *A Multimodal Place*, *Connect Downtown*, and *Sustainable Project* – and how the project relates to the rest of downtown and Old Sacramento in ways that achieve these goals.

The following are suggested revisions and additions to *DG1: Public Realm* and *DG2: Private Realm* to accomplish these three project goals:

## DG1: Public Realm

### Streets and Intersections

#### *Corridor Streets*

Revise the first sentence after *Corridor Streets* to indicate that L Street serves as an arterial:

**Corridor Streets:** J, L and 5<sup>th</sup> streets are considered “corridor streets” that serve as arterials through downtown Sacramento that are intended to provide “efficient” circulation for motor vehicles and bicycles and connect freeways and regional highways.

Add these new guidelines under *Corridor Streets*:

DG1.X. To accommodate the widest variety of people who want to travel by bicycle to, from and past the ESC-PUD and ESC sites, J, L and 5<sup>th</sup> streets should feature bikeway facilities that offer adequate protection from adjacent motor vehicle traffic. Buffered bike lanes and/or and cycle tracks are optimal.

DG1.X. Access for bicycling between J and L streets across the 5<sup>th</sup> Street bridge should be provided as a safer alternate connection between the Sacramento Valley Station and neighborhoods immediately south of the ESC-PUD and ESC sites, without the potential for bike-vehicle conflicts in the 5<sup>th</sup> Street underpass, especially at the truck loading dock exit ramp and the two dedicated right-turn only lanes from 5th Street onto J Street. Paint and/or paving materials should be used to delineate separate paths for bicycling and walking to minimize the potential for bike-pedestrian conflicts.

Insert Figures A and B (see below) to illustrate the guidelines in this section.

#### *One-way Transit Street*

Revise *One-way Transit Street* as follows:

**One-way Transit Street:** 7<sup>th</sup> Street along the eastern edge of the site is considered a one-way transit street. This street also carries southbound bicycle traffic to and past the ESC-PUD and ESC sites from neighborhoods to the north.

Add this new guideline under *One-way Transit Street*:

DG1.X. Light rail tracks on 7<sup>th</sup> Street should be fitted with rubber flange fillers to make tracks safe to cross for bicycles.

Insert Figures C and D (see below) to illustrate the guidelines in this section.

#### *Neighborhood Retail Street*

Revise guideline DG1.2 as follows:

DG1.2. 4th Street right-of-way may be adjusted to increase the available site for the potential expansion of the cinema/theater, so long as it preserves access for bicycling and walking between J Street and the K Street

O2-74  
cont.

bike access to Old Sacramento. Paint and/or paving materials should be used to delineate separate paths for bicycling and walking to minimize the potential for bike-pedestrian conflicts.

Add this new guideline:

DG1.X. Access for bicycling on 4<sup>th</sup> Street should be provided on the sidewalk between L and K streets to improve connectivity through the ESC-PUD and ESC sites between the neighborhoods to the south and the K Street bike access to Old Sacramento. Paint and/or paving materials should be used to delineate separate paths for bicycling and walking to minimize the potential for bike-pedestrian conflicts.

Insert Figures E through H (see below) to illustrate the guidelines in this section.

**Sidewalks and Building Interface Area**

Delete guideline DG1.5. The existing guidelines in *Chapter 3: Public Realm, Section 3.C.1, Sidewalks* should apply to the ESC-PUD, including the existing guideline *C.1.a.1, Sidewalk Widths*, which indicates that 16 feet is the typical sidewalk width, and should be 20 feet or more in high activity areas. Preserving the existing guidelines will ensure that a diversity of uses can be accommodated and create a comfortable experience for pedestrians that reduces congestion.

Add this new guideline:

DG1.X. Paint and/or paving materials should be used to delineate separate paths for bicycling and walking on the sidewalk along the 5<sup>th</sup> Street bridge between J and L streets to minimize the potential for bike-pedestrian conflicts. Crosswalks leading to and from the 5<sup>th</sup> Street bridge across L and J streets should also delineate separate paths for bicycling and walking.

Insert photos Figures E through H (see below) to illustrate the guidelines in this section.

**Street Furnishings and Amenities**

Revise guideline DG1.8 as follows:

DG1.8. Bike racks on sidewalks and on-street bike racks (“bike corrals”) for short-term bike parking, as required under current City ordinance, should ~~may~~ be integrated in the design of the amenity zone on all streets surrounding the site, especially within clear visibility and 50 feet of pedestrian-oriented daytime ground floor retail uses.

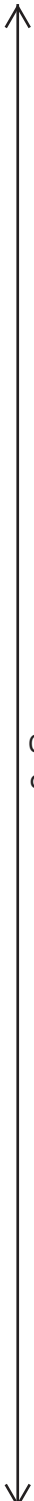
Insert Figures I and J (see below) to illustrate the guidelines in this section.

Add this new guideline:

DG1.X. The designs for bike racks and bike corrals should reflect current best practices for accessibility, efficiency and security. Optimal designs ensure two points of contact for the bicycle, do not require the user to lift the bicycle, and ensure the ability to use a U-lock.

**DG2: Private Realm**

Replace the photo that illustrates guideline DG2.4 (page 6-39, upper left) with a photo that depicts downtown, high-density development. As a general rule, all photographs included in the PUD must illustrate an approach that is consistent with the guidelines.



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cont.

Add this new section following *Building Facade Lighting*:

**Bicycle Parking**

The bicycle parking guidelines provide design criteria to show owners and tenants of the ESC how to comply with the City's current bike parking ordinance, which contains requirements for short-term bike parking for customers, clients and visitors, and long-term bike parking for employees and residents.

**Guidelines**

DG2.9. Short-term bike parking should be consolidated at two or more locations within the ESC that are conveniently accessible by bicycle from all adjacent streets.

- a. Locate bike parking near the edges of the ESC site, including on the 5<sup>th</sup> Street bridge near L Street and just inside the 7<sup>th</sup> Street plaza entrance, to minimize the potential for bike-pedestrian conflicts within the plaza. Wayfinding signage pointing to bike parking should be installed on all adjacent streets.
- b. Locate bike parking in one or more enclosed, covered spaces to maximize security and protection from the elements. Storefront locations and freestanding structures, such as kiosks and pavilions, are optimal.
- c. Facilities for consolidated short-term bike parking should be designed to accommodate long-term bike parking when feasible.
- d. The designs for freestanding bike racks should reflect current best practices for accessibility, efficiency and security. Optimal designs ensure two points of contact for the bicycle, do not require the user to lift the bicycle, and ensure the ability to use a U-lock.

DG2.10. Long-term bike parking should be located to be conveniently accessible from all adjacent streets, near the edges of the ESC site, when feasible.

- a. The designs for bike racks should reflect current best practices for accessibility, efficiency and security.
- b. When feasible, long-term bike parking should be consolidated with short-term bike parking in an enclosed, secured space such as a storefront or kiosk.

Insert Figures K through S (see below) to illustrate the guidelines in this section.



O2-74  
cont.



**Photo Inserts**

The photos below should be incorporated into the PUD to illustrate key design guidelines.

**DG1: Public Realm**

**Corridor Streets**

***Protected bikeways***

Figure A: Cycle track on N. Dearborn Street, Chicago



Figure B: Buffered bike lane on Spring Street in downtown Los Angeles



02-74  
cont.

**One-way Transit Streets**

***Rubber-filled flangeways***

Figure C: Cherry Avenue Bridge, Chicago



Figure D: Detail of Cherry Avenue Bridge, Chicago



02-74  
cont.

**Neighborhood Retail Street and Sidewalks and Building Interface Area**

***Paint and paving to delineate separate paths of travel***

Figure E: Illustration of the Indianapolis Cultural Trail, Indianapolis



Figure F: Illustration of the Indianapolis Cultural Trail, Indianapolis



02-74  
cont.



Figure G: Bike lane on sidewalk delineated with paving, Budapest, Hungary



Figure H: Pavement markings indicating bicycling and walking paths on the Brooklyn Bridge, New York City



02-74  
cont.

**Street Furnishings and Amenities**

***Bike corrals and sidewalk bike racks***

Figure I: Bike corral in the Mission District in San Francisco



Figure J: Sidewalk bike rack at 11th and I streets, Sacramento



02-74  
cont.



DG2: Private Realm  
Bicycle Parking

*High-volume short-term bike parking (freestanding structures)*

Figure K: McDonald's Cycle Center at Millenium Park, Chicago



Figure L: Interior of McDonald's Cycle Center at Millenium Park, Chicago



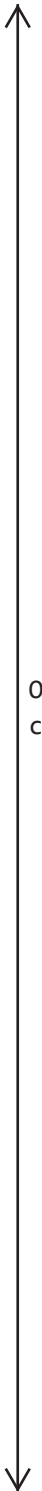
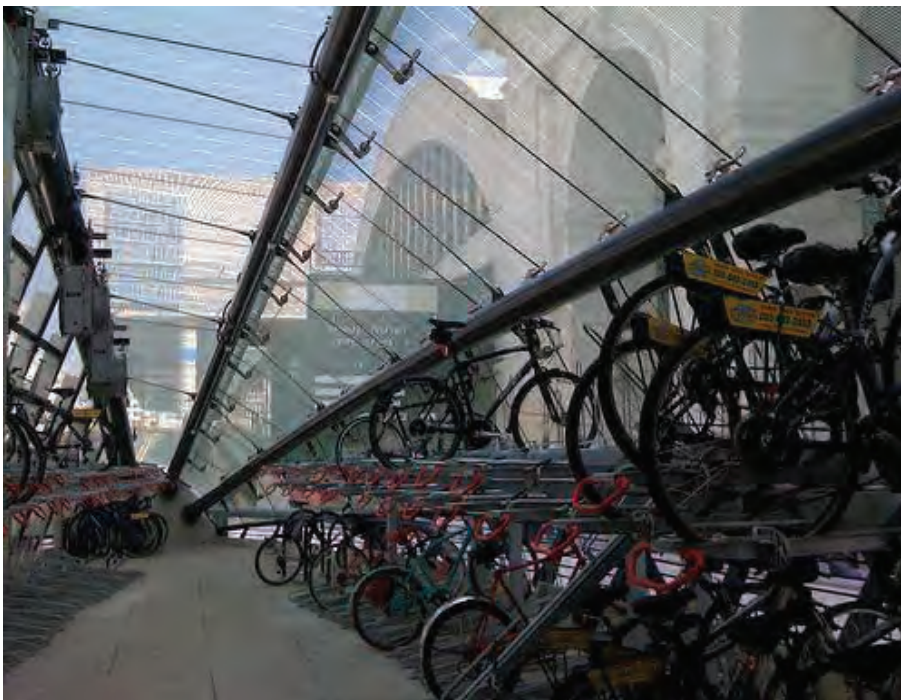
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cont.



Figure M: BikeStation at Union Station, Washington, D.C.



Figure N: Interior, BikeStation at Union Station, Washington, D.C.



02-74  
cont.

Figure O: Robotic self-serve bike parking kiosk, Germany



**High-volume short-term bike parking (storefront facilities)**

Figure P: Santa Monica Bike Center near 3rd Street Promenade, Santa Monica, CA



02-74  
cont.



Figure Q: Interior, Santa Monica Bike Center, Santa Monica, CA



Figure R: Berkeley Bike Station at Berkeley BART station, Berkeley, CA



02-74  
cont.

Figure S: Interior, Berkeley Bike Station at Berkeley BART station, Berkeley, CA



02-74  
cont.



**SACRAMENTO AREA  
BICYCLE ADVOCATES**

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**Attachment 4**

**Email from James Allison, Manager of Planning, Capitol Corridor Joint Powers Authority, Jan. 22, 2014**

02-75  
↓

----- Forwarded message -----

From: **James R Allison** <JimA@capitolcorridor.org>  
Date: Wed, Jan 22, 2014 at 12:04 PM  
Subject: CCJPA Comments on ESC Project EIR  
To: srjohnson@cityofsacramento.org  
Cc: dkutros@bart.gov

Mr. Johnson:

As you may be aware, the Capitol Corridor Joint Powers Authority (CCJPA) manages the Capitol Corridor Intercity Passenger Rail service. Sacramento is by far our busiest station and the seventh busiest in the nation. We understand the proposed Entertainment and Sports Center (ESC) complex has generated a strong degree of interest in the Sacramento community both for and against the project. The CCJPA supports the City of Sacramento's direction to hopefully utilize the ESC as a key element in revitalizing Sacramento's downtown. The draft EIR correctly identifies (in the transportation section) that Capitol Corridor service is available within a comfortable walking, bicycling, and transit distance but does not, at present, provide the ability of Capitol Corridor's latest trains to serve the usual ending time of basketball games and other entertainment events and conversely, would not usually be a means to access the events at the ESC in the first place. We agree with this characterization given today's schedule. We do, however, regularly participate with other sporting and event partnerships in the San Francisco Bay Area when those events and our service align. We do try to feature Capitol Corridor travel and promotions with the Oakland Raiders, Oakland A's, and Sacramento Rivercats since those game times can, at times, work well with Capitol Corridor service. But just as might be expected with the Sacramento Kings, we don't feature any marketing partnerships with the Golden State Warriors in Oakland or the San Jose Sharks in San Jose due to the end time differences with our existing service plan. That said, the Capitol Corridor service may still be utilized in certain circumstances as access to/from the proposed ESC for those who may stay overnight in the Sacramento area. But, as well, the ESC is expected to generate additional business activity, make the downtown area more attractive and for those reasons, probably increase the utilization of the Capitol Corridor service whether their is a game/event or not. In that context, the comments that CCJPA have are primarily about pedestrian and bicycle circulation, and transit accessibility to/from the Sacramento Valley Station. For the purposes of transit access, we defer to any comments made by a partner agency, the Sacramento Regional Transit District.



02-75  
cont.



CCJPA's data reveals that pedestrian and bicycle modes are very high with mode of access between 10% and 20% for bicycling and up to about 30% for pedestrian. The percentages largely depend on direction of travel especially for pedestrian access because arriving at a destination in a location without access to a car means that modes leaving a destination station (e.g. Sacramento) are high for the pedestrian mode. Slightly different, are bicycles used at similar rates on both ends of the trips due to the fact that many people take their bicycles on the train with them. We expect that usage would remain in this range for these modes for access the ESC especially since any travel to the ESC or surrounding area would usually reflect not having access to a personal automobile while visiting Sacramento. For these reasons, the primary focus the CCJPA would like to support would be better integration with signage between the ESC and the Sacramento Valley Station for pedestrian access, and support for the on-street bicycle access to/from the Station to the downtown area, including the ESC area. While there are adequate sidewalks, the access to/from the Sacramento Valley Station via bicycle has slightly improved with the addition of some on-street bicycle signage, safe access, including striped and designated lanes for bicycles would be enhanced were downtown bicycle street improvements to be considered in connection with the ESC and overall downtown bicycle planning objectives. The CCJPA encourages the City of Sacramento and the ESC developers to work closely with local bicycle advocacy groups and the City's own bicycle planner to phase in bicycle improvements that will enhance safe connections between ESC and downtown in general with the Sacramento Valley Station. We do not agree with the scope of how Impact 4.10-7: The Proposed Project would adversely affect existing or planned bicycle facilities or fail to provide for access by bicycle is assessed. The summary of the impact assessment is about parking of bicycles at or around the facility and not about circulation within the downtown area regarding safe on-street access to the ESC area and ultimately, access to the bicycle parking that would be provided. In the same transportation section, automobile and trucking access is considered far outside the scope of the ESC center because there are various intersection impacts. The same is not true of bicycle access in how the document treats and characterizes bicycle access which must travel on existing infrastructure to get to any proposed bicycle parking facilities at the ESC. While bicyclists to/from Capitol Corridor may not add much to the overall numbers, we continue to hear from our riders with bicycles that access to/from Sacramento's downtown is not ideal and discourages some from utilizing a bicycle were access to be made safer in the intervening downtown/ESC/Sacramento Valley Station areas. We encourage the ESC developers and City of Sacramento to take a more holistic approach to bicycle circulation and work with on-street access improvements that make bicycling a safer and more highly utilized means of access to/from the ESC. The CCJPA is also supporting Sacramento's bicycle share effort and we would want to see how bicycle sharing will be integrated into the ESC - there is no mention of that in the document that we could identify.

Parking is limited at the Sacramento Valley Station but usually will clear out by game/event time so we are not specifically concerned about vehicle parking utilizing the parking lot at the Sacramento Valley Station.

One last matter is that Capitol Corridor may, at some point in the future be in a position to alter our schedule to become a more viable transportation alternative to/from ESC games/events. If this were to happen, not only would CCJPA explore partnership opportunities as we do with other event locations and sports teams, the comments provided above



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cont.

which focussed on the most glaring mode of access issue, bicycle access, would become that much more vital.

Thank you for your consideration of these comments.

Jim Allison  
Manager of Planning  
Capitol Corridor Joint Powers Authority  
300 Lakeside Dr., 14th Floor East, Oakland, CA 94612  
Phone: 510-464-6994  
Fax: 510-464-6901  
jalliso@bart.gov

↑  
02-75  
cont.

**Letter O2 Response**      **Jim Allison, Sacramento Area Bicycle Advocates**  
 January 23, 2014

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- O2-1            This comment is an introductory paragraph that does not raise any issues regarding the environmental analysis. The comment is noted and will be conveyed to the City Council for its consideration.
- O2-2            This comment provides a summary of three perceived inadequacies of the Draft EIR. Please see Responses to Comments A3-8 (policy consistency), O2-7 (bicycle parking), and O2-17 (Revised Draft Event TMP) for detailed, thorough responses to each of these perceived inadequacies.
- O2-3            This comment discusses the City’s 2030 General Plan objectives, but does not raise any issues regarding the environmental analysis. The comment is noted and will be conveyed to the City Council for its consideration.
- O2-4            Please see Response to Comment A3-8.
- O2-5            The consistency of the Proposed Project with 2030 General Plan policy LU 5.6.2 is addressed in Table 3-1, page 3-16 of the Draft EIR.
- O2-6            In describing the requirements for the project description in an EIR, State CEQA Guidelines section 15124(b) states that the project description must include “[a] statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.” In describing the requirement for a statement of objectives, the State CEQA Guidelines does not require that the objectives address any particular aspect of a project’s architecture, design, or other physical characteristics. Rather, the objectives are intended to articulate the “underlying purpose of the project” and to assist the lead agency in developing the range of alternatives. Please also see Response to Comment I34-2 for a more thorough discussion of the project objectives.
- O2-7            The ESC would provide a variety of bicycle parking options including short-term, long-term, and valet parking. The ESC would provide, at a minimum, the following bicycle parking:
- One (1) space for every 13 permanent employees, or 20 spaces based on current estimations of permanent workforce numbers. These would most likely be situated within a garage on stationary racks with secured enclosures.

- 88 bicycle parking spaces for ESC attendees (0.5 percent of 17,500 attendees expected to bicycle). The 88 spaces for ESC attendees would be located above ground in areas which would be easily accessible for cyclists and out of the way from large crowds both arriving to and leaving the venue. It is envisioned that small groupings of bike spaces at each entryway, with a larger gathering of spaces at the plaza would best serve cyclists. This larger area would likely be located in the plaza within view of the entrance. This well illuminated outdoor location would be provided with secure bike racks as well as closed circuit television (CCTV) coverage to insure optimum security.
- Six (6) bicycle parking spaces for ESC special event employees (0.5 percent of 1,200 special event attendees expected to bicycle). The location and configuration of these spaces would be consolidated with the long-term spaces for permanent employees.

In accordance with City policy, the bicycle parking requirements for the remaining non-ESC land uses would be evaluated by the City based on the parking code requirement and the specific use that is proposed as part a specific application.

In order to accommodate larger numbers of cyclists anticipated during certain events or times of the year, a temporary outdoor valet parking area would be provided. Due to the larger number of cyclists anticipated to be arriving from the south and east sides of the venue, and given the potential conflicts with pedestrians as well as light-rail to the east, the current plan is to have a valet cycle parking area located on 6<sup>th</sup> Street between L Street and Capitol Mall. This would be a cordoned off area similar to what is provided during events at Cesar Chavez Park and other locations within Sacramento. Such considerations are design details that do not affect the scope or character of the project's environmental impacts and thus do not pertain to the environmental review process.

In summary, the ESC would be designed to provide a supply of short-term and long-term bicycle parking that meets the projected demand. The bicycle parking system would be scalable through the use of valet bike parking. The ESC would also ensure that bike valet parking is regularly in operation during special events, to the extent the demand for valet parking exists. Lastly, the project applicant and ESC operator would coordinate with agencies and organizations as necessary to help implement the region's bikeshare program, if such a program is approved and funded, which would include a station at 7<sup>th</sup> and K Streets.

O2-8 The comment asserts that the Draft EIR does not consider the likely growth in the bicycle mode split by 2035. The bicycle mode split to ESC events was estimated to be 0.5 percent under existing plus project conditions (see Table 4.10-7, page 4.10-42 of the Draft EIR), and 1 percent under cumulative conditions (see Table 4.10-

25, page 4.10-80 of the Draft EIR). Page 4.10-52 of the Draft EIR makes reference to the additional residential being constructed in the downtown vicinity as support for this mode split increase. In addition, the following change is made to the Draft EIR:

Page 4.10-79, the last sentence is revised to read as follows:

The proportion of attendees that walk and bike to the ESC for events is also expected to increase given the proximity of new residential land uses a short distance to the north (Railyards, housing in the Proposed Project, etc.), as well as additional housing planned for other parts of the Central City.

No changes to the bicycle travel conditions were assumed beyond those that would change as a result of other cumulative and reasonably foreseeable improvements to the transportation system that are documented on page 4.10-78 of the Draft EIR. The Draft EIR does not assume future implementation of a bikeshare program in downtown Sacramento because although there is support and a pending application for a grant to fund the program, such funding has not been secured. Nevertheless, the Proposed Project includes provisions to accommodate bikeshare docking stations. In addition, while the Planning and Development Code includes requirements for short- and long-term bicycle parking in all future developments in the Central Business District, the creation of that future bicycle parking is considered speculative until there are reasonably foreseeable development projects in which the bicycle parking would be constructed. Under the No Project Alternative, the Proposed Project would not be constructed and, thus, it is unclear to what extent bicycle parking or bikeshare docking stations would be accommodated on the project site. The estimate of external trips made by bicycle was derived from the same travel demand models used by SACOG to develop their 2035 MTP/SCS and related mode split calculations.

- O2-9 Please see Response to Comment O2-7. The recommendations presented in the comment are noted and will be conveyed to the City Council for its consideration.
- O2-10 Please see Response to Comment O2-7. The recommendations presented in the comment are noted and will be conveyed to the City Council for its consideration.
- O2-11 Please see Response to Comment O2-7 for additional discussion of the location of bicycle parking that would be included in the Proposed Project. As noted, bicycle parking spaces would be placed at strategic locations around the ESC plaza, as well as off-site bike valet when demand is sufficient. The recommendations presented in the comment are noted and will be conveyed to the City Council for its consideration.
- O2-12 Please see Response to Comment A3-8 for a discussion of bicycle access.

O2-13 Since publication of the Draft EIR, the plans for maintaining public access through the ESC plaza have been refined. The public access easement that currently exists through Downtown Plaza along the prior K Street alignment would not be vacated as noted in Table 3-1. Rather, the easement would be realigned to accommodate the physical configuration of the ESC building, and reestablished to maintain a public east-west corridor through the ESC plaza. In addition, it is possible that an additional public access easement would be established running north-south, parallel to and east of 5<sup>th</sup> Street, connecting the primary pedestrian access points from L Street to J Street. As such, Draft EIR page 3-13, Table 3-1, Policy LU 2.7.4, right column, first paragraph, the last sentence is revised as follows:

~~Although the~~ The public access easement ownership of along the historic K Street right of way would be ~~vacated~~ abandoned through the ESC project site, ~~the~~ New public access easements would be established to ensure that there is public access to the ESC plaza as well as access from 5<sup>th</sup> and J Streets, 5<sup>th</sup> and L Streets, 7<sup>th</sup> and K Streets, 6<sup>th</sup> and J Streets, and across the 5<sup>th</sup> Street overpass to 4<sup>th</sup> Street and Old Sacramento. The Proposed Project would create ~~space~~ additional outdoor spaces for public gatherings ~~and to that would~~ serve as the “front door” to the ESC.

O2-14 Please see Response to Comment A3-8. The comment also mentions pedestrian spillover at intersections/crosswalks prior to events, and that those conditions should be mitigated. They are mitigated by Mitigation Measure 4.10-8, which would include crosswalk widening and improved signal timing to accommodate heavy pedestrian flows. Although the project would cause traffic volume increases on certain roadways that have on-street bicycle lanes (e.g., J Street), there is no evidence to suggest that such increases would adversely affect the capacity of bicycle lanes.

O2-15 The Event Transportation Management Plan that would be adopted if the Proposed Project is approved has been developed to provide guidance on the management of multiple modes of travel around the ESC and to minimize the potential for conflicts between auto, transit, walk, and bicycle travelers. The planned post-event closures of L Street, 5<sup>th</sup> Street, and 7<sup>th</sup> Street would serve two purposes. First, they would assist the City’s traffic management efforts by eliminating undesirable “cross-flows” of traffic (e.g., motorists on Capitol Mall who wish to travel northerly to I Street would be prohibited from doing so via north-south street closures). Second, the street closures would substantially increase the area pedestrians and bicyclists can use to exit the immediate vicinity of the ESC without having to interact with vehicles.

O2-16 Please see Response to Comment A3-8 for a discussion of bike access around the proposed ESC, and the recommendation for two-way cycle tracks. As noted, many of the access issues raised in the comment pertain to existing issues associated with



bicycle travel in the Central Business District. A thorough, system-level review of bicycle facilities in the downtown is planned to be conducted as part of the upcoming Downtown Transportation Study as well as future updates of the City's Bikeway Master Plan.

O2-17

The comment asserts that the significant impacts that rely on Mitigation Measure 4.10-1 (Prepare and Implement Revised Draft Event TMP) would not be fully mitigated by this measure. The Revised Draft Event TMP identifies a variety of physical and operational improvements needed to adequately manage vehicular circulation near the project site, and to optimize the safe and efficient use of multiple modes of travel to and from events at the ESC. A variety of agencies, organizations, and individuals provided comments on the Revised Draft Event TMP. A Revised Draft Event TMP has been prepared and is included in Chapter 2 of this Final EIR. If the City Council chooses to certify the EIR and approve the project, they would also take action to formally approve Mitigation Measure 4.10-1 as a condition of approval. The City's formal adoption of Measure 4.10-1 would commit the project applicant to implement the Revised Draft Event TMP subject to the approval of the City Traffic Engineer.

The City has developed standards for the performance of the Revised Draft Event TMP. As such, Mitigation Measure 4.10-1 is revised to read:

#### 4.10-1 (ESC)

*The applicant shall be required to prepare and implement an Event Transportation Management Plan (TMP) that would provide a range of transportation management strategies designed to address the travel associated with various events at the ESC, and to improve operations in downtown before, during, and after ESC events. The Event TMP shall achieve or exceed the following standards of performance, and shall include monitoring and modification procedures to ensure continued achievement over time.*

1. Vehicle Queuing on City Streets (Pre-Event): Traffic on eastbound J Street does not spill back to the J Street/3rd Street/I-5 off-ramps intersection (due to downstream congestion)
2. Pedestrian Flows (Pre-Event): pedestrians do not spill off of sidewalks onto streets with moving vehicles, or out of crosswalks when crossing the street (except where streets are purposely closed for enhanced pedestrian use);
3. Bicycle Parking (Pre-Event): Signage directing bicyclists to ESC event bicycle parking is clearly visible, and bicycle parking supply is adequate to accommodate a typical ESC event.

4. Light Rail Transit Access (Post-Event): The following mitigation measures for Impact 4.10-6 (Access to Light Rail Transit) have been implemented (unless the ESC operator, City of Sacramento, and RT have jointly agreed such improvements are no longer necessary due to site observations and monitoring):
  - a) 7<sup>th</sup> Street is closed between J Street and L Street to vehicular traffic.
  - b) Pedestrians board trains at the 7<sup>th</sup>/K (St. Rose of Lima Park) stop from both the left and right sides of the train.
  - c) Wayfinding, pedestrian channelization barriers, and traffic control personnel are implemented to enable transit riders to know where to “queue” (stand in line) while waiting for trains.
  - d) The Gold line and Blue line trains load from different stations (i.e., one would load at 7<sup>th</sup>/K and the other would load at 7<sup>th</sup>/Capitol).
  - e) The first post-event trains in each direction operate with four cars.
5. Buses (Post-Event): If required, buses are permitted to travel north via either 3rd Street or 5th Street to reach J Street.
6. Truck Deliveries (Throughout): No more than one truck at a time is staged for no more than 10 minutes on northbound 5th Street approaching the entry driveway.
7. Truck Staging (Throughout): Delivery trucks associated with special events do not park or idle along the project’s L Street, 5th Street or J Street frontages (except as temporarily permitted by item #6 above).

*Revised Draft Event TMP will be subject to review and approval of Traffic Engineer, in consultation with affected agencies such as Caltrans and Regional Transit.*

The Revised Draft Event TMP includes these standards of performance. If not achieved, actions and improvements within the Revised Draft Event TMP will be modified accordingly to meet these measures once the project is in operation and initial monitoring results are available.

Adoption of Mitigation Measure 4.10-1 by the City Council would enable the City to conclude that the project is consistent with 2030 General Plan Policy M 1.2.2(a), which allows for LOS F during peak hours in the Core Area provided the Council finds that the project improves other parts of the citywide transportation system within the vicinity of the project site. The Revised Draft Event TMP describes the

physical and operational improvements the project is responsible to implement to achieve these improvements.

- O2-18 The comment asserts that the Revised Draft Event TMP must have performance standards to ensure that it is successful. In response to this comment, Chapter 10 (Monitoring, Performance Standards, and Refinement) of the Revised Draft Event TMP is being clarified to summarize applicable performance standards. Please also see Response to Comment O2-17.
- O2-19 The comment asserts that the Revised Draft Event TMP should also include performance standards for smaller events given their frequency. The Revised Draft Event TMP would be most applicable to large events. However, Chapter 8 of the Revised Draft Event TMP describes the extent to which certain elements of the Revised Draft Event TMP also would apply to smaller events. According to Table 2-4 in the Draft EIR, an average of 50 events per year would be expected to have 15,000 attendees or more. The Revised Draft Event TMP would be applicable to these events. The majority of events (98 of 177 total) would consist of 6,000 persons or less.
- The Draft EIR included an analysis of reasonably foreseeable mid-sized weekday AM and PM peak hour events. The weekday AM peak hour event that was analyzed was a conference with an estimated 3,750 attendees; such an event is the only foreseeable type of event that would start during the AM peak hour. The weekday PM peak hour event that was analyzed was a 5,000 attendee family event (such as a circus, ice show, or similar event); although there may be larger family events that occur on weekday evenings or weekends, 5,000 attendees was considered reasonable for assessment of a weekday afternoon event. Aside from the need to modify the signal timing at the J Street/3<sup>rd</sup> Street intersection during the AM peak hour (Mitigation Measure 4.10-3a), no other traffic-related impacts were identified for events in the weekday AM or PM peak hours, and thus no mitigation measures for these smaller events were described.
- The Revised Draft Event TMP is intended to be a flexible document, which would be amended by the City as conditions change, and based on experience and input from additional parties, including the ESC operator, local transit agencies, and the public. Should medium-sized events (e.g., between 6,000 and 15,000 persons) warrant a subset of Revised Draft Event TMP measures, the document can be modified accordingly.
- O2-20 The City of Sacramento would have primary responsibility for the implementation of the Revised Draft Event TMP. The Revised Draft Event TMP states, “[s]ince the City’s Department of Public Works is responsible for maintaining and operating the roadway system in the immediate project vicinity, they will have responsibility for collaboratively working with the ESC operator to implement, operate, and/or oversee many of the recommended strategies contained in this TMP.” Part of the

City's responsibility, as a public agency representing all of the residents of Sacramento, would be to receive and respond to input from interested parties, including those mentioned in the comment. Over time, the parties that are interested in, or that can provide expertise on, different aspects of the transportation system serving the Central Business District and the ESC project site may change, and thus commitment to receiving input from specific interested parties at this time would not be appropriate.

As reflected in Mitigation Measure 4.10-1, the City has determined that the individual authorized to review and approve the Event Transportation Management Plan would be the City of Sacramento Traffic Engineer, in consultation with affected agencies such as Caltrans and Regional Transit.

It should be noted that the project applicant has requested the formation of a transportation advisory committee that would meet regularly throughout the design and construction process. A number of parties representing different modes of travel in the project vicinity have been asked to participate in the committee.

- O2-21 Please see Response to Comment O2-7 for a discussion of bicycle parking at the proposed ESC.
- O2-22 Please see Response to Comment A3-8 for a discussion of bicycle access to the ESC project site. The issues raised in this comment do not pertain to adverse effects of the Proposed Project, but rather address aspirations of the commenter for improved bicycle access through the Central Business District and greater downtown area. As noted in Response to Comment A3-8, these issues are more appropriately addressed by the City through the upcoming Downtown Transportation Study.
- O2-23 Please see Response to Comment A3-8 for a discussion of bicycle access around the ESC project site. The suggestion of a performance standard related to the provision of "low-traffic-stress bikeways" connecting to the ESC site does not address an identified adverse impact of the Proposed Project.
- O2-24 The comment suggests that the Revised Draft Event TMP's monitoring should fully encompass all travel modes, and that the Revised Draft Event TMP should better describe how monitoring results will be reported. In response to this comment, Chapter 10 (Monitoring, Performance Standards, and Refinement) of the Revised Draft Event TMP is being clarified to include further discussion of these items. Please see Revised Appendix L, included as part of Chapter 2 in this Final EIR.

- O2-25 The comment is noted and will be conveyed to the City Council for its consideration. Please also see Response to Comment O2-18 for additional discussion of the Revised Draft Event TMP.
- O2-26 The comment is noted and will be conveyed to the City Council for its consideration.
- O2-27 This is a comment on the SPD and PUD applications that were submitted to the City on November 20, 2013. In the intervening months, the applicant has decided to withdraw its request for a PUD. Thus, the PUD application has not been updated, and no further response is appropriate. In the absence of site specific design guidelines, the Planning and Development Code and the Central City Urban Design Guidelines would be the regulating documents related to land use, design, and development standards for future development within the ESC-SPD area. Issues raised in the comment pertaining to the SPD application are procedural in nature and do not address physical environmental issues relevant under CEQA. Responses to comments on the commenter's December 31, 2013 letter to Stacia Cosgrove, noted as Attachment 3, are provided in Response to Comment O2-72.
- O2-28 The referenced letter is included in this Final EIR as Letter A3. Please see Responses to Comments A3-1 through A3-12.
- O2-29 The comment is noted and will be conveyed to the City Council for its consideration.
- O2-30 The comment is comprised of a table that purports to reflect the requirements for bicycle parking for land uses that are established in Table 17.608.030C of the City Planning and Development Code. The table correctly reflects the requirements for short- and long-term bicycle parking spaces by land use for the uses anticipated to be in the mixed use development portion of the Proposed Project, with the following exceptions:
- For office space, the comment notes that 1.5 long-term bicycle parking spaces are required for every 10,000 square feet of office space; the correct requirement is one (1) long-term space for each 667 square feet of office (in other words, 1.5 long-term spaces per 1,000 square feet);
  - The comment notes that the requirement for residential units is one-half long-term space per unit and 1 short-term space per 10 units (0.1 space per unit); Table 17.608.030C states that these are the requirements for residential units without private garages or dedicated storage space for each unit. There is no requirement for long-term bicycle parking spaces if the units have private garages or dedicated storage space for each unit. Depending on the specific design of future residential projects in the SPD

area, the relevant bicycle parking requirement will be established by the City in accordance with City policy.

O2-31 The comment states that “all details of the Proposed Project” are required to be included in the Project Description chapter of the EIR and notes that some details of the project are raised only in relevant chapters. In fact, this comment represents a misreading of the State CEQA Guidelines. Section 15124 (c) requires that the project description contain “[a] general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.” This emphasis on generalized data intended for a non-expert reader is further emphasized in State CEQA Guidelines section 15147, which states that “[t]he information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR.”

Chapter 2 of the Draft EIR (Project Description) is 90 pages in length, including 35 figures and 10 tables that contain all of the required elements established in section 15124 of the Guidelines. In addition to describing the location, project objectives, and proposed actions, the project description includes an in-depth description of the physical characteristics of the proposed ESC, future mixed use development, digital billboards, and all other components of the project. This description provides information on physical design, employment, operational characteristics, circulation, infrastructure and utilities, and construction techniques and schedule.

O2-32 Please see Response to Comment O2-7 for a discussion of the provision of bicycle parking and the current thinking regarding the location of bicycle parking facilities in and around the proposed ESC.

O2-33 Please see Response to Comment O2-57 for a discussion of crowd control barricades.

O2-34 The comment refers to the description of the proposed PUD Guidelines that were described in Chapter 2 of the Draft EIR. As is presented in Chapter 2 of this Final EIR, and discussed elsewhere in response to comments, the applicant has decided to withdraw the application for a PUD. In the absence of site-specific design guidelines, the Planning and Development Code and the Central City Urban Design Guidelines would be the regulating documents related to land use, design, and development standards for future development within the ESC-SPD area, including sidewalk widths. The PUD application has been withdrawn and is



no longer part of the Proposed Project. The comment will be conveyed to the City Council for its consideration.

- O2-35 The comment points out a slight difference in wording regarding sidewalks that front the SPD area (3<sup>rd</sup>, J, and 7<sup>th</sup> Streets). In the discussion of the consistency of the project with 2030 General Plan policy LU 2.7.4, Draft EIR page 3-13, which addresses design and public safety, the discussion notes that the project would “maintain” City sidewalks on these three streets. On page 3-14, in a discussion of consistency with 2030 General Plan policy LU 4.4.4, which addresses the provision of ample public realm, the discussion notes that the project would “maintain and enhance” the sidewalks on the three streets.

As noted elsewhere in this EIR, the mixed use development planned for the proposed SPD area would be required to conform to the Central City Urban Design Guidelines (CCUDG). There are numerous guidelines within the CCUDG that address the public realm; guidelines pertaining to sidewalks are included in CCUDG, Chapter 3, pages 31-34. The guidelines address widths, paving materials, use, and other sidewalk characteristics. In the discussion of the relationship of the project to a policy focused on design and safety (LU 2.7.4), the term “maintain” seems completely appropriate. Conversely, in the context of the discussion of a policy addressing ample public realm, the terms “maintain and enhance” are completely appropriate in that the City interprets the CCUDG that address the public realm and sidewalks to result in sidewalks that would be improved or “enhanced” compared to the sidewalks that currently exist on 3<sup>rd</sup>, J, and 7<sup>th</sup> Streets.

Specific designs that would describe how future development that fronts on those three streets would conform to the CCUDG are not available at this time. At the time that specific projects are proposed in the SPD area, the City will review and confirm the project’s implementation of the CCUDG. For additional discussion of the level of detail of the Project Description presented in Chapter 2 of the Draft EIR, please see Response to Comment O2-31.

- O2-36 Wayfinding via changeable message signs on freeways would directly benefit motorists by advising them of preferred travel routes. After securing parking, those motorists become pedestrians en route to the ESC. Both bicycle and pedestrian access would be improved by virtue of having a managed system to direct vehicles into garages, versus vehicles otherwise circulating through downtown looking for parking. Such circulatory patterns would cause more frequent interactions with bicycles and pedestrians who are also traveling to the ESC. Thus, wayfinding via changeable message signs would also benefit bicyclists and pedestrians, as well as motorists.
- O2-37 As described on page 2-22 of the Draft EIR, “[a]long L Street there would be entry to a lobby serving the administrative space above the practice courts;

entries for VIPs, media, employees, and Paratransit riders; ticket and box offices, and a retail space that could be used for a team store.” The Draft EIR stated that there would be a truck loading entrance on the north side of L Street, between 5<sup>th</sup> and 6<sup>th</sup> Street. As is described in Chapter 2 of this Final EIR, since publication of the Draft EIR, the applicant has revised the design of the proposed ESC to relocate the truck loading entrance from L Street to 5<sup>th</sup> Street. This change would further eliminate non-pedestrian uses from the project’s L Street frontage. The uses that would be present on the project’s L Street frontage would have a greater level of day-to-day activity than the current uses on the project site (back entrance to Macy’s East, small amount of recessed and below-grade retail/restaurant (e.g., Pre-Flite Lounge)), or the parking structures and lots line the south side of L Street (and which represent the back side of buildings that front on Capitol Mall).

During events with substantial media coverage, it is likely that media trucks may temporarily be parked either on the north side of L Street between 6<sup>th</sup> and 5<sup>th</sup> Streets, or on the east side of 6<sup>th</sup> Street between Capitol Mall and L Street. These two locations are initially considered to be of the correct orientation to the southwest sky to provide the proper connectivity to satellite links. It is unlikely that numerous trucks would use these locations on a frequent basis, and most often this would occur at special events such as playoff games, opening night, or major concerts. Further, the media trucks would typically arrive an hour or two before the start of the event, and depart immediately after the end of the event. The presence of media trucks on occasion, primarily during evening and weekends, would not obstruct the City or applicant’s goals for increased levels of activity on L Street compared to existing conditions.

O2-38 Chapter 3 is entitled Land Use, Population and Housing. Tables 3-1 and 3-2 in that chapter addresses the relationship of the Proposed Project to relevant land use policies of the 2030 General Plan and the Central City Community Plan. The relationship of the Proposed Project to other more issue-specific policies of the 2030 General Plan are incorporated into the discussions of the Regulatory Setting in each section of Chapter 4. As an example, the relevant policies of the 2030 General Plan Mobility Element are addressed in section 4.10, pages 4.10-34 through 4.10-37 of the Draft EIR. Please also see Response to Comment O11-24 for further discussion of the consistency of the Proposed Project to relevant policies of the 2030 General Plan Mobility Element.

O2-39 The implication of the comment, that smaller unit sizes in the proposed residential development within the SPD area would somehow be inconsistent with 2030 General Plan policy LU 5.6.2 is unfounded. The policy is entitled “Family Friendly Downtown,” but does not imply that large units accommodating large families are necessary for housing to be family friendly. In fact, the full wording of policy LU 5.6.2 states:

“The City shall promote the CBD as a family-friendly area by requiring the development of a variety of housing types, daycare and school facilities, family-oriented services, and parks, plazas, and open spaces that will safely and comfortably accommodate those who wish to raise a family.”

The description of future residential development in the SPD area in the Project Description states that “[a]t this time, it is anticipated that unit sizes would tend toward the smaller end, with a preponderance of one- and two-bedroom units.” It does not state nor imply that larger units would not be allowed, but simply that at this early stage of development prior to a specific application, it is the applicant’s anticipation that high-rise residential units in the Sacramento real estate market would tend to attract smaller households desiring fewer bedrooms. Table 2-7 is noted to be an “illustrative” housing program, and notes that, in fact, the unit sizes described may be reduced when formal applications are submitted.

The City of Sacramento has expressly stated in its 2030 General Plan that a variety of housing types are necessary to meet the wide variety of households that wish to raise a family in Sacramento. Thus, there is nothing in the proposed mixed use development or anticipated size and mix of residential units that would be inconsistent with the Family Friendly Downtown policy of the 2030 General Plan.

O2-40 Please see Responses to Comments O2-34 and O2-35.

O2-41 As is stated in Chapter 2, section 2.6.2, page 2-82 of the Draft EIR, “there are no specific proposals for future use of any of these parcels beyond the existing uses, with the exception that the 4<sup>th</sup> and J Street Parcel and the Plaza West Parking Structure Retail Building sites are assumed to be part of the future mixed use development at the Downtown project site. In the event that the project applicant decides to develop any of these parcels, such an action would require prior planning and an application for approval by the City of Sacramento.” The suggestion that reasonably foreseeable development could be determined simply by assuming future development consistent with the general plan and zoning of the property is impractical. There are many factors that affect the viability of development of a property. The specific properties mentioned in the comment, Lot X and Lot Y, are currently parking lots in the vicinity of the Crocker Art Museum, and are highly constrained by site access, site configuration, and other limiting factors. Further, there is no certainty that the applicant would propose development of these properties. As noted in the Draft EIR, “[t]he project applicant may elect to retain ownership of the parcels, or may sell the parcels and invest the proceeds in the planning, design, development and construction of the proposed ESC.”

Further, in order to assess the aesthetic characteristic of future development on those or other sites would require assumptions about not only the use and

intensity of development, but also the physical form of development. These characteristics are completely unknown at this time. Thus, to make assumptions about future development of these sites would be speculative and inappropriate under CEQA (see section 15145 of the State CEQA Guidelines).

O2-42 The document referenced in the comment, “Visual Impact Assessment for Highway Projects” was published by the Federal Highway Administration in 1988. The intent of the document was to provide guidance to individuals preparing visual assessment of highway projects in Environmental Assessments or Environmental Impact Statements under the National Environmental Policy Act. The focus of the document is the FHWA’s assessment methodology for the aesthetic effects of highway and highway facilities.

This EIR is being undertaken by the City of Sacramento as lead agency pursuant to the requirements of CEQA. The City has assessed the effects of the proposed digital billboards in the same manner in which they have assessed other proposals.<sup>6</sup> There is no requirement under CEQA for the use of FHWA’s preferred methodology. Further, the methodology was developed for application under NEPA and for projects related to highways and highway facilities, not for adjacent urban development.

The comment notes some confusion in the text on page 4.1-30 explaining the California Outdoor Advertising Act (COAA). As reflected in section 5440 of the Business and Professions Code, the COAA prohibits new advertising displays designed to be viewed by travelers adjacent to a section of freeway designated by Caltrans as a landscaped freeway. Section 5412 of the Business and Professions Code provides that advertising displays that were lawfully in existence on landscaped freeways when the COAA was enacted are allowed to remain as nonconforming uses. Section 5412 has been interpreted to allow new advertising displays, including digital billboards, to be erected in landscaped freeways pursuant to a relocation agreement. Nevertheless, none of the potential digital billboard locations that are considered in the Draft EIR are located in freeway segments designated by Caltrans as landscaped freeways.

Some of the commenter’s confusion may come from the reference in the same paragraph to Sacramento City Code 15.148.840, which designates all freeways in the City as landscaped freeways under the City Code. The City Code does not alter the Caltrans designation of landscaped freeways. Accordingly, the text of that paragraph will be clarified as noted below.

Page 4.1-30, the third full paragraph is revised to read:

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<sup>6</sup> See, e.g., City of Sacramento, *Digital Billboards Project Final Mitigated Negative Declaration*, December 3, 2009, Revised March 11, 2010.

The Act prohibits signage along landscaped freeways (Business and Professions Code, Section 5440). ~~The City has designated all freeways within the City as landscaped freeways.~~<sup>2</sup> Caltrans has interpreted these Act provisions as allowing new billboards along such freeway segments if a relocation agreement has been approved pursuant to Business and Professions Code, Section 5412 of the Outdoor Advertising Act. None of the potential digital billboard locations evaluated in this EIR are adjacent to freeway segments designated by Caltrans as landscaped freeway, and, thus, a relocation agreement pursuant to the Outdoor Advertising Act is not required for any of the locations evaluated in this EIR. Although the City has designated all freeways within the City as landscaped freeways under the City Code, the City Code does not alter the Caltrans designation.<sup>7</sup> The Outdoor Advertising Act contains a number of other provisions relating to the construction and operation of billboards:

O2-43

A detailed description of the physical characteristics of the proposed digital billboards is provided on page 2-70 of the Draft EIR, including the height and width of the billboard face, the brightness, and power requirements for each billboard. The height of the billboard is described in terms of the elevation above the adjacent elevated Highway 50 roadbed because it is from that perspective that most people would view the billboard. Because the primary aspect of the visual character of a digital billboard is brightness, the City concluded that photosimulations, which in some instances can be effective at showing the bulk, height and mass of a proposed structure, would not be effective at conveying the visual effects of a digital billboard. The narrative analysis for each of the billboard sites conveys the City's evaluation of the potential aesthetic effects that could occur.

As noted by the commenter, a digital billboard at the US 50 at Pioneer Bridge site may be visible from West Sacramento. The fact that a billboard is visible from a particular location, however, does not mean that the billboard adversely affects the visual character or obstructs important views. The view from West Sacramento to downtown Sacramento is of an intense urban downtown, with elevated freeways and high-rise buildings as a backdrop. The relevant views include several billboards and lighted directional signs: the eastbound approach to the Pioneer Bridge from West Sacramento is highlighted by three large static billboards (two on the north side of the highway, and one on the south side). In addition, there are multiple freeway signs providing direction for the Highway 50/I-5 interchange. A large billboard that is located in West Sacramento immediately adjacent to the Jefferson Boulevard exit is a notable feature of the westbound view on the Pioneer Bridge. Based on the size, height and location of the digital billboard that may be

<sup>7</sup> Sacramento City Code. §15.148.840, Freeway – Off-site signs.

constructed at the U.S. 50 at Pioneer Bridge site, the City’s evaluation concludes that it does not represent a substantial adverse effect on the visual environment.

O2-44

The City respectfully disagrees with the suggestion that in the absence of photosimulations, insufficient evidence is available to understand and determine the significance of aesthetic impacts at the Business 80 at Sutter’s Landing Regional Park/American River site. As stated in the Draft EIR (page 4.1-65), “...because the billboard structure could be visible from the Parkway and could intrude into views from Sutter’s Landing Regional Park to the American River, the potential exists that construction and operation of a digital billboard at this site could substantially degrade the visual character or quality of this site adjacent to the American River Parkway.” The assessment in the Draft EIR takes into account the proposed location and 45-foot height of the proposed billboard. It includes an assessment of the visibility of the billboard face from the American River Parkway and reflects the policies related to views from the Parkway that are included in the American River Parkway Plan. Further, the analysis also addresses potential blockage of views from Sutter’s Landing Regional Park and reflects consideration of policies in the 2030 General Plan and the Sutter’s Landing Regional Park Master Plan that relate to the intended character of the site and views from City parklands. Nothing under CEQA requires the analysis of aesthetic effects to be presented in any particular manner. The conclusions drawn in the Draft EIR, that the effect of the proposed digital billboard at the Business 80 at Sutter’s Landing Regional Park/American River site would be significant and unavoidable, are supported by substantial evidence, and are not undermined by the lack of a visual simulation.

O2-45

The assessment of aesthetic impacts of the proposed digital billboards considers the visual effects of the billboards during daytime and nighttime hours. It is understood that the lit element of nighttime operations are especially sensitive. In the case of the I-5 at Water Tank site, the Draft EIR recognizes that the billboard face may be visible from backyards and through windows to indoor areas, and states that “it is possible that nighttime operation of a billboard in this location could result in a substantial degradation of the visual environment for sensitive receptors at this location.”

O2-46

The Draft EIR includes site-specific assessments of the aesthetic effects of a digital billboard constructed at each of the 10 potential sites. By recognizing that the freeways in Sacramento are not designated “scenic highways,” the City provided information and a basis for a conclusion that there would not be a policy-level conflict between the presence of the proposed digital billboard and state policy regarding scenic highways. However, the individual evaluations of the potential for a digital billboard to degrade the visual character of a site were not compromised or otherwise limited by virtue of the fact that the adjacent freeway is not a state scenic highway. Please see Draft EIR pages 4.1-60 through 4.1-68 for a discussion of the



effects of the proposed digital billboards on the visual character around each potential site.

- O2-47 Mitigation Measures 4.1-1(a) and 4.1-1(b) are appropriate mitigation for the effects that are described and comply with the requirements of section 15126.4 of the State CEQA Guidelines. The measures do not represent deferred mitigation because they explain that the mitigation involves more precise siting, orientation, and design of the billboard faces. In the case of Mitigation Measure 4.1-1(a), the standard of performance that is required is, in the case of the I-5 at Water Tank site, “to minimize the visibility of the lighted northern billboard to homes on El Morro Court and El Rito Way.” In the case of the I-5 at San Juan Road site, some specific details were inadvertently left out of the measure, which is revised below. The purpose of the visibility study identified in the measure is to provide confirming evidence to the Planning Director that the performance criteria are satisfied, and does not represent an improper deferral of impact analysis, or the use of a study as a replacement of actual mitigation.

Page 4.1-68, Mitigation Measure 4.1-1(a), the first sentence is revised to read:

*At the I-5 at Water Tank and I-5 at San Juan Road sites, the digital billboard shall be oriented and designed, including the addition of screening and shielding features, to minimize the visibility of the lighted northern billboard face to homes on El Morro Court and El Rito Way, and to minimize the visibility of the lighted southern billboard face to homes on San Juan Road, Almoneti Avenue, and Tice Creek Way.*

Further, the analysis recognizes that it is currently not possible to determine with certainty that this measure could fully screen the illuminated billboard face at these sites, and as such, the impact remains significant and unavoidable.

- O2-48 The comment addresses how the addition of the proposed digital billboards may affect the way “visitors and residents perceive” the City of Sacramento. The cumulative analysis contained in Section 4.1 of the Draft EIR addresses the potential for multiple changes to viewsheds in the vicinity of each of the potential digital billboard sites. The issue of the perception of Sacramento addressed in the comment relates to a social effect, and not a physical environmental effect. Please see Response to Comment O4-17 for further explanation of how social and economic effects are addressed under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.
- O2-49 For a discussion of the effects of the Proposed Project on emergency response, please see Response to Comment O2-58. Impact 4.10-20, page 4.10-111 of the Draft EIR, addressed the cumulative impacts associated with potential effects on emergency access. In recognizing that the Proposed Project would be designed to provide emergency access from J Street at 5<sup>th</sup> Street and from 7<sup>th</sup> Street at K

Street, the impact analysis concludes that other cumulative projects would not interfere with emergency access in and around the project site. Text revisions presented in Chapter 2 provide clarification and amplification of the discussion of Impact 4.10-20. The revised text reflects the ways in which the Event Transportation Management Plan is anticipated to manage circulation around the project site, and the cumulative improvements to public safety, including a new fire station in the Railyards Specific Plan area and expanded police services to meet the needs created by cumulative development in the Central Business District.

O2-50 Please see Response to Comment A3-8 for a discussion of bicycle access and the relationship to policies of the General Plan and the Bikeway Master Plan. For a discussion specifically of policy M 5.1.4, please see Response to Comment O11-24.

O2-51 The Non-ESC land uses are expected to generate 39 bicycle trips during the AM peak hour, 25 bicycle trips during the PM peak hour, and 263 bicycle trips on a daily basis. These estimates follow the methodology described in Footnote 1 of Table 4.10-14. Bicyclists are likely to use a variety of streets (with expected usage dependent on the direction of the trip (inbound versus outbound), the trip purpose, trip time-of-day, rider ability, and other considerations). Streets (in the project vicinity) expected to be used include: 3<sup>rd</sup> Street, 4<sup>th</sup> Street, 5<sup>th</sup> Street, 6<sup>th</sup> Street, 7<sup>th</sup> Street, 8<sup>th</sup> Street, 9<sup>th</sup> Street, I Street, J Street, K Street, L Street, and Capitol Mall.

The Draft EIR did not include an equivalent level of analysis for bicyclists as was presented for pedestrians (see Table 4.10-24) and transit riders (see Table 4.10-18) for several reasons. First, this data was presented for the pre- and post-event peak hours, in which project-related transit and pedestrian travel is most critical from a system capacity perspective. Detailed usage of crosswalks, sidewalks, and trains was presented because the project had the potential to cause the capacity of these facilities to be exceeded. This was not the case for bicycle travel since the projected number of bicyclists (noted above), spread across the system, would not create a potential capacity issue.

Table 4.10-24 was developed for the specific intention of displaying the level of expected pedestrian usage of crosswalks and sidewalks in the project vicinity. This was then used to identify which facilities would require widening to accommodate the expected pedestrian flows. Such a table is not necessary for bicycle travel for several reasons. Bicycle volumes are substantially lower than the pedestrian volumes (i.e., less than 100 bicyclists versus over 17,000 pedestrians). Secondly, the expected travel routes of bicyclists are more difficult to predict compared to pedestrian travel routes, which are derived based on available parking at adjacent parking garages, the location of LRT stops, and crosswalks. Thus, preparation of a

table similar to Table 4.10-24 for bicyclists would be both unnecessary and speculative.

Nevertheless, the following table depicts predicted bicycle trip generation. A more detailed assessment of bicycle trips by direction would be impracticable in light of the available data.

Page 4.10-52, the following is inserted after the first paragraph:

**TABLE 4.10-15A**  
**BICYCLE VOLUMES – EXISTING PLUS PROJECT CONDITIONS**

<b><u>Land Use Category / Activity</u></b>	<b><u>AM Peak Hour</u></b>	<b><u>PM Peak Hour</u></b>	<b><u>Pre-Event Peak Hour</u></b>	<b><u>Post-Event Peak Hour</u></b>
<u>Non-ESC Land Uses (Resid., Office, Retail, Hotel)<sup>1</sup></u>	<u>39</u>	<u>33</u>	<u>22</u>	<u>--</u>
<u>ESC Weekday Evening Kings Game – Attendees<sup>2</sup></u>	<u>--</u>	<u>--</u>	<u>59</u>	<u>66</u>
<u>ESC Weekday Evening Kings Game – Employees<sup>3</sup></u>	<u>--</u>	<u>--</u>	<u>1</u>	<u>1</u>
<u>ESC Weekday Morning Civic Event<sup>4</sup></u>	<u>14</u>	<u>--</u>	<u>--</u>	<u>--</u>
<u>ESC Weekday Afternoon Special Event<sup>5</sup></u>	<u>--</u>	<u>20</u>	<u>--</u>	<u>--</u>
<b><u>Total</u></b>	<b><u>53</u></b>	<b><u>53</u></b>	<b><u>82</u></b>	<b><u>67</u></b>

1. Calculated as follows: 1,228 external AM peak hour vehicle trips @ 1.2 AVO is 1,474 persons. This total represents 75% of all external trips, which implies 1,965 total external person trips. Biking represents 2% of this total, or 157 riders. Similar calculations conducted for other peak hours.

2. Calculated as follows: 17,500 attendees @ 67.4% pre-event arrivals = 11,795 persons. Biking represents 0.5% of this total, or 59 riders. 17,500 attendees @ 75% post-event departures = 13,125 persons. Biking represents 0.5% of this total, or 66 riders.

3. Calculated as follows: bicycle used by 0.5% of 100 employees who arrive during the pre-event peak hour.

4. Calculated as follows: 3,750 attendees @ 66.7% AM peak hour arrivals = 2,501 persons. Biking represents 0.5% of this total, or 13 riders. Additional 1 employee bike trips also included.

5. Calculated as follows: 5,000 attendees @ 75% PM peak hour departures = 3,750 persons. Biking represents 0.5% of this total, or 19 riders. Additional 1 employee bicycle trips also included.

SOURCE: Fehr & Peers, 2013.

- O2-52 Please see Response to Comment O2-8 regarding cumulative analysis of bicycle impacts.
- O2-53 Please see Response to Comment O2-17. Please also see Response to Comment A3-8 for a discussion of bicycle access and the relationship to policies of the General Plan and the Bikeway Master Plan. For a discussion specifically of policy M 5.1.4, please see Response to Comment O11-24.
- O2-54 Please see Response to Comment O2-17.
- O2-55 Please see Response to Comment O2-17.
- O2-56 Mitigation Measure 4.10-6 lists the five specific actions that are required to provide adequate access to light rail trains. These measures can be implemented without the Revised Draft Event TMP. However, for sake of completeness, the majority of these measures are listed within the Revised Draft Event TMP as they are part of the overall of transportation management plan.

O2-57 Please see Response to Comment A3-8. Bicyclists would not be precluded via barricades or other measures from traveling on 7<sup>th</sup> Street during post-event street closure conditions. The comment notes a reference to “bicycle barricades” in the discussion of the relationship of the Proposed Project to 2030 General Plan policy LU 2.7.4. This policy addresses the promotion of public safety through community design. The reference to “bicycle barricades” does not refer to physical blockages to bicycle travel. Rather, “bicycle barricades” are portable metal event barricades. The term bicycle refers to the similarity of these barricades to the design of bicycle racks. Bicycle barricades also are often referred to as security barricades, crowd control barricades, traffic barricades, or pedestrian barricades. To avoid future confusion, the EIR will be revised as noted below. Draft EIR page 3-13, Table 3-1, Policy LU 2.7.4, right column, second paragraph, the fifth sentence is revised as follows:

~~Bicycle~~ Crowd control barricades would be set up in order to ensure safe pedestrian use of 7<sup>th</sup> Street intermingled with active RT light rail trains along 7<sup>th</sup> and K Streets.

O2-58 In response to this comment, the FEIR will include a more in-depth discussion as to why Impact 4.10-9 (Emergency Vehicle Access) is less than significant. This impact statement is changed as follows (see pg. 4.10-103):

**Impact 4.10-9: The Proposed Project would result in inadequate emergency access.**

According to the project site plan, emergency vehicles would be able to access the project site from all perimeter roads (i.e., J Street, 7<sup>th</sup> Street, and L Street). Fire stations are located to the northeast and southeast of the project, less than one mile from the site. The Sacramento Police Department Central Command facility is located on Richards Boulevard, slightly one mile north of the site. The project site plan shows delineated 20-foot emergency vehicle access routes through the plaza from the north (via J Street) and east (via 7<sup>th</sup> Street). During certain specific events, medical personnel will be present on-site along with an ambulance. During larger events, traffic control officers will be present on all sides of the building to control crowds and facilitate emergency vehicle access if needed. Project impacts on emergency access are considered *less than significant* and no mitigation measures are required.

O2-59 The cumulative conditions analysis relies on an approach consistent with the State CEQA Guidelines section 15130. The study assesses whether the cumulative impact or condition resulting from past, present, and probable future projects, as well as the Proposed Project, is significant. If the cumulative condition is not significant, this conclusion is presented. If the cumulative impact is significant, a determination is then made as to whether the project’s incremental contribution

to the impact is “cumulatively considerable.” Intersections in downtown Sacramento are exempt from the City’s LOS standard by virtue of the implementation of Mitigation Measure 4.10-1 and Policy M 1.2.2(a). Accordingly, impacts at individual intersections are not cumulatively significant, and therefore it not necessary to address the project’s contribution. The methodology used to develop the cumulative traffic forecasts and operations analysis results allows for the project’s cumulative contribution to be readily calculated when necessary. Such information is provided, as appropriate, in Impact 4.10-12. In summary, Impact 4.10-11 was properly analyzed based on the State CEQA Guidelines and the City’s LOS standards (and exemptions), and reached the correct conclusion regarding significance after mitigation.

- O2-60 Contrary to the observation of the commenter, the cumulative impact statements differ from the existing plus project impact statements, as does the supporting text for each cumulative impact. In some instances, the impact discussions are necessarily similar due to the lack of meaningful changes in the travel mode, setting, or related conditions between existing and cumulative conditions. An example of this is queuing on the J Street off-ramp. The cumulative impact discussion in Impact 4.10-12 through 4.10-21 addresses the following subjects that are not considered under existing plus project impact analyses: (1) buildout geometrics and expected unacceptable operations at intersections on Tower Bridge Gateway in West Sacramento, (2) changes in delay at the J Street/3<sup>rd</sup> Street intersection between existing and cumulative plus project conditions which is a measure of additional queue spillback onto I-5, (3) the planned Streetcar, (4) other RT service improvements including Bus Rapid Transit and reduced LRT headways, and (5) additional complications to transit loading caused by Streetcar along 7<sup>th</sup> Street. The nature of these topics illustrate how the cumulative impact analyses properly considers the expected cumulative conditions, and is not simply a recitation of the existing plus project impact analyses.
- O2-61 Please see Response to Comments A3-8 for additional discussion of the analysis of bicycle parking and access impacts.
- O2-62 Please see Response to Comment O2-17 for additional discussion about the Revised Draft Event TMP as Mitigation Measure 4.10-1.
- O2-63 Please see Responses to Comments O2-17 and O2-18 for additional discussion of the Revised Draft Event TMP and Mitigation Measure 4.10-1.
- O2-64 Please see Response to Comment O2-18 for additional discussion related to the Revised Draft Event TMP.
- O2-65 Please see Response to Comment O2-56.
- O2-66 Please see Response to Comments O2-17, O2-18, and O2-55.

O2-67 The Revised Draft Event TMP will be clarified to include the specific improvements listed in Mitigation Measure 4.10-8. The Revised Draft Event TMP currently makes references to crosswalk widening and signal timing enhancements, but does not include specific locations. No changes to Mitigation Measure 4.10-8 are warranted.

O2-68 Please see Response to Comment O2-8.

O2-69 At the outset, the Draft Event TMP describes its objectives. The list of objectives will be clarified to include bicycle considerations. The Revised Draft Event TMP discusses applicable performance standards (see Response to Comment O2-17) to help readers better understand what the Revised Draft Event TMP will accomplish.

This comment incorrectly states that the Revised Draft Event TMP does not examine the most common sort of anticipated events, which it asserts are non-basketball, night events. As summarized in Table 2-4 of the Draft EIR, the ESC is expected to annually host 39 weekday evening (6:00 PM to 11:30 PM) non-sporting events. These are expected to consist of: 27 shows/events with 7,500 attendees or less, 10 concerts with 10,000 attendees, and 2 concerts with 15,000 attendees. It is reasonably anticipated that there would be 3 weekday evening non-sporting events per year with attendance of 10,000 or more persons, and 23 weekday evening Kings games. Accordingly, the most common sort of anticipated event that will require use of the Revised Draft Event TMP is a Kings game, and not a non-basketball, night event. In total, the Revised Draft Event TMP is likely to be necessary about 60 times per year. Section 8.4 and the Revised Draft Event TMP will be clarified to specify that Revised Draft Event TMP measures are applicable to all Kings basketball games (whether sold out or not). As summarized in Table 2-4, the ESC is expected to annually host 48 weekday mid-day (8 AM to 5 PM) events, each of which consists of 7,500 or fewer attendees. This level of attendance does not warrant the implementation of Revised Draft Event TMP measures. Please also see Response to Comment O2-19.

O2-70 The use of freeway changeable message signs would better distribute arriving traffic to various freeway off-ramps. Diverted trips to Q Street would cause increased traffic flows between 3<sup>rd</sup> and 9<sup>th</sup> Streets. However, the resulting volumes would remain far below the levels currently experienced during the typical AM peak hour. While some parking may occur along R Street, the six-block distance from this corridor to the edge of the project, combined with available parking closer to the site, is expected to keep parking demand modest in the corridor.

If vehicular queues on I-5 at J Street spill back to the freeway, then drivers may divert to several potential I-5 off-ramps including Q Street and Richards Boulevard. The impact analysis did not consider additional diversion to these ramps because the project description did not include the use of changeable message signs or information technology to manage these flows. The project



would add 1,530 trips to the J Street off-ramp from northbound and southbound I-5 during the pre-event peak hour. During this hour, the project would add 380 trips to eastbound Q Street from the P Street and Q Street off-ramps. If 33 percent of project-added pre-event traffic at the J Street off-ramp were to divert onto Q Street, it would carry 1,280 vehicles approaching 3<sup>rd</sup> Street. This is less than half of the 2,670 vehicles that currently travel this route during the existing AM peak hour.

- O2-71 Please see Responses to Comments O2-7 and A3-8 for discussion of bike parking and access.
- O2-72 Please see Responses to Comments O2-18 and O2-24. Traffic management would not be necessary at remote light rail station parking lots given the level of transit ridership, number of potential stations, generally available parking in the evening, and design of parking lot accesses for at-capacity parking. It is reasonable to assume that the parking lots at light rail stations would be used as designed. The estimates of transit ridership do not support a conclusion that there would be an overflow parking condition at any transit station parking lots.
- O2-73 This comment is a summary paragraph that does not raise any issues regarding the environmental analysis. The comment is noted and will be conveyed to the City Council for its consideration.
- O2-74 This comment is comprised of a letter sent from the commenter to the City providing detailed comments on the draft Planned Unit Development (PUD) and Special Planning District (SPD) application and does not address the content of the Draft EIR. As is presented in Chapter 2 of this Final EIR, and discussed elsewhere in response to comments, the applicant has decided to withdraw the application for a PUD. In the absence of site-specific design guidelines, the Planning and Development Code and the Central City Urban Design Guidelines would be the regulating documents related to land use, design, and development standards for future development within the ESC-SPD area, including sidewalk widths. Because the PUD application has been withdrawn and is no longer part of the Proposed Project, no further response is required. The comments on the SPD are noted and will be conveyed to the City Council for its consideration.
- O2-75 This comment is a copy of an email submitted as a comment on the Draft EIR by James Allison, Manager of Planning at the Capitol Corridor Joint Powers Authority. Please see Responses to Comments for Letter A3.

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January 27, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

Dear Mr. Johnson:

Our non-profit, Sacramento Modern, is a 501(c)(3) organization dedicated to promoting, preserving, and protecting modern art, architecture, and design in the Sacramento region. We have been observing the developments and discussions surrounding the proposed Entertainment and Sports Complex and would like to comment on the Draft EIR. Specifically, we would like to address the findings in the Report regarding the work of John S. Bolles and Associates.

03-1

Macy's West (1963) by John S. Bolles

We respectfully disagree with the analysis that Macy's West in the Downtown Plaza is ineligible for historic designation because its historic integrity has been diminished. Our evaluation and conclusion regarding the building is that it maintains a high degree of integrity in the following areas: its intact character defining features and design; the preponderance of original materials and their condition; the demonstrated workmanship involved in the building's construction; and its original location and feeling, which are comparable over time. Moreover, the building is highly recognizable (even though arguably reversible alterations/modifications have been made to one of its four sides). Also, according to our research, the building's distinctive trademark decorative overhang was the first of its kind among the Macy's designed by John S. Bolles.

03-2  
03-3

Portions of the Downtown Plaza (1972) by John S. Bolles and Associates

SacMod has been extensively researching the original design of the Plaza. We have conducted several site visits, examined various documents, and interviewed Albert Sanchez, AIA, original designer from John S. Bolles and Associates. Mr. Sanchez was the Project Director for the Plaza's design under Project Architect Peter Rooke-Ley. Scans of images shared from Mr. Sanchez's portfolio can be seen online via <http://bit.ly/sacmodplaza0>

03-4

We believe the original Plaza design by John S. Bolles and Associates is an iconic and irreplaceable example of Brutalism, an important architectural movement. In particular, the unique features of the Plaza — the faceted exterior planes, organic curvilinear forms, the extensive use of redwood, textured concrete, and the many sculptural terra cotta wall panels — comprise an intact architectural resource unlike any other in our city. Ideally, we would prefer

03-5

A 501(c)(3) non-profit organization dedicated to promoting, preserving and protecting modern art, architecture and design in the Sacramento region.

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**SacMod.org**

that another site be chosen for the proposed Complex and that the targeted buildings at the Plaza remain and be restored and/or adaptively repurposed.

↑03-5  
-cont.

One of the truly unique aspects of the Plaza are the multiple circa 1971 terra cotta sculptural wall panels. We counted roughly 38 of these original panels that are still intact. Our photographs of these panels can be viewed online via the following links:

- <http://bit.ly/sacmodplaza1>
- <http://bit.ly/sacmodplaza2>
- <http://bit.ly/sacmodplaza3>

These unusual and rare installations were conceptualized and designed by Albert Sanchez. It was Mr. Sanchez's vision to create an artistic statement on various exterior walls throughout the Plaza. He contacted the Hans Sumpf Company of Fresno and began working on the panels in a collaborative effort with the company's art director and sculptor John Bennett. Of note, Hans Sumpf was a highly acclaimed ceramic company, especially during the mid-20th century. Master ceramist and sculptor Stan Bitters worked at Sumpf from 1959-1965; he was both a colleague of and artistic inspiration for John Bennett. From our research, ceramic panels by Mr. Bennett from the early 1970s are highly prized and valued by art collectors.

03-6

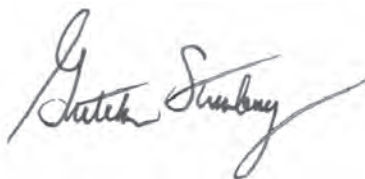
Per Mr. Sanchez, the panels were made in the following manner: "We laid each panel on a concrete slab floor in his (Bennett's) studio, layered the material, made the impressions, cut into tile size, numbered each tile, kiln dried the adobe and transported to the job site for installation." The tiles were affixed in place at the site with mastic. Some of the terra cotta panels included light fixtures that allowed light to shine from one sculpted surface to another.

SacMod does not recommend that the portions of the Plaza designed by John S. Bolles and Associates be demolished. However, if plans for demolition proceed, we strongly recommend that all of the sculptural wall surfaces be preserved and repurposed as public art in Sacramento, perhaps even as part of the new proposed Entertainment and Sports Complex. The panels, in situ, evoke a sense of place and identity unique to our city. If preservation in place is not possible or achievable, it remains imperative that the sculptural wall surfaces be removed and preserved for display or repurposed use in a public or private installation.

03-7

We would also like to offer our technical assistance and support in selecting and repurposing any preserved panels.

Respectfully submitted,



Gretchen Steinberg, President, SacMod  
 In conjunction with the SacMod Board of Directors:  
 Dane Henas, Vice President  
 William Peterson, Secretary  
 Zann Gates, Treasurer  
 Justin Wood, Director At-Large  
 Jon Hill, Director At-Large  
 Nick Vinciguerra, Director At-Large

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**Letter O3      Gretchen Steinberg, SacMod**  
**Response      January 27, 2014**

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- O3-1            The comment provides information about SacMod and summarizes comments contained in the comment letter. The comment is noted and will be conveyed to the City Council for its consideration.
- O3-2            The comment disagrees with the findings of the Historical Resources Impact Analysis Report with respect to the historic integrity of the Macy's at 414 K Street (also referred to as Macy's West). Section 5 of the Historical Resources Impact Analysis Report (prepared by JRP Historical Consulting, LLC and presented as Appendix G in the Draft EIR) presents the criteria under which the Macy's at 414 K Street was evaluated to assess its eligibility as a historical resource, as defined in CEQA Guidelines section 15064.5. Section 5 includes discussion regarding the seven aspects of historic integrity: location, design, setting, materials, workmanship, feeling, and association. The Historical Resources Impact Analysis Report (Appendix G of the Draft EIR) summarizes the evaluation of the property on page 62 concluding that the Macy's building does not appear to meet the criteria for listing in the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), or the Sacramento Register of Historic and Cultural Resources because it lacks sufficient historic integrity to convey its significance. Evaluation of this property is presented in detail in Section B10 of the DPR 523 Form (in the appendix to the Historical Resources Impact Analysis Report), which acknowledges that Macy's building has significance at the local level for its association with downtown Sacramento's redevelopment in the early 1950s and 1960s that the property, but that the property has undergone alterations that have diminished its historic integrity (see pages 9 and 10 of the form).

While the Macy's location remains the same and it continues to be part of a commercial context, the building's historic integrity of design, setting, workmanship, feeling, and association have been affected by alterations to the building and new construction adjacent to the building. The building was originally free-standing, its front / primary side facing north onto the K Street Pedestrian Mall. The addition of the Downtown Plaza on the north side, the removal of the K Street Pedestrian Mall elements along the north side, and the addition of a second story entrance on the north side have altered the original appearance of the building. The two-story mall addition is attached to the north side of the Macy's building and the north end of the building is enclosed in the mall development. These changes as a whole have diminished the building's integrity to its potential period of significance (1963 to 1969) and thus it does not meet the criteria necessary for eligibility for listing in the NRHP, CRHR, or

Sacramento Register. The assessment of the building's historic integrity is correctly based on present physical conditions, and not on hypothetical or potential reversibility of alterations and modifications.

CEQA acknowledges that disagreements among experts do not make an EIR inadequate (CEQA Guidelines section 15151). The preparers' qualifications of the Historical Resources Impact Analysis Report and the evidence they used to support the evaluations constitute substantial evidence that provides an adequate basis for supporting the conclusions of the report. JRP's conclusion regarding the Macy's building is based on the substantial evidence that is presented in the Historical Resources Impact Analysis Report, including the historical overview in Section 3, description of the building in Section 4, and DPR 523 Form in Appendix A. The Historical Resources Impact Analysis Report was prepared by JRP Historical Consulting and reviewed and validated by the City of Sacramento Preservation Director. JRP Partner and Architectural Historian Christopher McMorris and JRP staff historian Chandra Miller prepared the report. Based on their experience and education, both Mr. McMorris and Ms. Miller qualify under the Secretary of the Interior's Professional Qualification Standards (as defined in 36 CFR Part 61) under History and Architectural History. In addition, the City's Preservation Director, responsible for preliminary determinations as to a property's eligibility for listing in the Sacramento Register of Historic and Cultural Resources, reviewed the results of the Historical Resources Impact Analysis Report and concurred with the findings.

- O3-3            The comment states that the Macy's overhang may be considered a distinctive design .However, even if the building retains one or more elements that were new or unusual at the time of construction, the Macy's building does not retain sufficient historic integrity to qualify for listing in the NRHP, CRHR, or Sacramento Register, and, thus, it is not considered an historical resource, as discussed in Response to Comment O3-2.
- O3-4            The comment presents an assessment of the architectural significance of the Downtown Shopping Plaza (built 1970-72) that is different than the conclusions and analysis presented in the Historical Resources Impact Analysis Report (Draft EIR Appendix G) about this property, specifically the evaluation on the property's DPR 523 Form appended to the report. Section 5 of the Historical Resources Impact Analysis Report presents the criteria under which the Downtown Shopping Plaza was evaluated to assess its eligibility as an historical resource, as defined in CEQA Guidelines Section 15064.5. For this property to be considered an historical resource, it would need to meet the significance criteria for the NRHP, CRHR, and/or Sacramento Register, including the additional standards for properties that may have achieved significance within the past fifty years. As with all historical resources, the property would also need to retain sufficient historic integrity to convey its potential significance.



The evaluation (see pages 15 and 16 of the DPR 523 Form, see Appendix G of the Draft EIR) summarizes the Downtown Plaza Shopping Center's historic significance for its type, period, method of construction, and artistic value, noting that while the building exhibits architectural qualities that illustrate design trends of its period, it does not demonstrate refined qualities that would make it significant within its architectural context. Based on the historic context presented on the DPR 523 Form that includes information pertaining to Brutalism, the evaluation further concludes that the "building's design aesthetic effect was limited in its application of emphasizing geometric forms and sculpted qualities of its materials, as well as in its expression using organic decoration and evocative interior spaces." The evaluation also included analysis regarding its potential importance within the standards for those properties that are less than 50 years old, concluding this property does not rise to the level of importance expressed in those standards.

Furthermore, the evaluation concluded that the property has lost substantial historic integrity through additions and alterations. Originally there were two buildings separated by the K Street Pedestrian Mall. In the early 1990s, the Downtown Plaza was remodeled, altering the facades and removing many original interior design elements, as well as almost half of its original ceramic panels. The loss of historic integrity further supports the conclusion that the Downtown Plaza Shopping Center is not eligible for listing on the NRHP, CRHR, or Sacramento Register and is not an historical resource. Please also see Response to Comment O3-3.

- O3-5 The primary purpose of the Proposed Project is development of a downtown entertainment and sports complex. Redevelopment of the Downtown Plaza in a manner that would not accommodate the ESC would not meet the project objectives.
- O3-6 The comment provides additional information about the ceramic tile panels that are discussed in detail on pages 35-39 of the Historical Resources Impact Analysis Report and in the appended DPR 523 Form (see Appendix G in the Draft EIR). The evaluation on the DPR 523 Form (see page 15) specifically addresses the panels. The information provided in the comment does not alter the conclusions regarding the historic significance of the Downtown Plaza. Please also see Response to Comment O3-4.
- O3-7 The loss of the ceramic tiles is not considered a significant environmental effect, because the Downtown Plaza Shopping Center (of which the ceramic tile murals are a part) is not considered an historical resource because it does not meet the criteria for listing in the NRHP, CRHR, or Sacramento Register. Please also see Response to Comment O3-4. Nonetheless, the project applicant has agreed to donate the ceramic tile murals to the Sacramento Metropolitan Arts Commission

(SMAC), which would identify the tiles to be salvaged. The SMAC would be responsible for salvaging and relocating the identified panels prior to project demolition.

# Alkali & Mansion Flats Historic Neighborhood Association



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**AMFHNA  
712 12<sup>th</sup> Street  
Sacramento, CA  
95814**

January 27, 2014

Scott Johnson, Associate Planner  
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Per the “Environment Effects and Scope” of Sacramento’s proposed Entertainment & Sports Complex (ESC) EIR under CEQA Guidelines comment period, following are items identified to date that must be studied and accounted for to assure these concerns are addressed and the impacts are prevented and/or mitigated throughout the Alkali Flat & Mansion Flats historic neighborhood (AMFHNA):

**Traffic flows.**

- Prevent lowering current levels of service by adding large amounts of non-local street traffic.
- Establish traffic controls and station enforcement officials throughout the area surrounding the ESC.
- Residential streets must be open to local traffic (AMFHNA residents, businesses, and their visitors) with signage posted that is police enforced.
- Prevent any cross-traffic through neighborhoods.
- Prevent ESC patron’s auto circulation through neighborhoods. (Especially in search of on-street parking)

04-1

**Transit infrastructure**

Currently there is insufficient access to the area proposed for the ESC.

- Complete Rail yards Blvd. with connections to 12<sup>th</sup>, 7<sup>th</sup> 6<sup>th</sup> and 5<sup>th</sup> Streets

04-2

## Alkali & Mansion Flats Historic Neighborhood Association

- Establish park and ride transit areas outside of the Central City.
- Effectively publicize (via signage and advertising) park and ride options.
- Provide incentives to use park and ride options.
- Provide shuttles to parking lots throughout downtown, midtown and West Sacramento.
- Establish the DNA Light rail line across the river.
- Complete the proposed Dos Rios Light rail station on 12<sup>th</sup> street
- Extend light rail hours to never end less than 90 minutes after any event at the Arena and include a free/reduced fee light rail pass with any event ticket.
- Improve the overall image of light rail as a safe and easy alternative to using a car to get to and from the arena.

04-3  
cont.  
  
04-4  
  
04-5  
  
04-6

### Parking

- Prevent diminished parking options for AMFHN residents and their visitors and assure residential street parking is kept intact.
- Evaluate the amount of all downtown venue parking demands and availability at 100% capacity when multiple events, including the ESC occur simultaneously.

04-7

### Pedestrian Walkability

- Require city planners and local residents to establish and implement a “walkability” plan to assure sufficient sidewalks and connections from downtown commercial and residential areas into the ESC site. The ESC could create undesirable traffic levels that impact alternative travel means.
- Establish way markers and landing spots for pedestrian movement.

04-8

### Bicyclists

- Create bicycle lanes as an extension of the bicycle route network.
- Establish signage and secure bicycle parking at the ESC and throughout the three major historic areas (Old Sac, Rail yards, and AMFHN).

04-9

# Alkali & Mansion Flats Historic Neighborhood Association

## Beautification

- Establish a litter abatement program, for litter generated by ESC patrons' before and after events.
- Provide landscaping along AMFHN streets and sidewalks

04-10

## Security

- An effective security plan must be in place prior to the operation of the ESC. You must ensure AMFHN residents and ESC patron's safety at all times. This plan must include additional police officers assigned solely to the ESC and AMFHN. These officers must not be used to fill other deficiencies in the Sacramento Police department at any time.
- Ingress and egress between the ESC and surrounding neighborhoods must allow for an easy pedestrian flow, as well as police access to ensure that desirable auto separation between the two areas does not create a safe haven for a pedestrian-oriented criminal threat.
- Provide Acorn Alley lighting in AMFHN.
- Provide Historic Street lights on both sides of the street In the Mansion Flats neighborhood.
- Add uniformed police at La Valentina light rail station to increase safety and promote ridership.

04-11

04-12

04-13

04-14

04-15

## Land use regulations

- The ESC Special Planning District (SPD) is designed to reverse the trend of long-term economic stagnation and encourage high quality development. Land use restrictions within the Planned Unit Development (PUD) and SPD will ensure that necessary but undesirable uses are not allowed. This protects residents living within the PUD, while allowing and encouraging these land uses within the surrounding neighborhoods .The SPD land use restrictions must be expanded to protect AMFHN and other surrounding neighborhoods.

04-16

## Economic viability

- Increase market rate housing options in AMFHN.
- Seek and provide incentive funding to build market rate for sale housing at the former Crystal Creamery sites and other vacant lots.

04-17

# Alkali & Mansion Flats Historic Neighborhood Association

- Establish first time buyer grants within AMFHN.
- Sustain and Improve business and residential developments on high traffic corridors 12<sup>th</sup> St. and 16<sup>th</sup> St.
- Allow street parking options on 12<sup>th</sup> and 16<sup>th</sup> Streets within AMFHN.
- Assist with promoting new businesses into the vacant retail/commercial space at La Valentina

↑  
04-17  
cont.

## Historic Districts

**The integrity of three National and seven Local Historic Districts existing in Alkali & Mansion Flats must not be diminished.**

This is the most historic residential area of Sacramento and its historic resources must be included in any plans for the ESC. The ESC must not block access between the three historic areas; it can be used as a pivot between them to facilitate access. Residents will not tolerate activities, which compromise or degrade its historic status including but not limited to the following:

↑  
04-18

- Diminished quality of life
- Visual blight
- Air pollution, dirt and grime
- Increased criminal activity
- Construction noise and vibrations

↑  
04-19  
04-20  
04-21

Enhancement of the historic fabric through preservation, compatible smart infill developments and other improvements must support the surrounding neighborhoods.

↑  
04-22

We look forward to seeing the ESC move forward and working with the City of Sacramento to make this project mutually beneficial.

Respectfully,



AMFHNA  
Development Committee Chair

**Letter O4 Response**      **Sean Wright, Alkali & Mansion Flats Historic Neighborhood Association**  
January 31, 2014

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O4-1      This comment is prefaced with the statement that “following are items identified to date that must be studied and accounted for to assure these concerns are addressed and the impacts are prevented and/or mitigated through the Alkali Flats and Mansion Flats Historic neighborhood (AMFHN)”. The neighborhood association boundaries are I Street, the UPRR, 7<sup>th</sup> Street, and 16<sup>th</sup> Street. The following responses to this letter consider this request.

- Lowered levels of service –The analysis included intersections on I Street between 7<sup>th</sup> and 12<sup>th</sup> Streets. Table 4.10-2, on pages 4.10- 5 and 4.10-16, and 4.10-21, on Draft EIR pages 4.10-71 and 4.10-72, show operations at these intersections under existing, and existing plus project conditions, respectively. Each of these intersections is projected to operate at LOS B or better under existing plus project conditions during the pre-event peak hour. They were also studied under cumulative conditions as presented in Table 4.10-31, page 4.10-89 of the Draft EIR. As a result of the planned street extensions into the Railyards Specific Plan area, and the traffic that would be generated from the Railyards development, many of these intersections cumulatively operate at LOS D or worse in the AM and PM peak hours. It should be noted, however, that under cumulative conditions, in the pre-event peak hour all of the intersections on I Street between 7<sup>th</sup> and 12<sup>th</sup> Streets would operate at LOS C or better.
- Traffic Control Officers at ESC – Figures 15 and 16 of the Revised Draft Event TMP show the current planned locations of traffic control officers in the ESC vicinity.
- Residential streets open to local traffic – As shown on Figure 14, there is no plan to close any of the streets within the AMFHN area during either pre-event or post-event peak hour conditions.
- Prevent cross traffic through neighborhoods – Figures 4.10-13a, b, and c of the Draft EIR display the change in traffic entering/exiting the southern boundary of the AMFHN at I Street. Chart TR-1, on Draft EIR page 4.10-54, shows that certain roadways within the AMFHN are expected to experience increases in traffic due to the project including H Street, 7<sup>th</sup> Street, 9<sup>th</sup> Street, 10<sup>th</sup> Street, and 12<sup>th</sup> Street. Many of these streets including 7<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup>, 16<sup>th</sup> Streets are designated as arterial streets in the City’s 2030 General Plan. According to the 2030 General Plan, these streets “connect to the Urban Center or connect to the regional



transportation system” (depending on whether they are classified as minor or major). As such, they are intended to accommodate a certain level of through travel, while also serving local travel needs. Prevention of any cross-traffic through neighborhood streets would require temporary traffic detours and placement of traffic control officers, which could impede access to residents and businesses.

- Prevent auto circulation through neighborhoods (especially in search of on-street parking) – Figure 4.10-10 of the Draft EIR indicates that four parking garages located within the AMFHN north of H Street and west of 9<sup>th</sup> Street are expected to be available for use by ESC attendees. On-street parking in the AMFHN consists of a mix of residential permit parking, metered parking (valid 6 days per week until 6 PM), and unrestricted parking. Some ESC attendees are likely to travel through this area to find parking, whether it be for on-street or structured parking. The extensive transportation analyses of existing plus project and cumulative conditions conducted for the Proposed Project did not identify any significant adverse impacts associated with this type of travel. However, through the City’s Neighborhood Traffic Management Program, the AMFHN can apply for a comprehensive review of neighborhood traffic, parking, and other travel-related conditions. If warranted, a variety of traffic management strategies may be considered including parking restrictions.

O4-2 The analysis of the existing plus project conditions did not assume the completion of Railyards Boulevard prior to opening of the proposed ESC. Under the cumulative analysis, the assumptions for future improvements to the transportation network included completion of 5<sup>th</sup> and 6<sup>th</sup> Streets (to Railyards Blvd.), Railyards Boulevard (from Bercut to 16<sup>th</sup> Street), and Bercut Drive. This comment expresses an interest to complete construction of Railyards Boulevard within the Railyards Specific Plan.

O4-3 This comment expresses an interest to establish park and ride transit areas, and provide shuttles for travel through downtown, midtown and West Sacramento. The analysis of transportation impacts in the Draft EIR does not support the need for such measures in order to mitigate or otherwise address impacts of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.

O4-4 The Draft EIR provides a description of the reasonably foreseeable future transit improvements that were assumed in the cumulative analysis (see pages 4.10-78 and 4.10-79). This comment expresses an interest to complete the green line light rail extension across the American River as well as the 12<sup>th</sup> Street light rail extension. The analysis of transportation impacts in the Draft EIR does not support the need for such improvements in order to mitigate or otherwise address

impacts of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.

- O4-5 The comment addresses the timing and cost of light rail transit travel. Sacramento Regional Transit (RT) is responsible for establishing light rail hours of operation and ticketing mechanisms. The analysis of transportation impacts in the Draft EIR does not support the need for such measures in order to mitigate or otherwise address impacts of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-6 The comment addresses the need to improve the perception of safety and accessibility for users of light rail transit, and does not address environmental issues considered in the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-7 Please see Response to Comment O4-1. As shown in Figure 4.10-10, approximately 13,600 off-street evening parking spaces are estimated to be available within a ½ mile radius of the project. Under existing plus project conditions, a completely sold out event at the proposed ESC would generate a demand for about 7,000 parking spaces for attendees and 930 spaces for event employees. This leaves about 5,670 spaces still available within a ½ mile radius of the project.

Overlapping events could occur at a variety of locations ranging from Old Sacramento, Raley Field, the Convention Center, and major hotels. Since reserve parking would be available within a ½ mile radius of the project, and also at lots/garages located closer to these other venues, it is unlikely that an overall CBD parking shortfall would occur. The precise parking demand for such a scenario would require knowledge of which simultaneous events are occurring, their start/end times, and attendance levels. Pages 4.10-2 and 4.10-3 describe the potential for overlapping activities. In addition, Section 8.5 of the Revised Draft Event TMP (page 50) addresses management of the downtown transportation system during multiple coinciding community events. The Revised Draft Event TMP acknowledges that the timing, types and combinations of events would be unique and would require special planning by the City, the ESC operator, and representatives of the other events to address traffic, parking, transit, bicycle, and pedestrian modes of travel, as well as a coordinated traffic control and communications plan.

- O4-8 The Draft EIR includes a comprehensive review of existing pedestrian facilities, and identifies a number of crosswalks that will require widening to accommodate event pedestrian travel demands. The Revised Draft Event TMP includes a discussion of wayfinding for pedestrians, both entering and exiting the project. In addition, the City has an adopted Pedestrian Master Plan, adopted in September 2006, that establishes the joint goals of institutionalizing pedestrian

considerations in transportation and land use projects, and improving current pedestrian deficiencies. Further, the Central City Urban Design Guidelines establish the parameters for the design of the pedestrian environment in the Central City, including the project site and vicinity. Many of the issues raised in the comment address existing deficiencies and/or ways to improve pedestrian conditions. Mitigation measures have been identified to address potential effects of the Proposed Project on the pedestrian environment, and the Revised Draft Event TMP articulates a range of these improvements. Additional improvements are not warranted to mitigate the effects of the Proposed Project, and are more effectively addressed through the other planning and design goals, policies, and standards established by the City.

- O4-9 Please see Responses to Comments A3-8 and O2-7 for discussions of bicycle parking and access at the Proposed Project.
- O4-10 The comment suggests that the Proposed Project should establish a litter abatement program and provide landscaping in the Alkali and Mansion Flats neighborhoods. The City addresses potential litter and site maintenance issues through enforcement of its municipal code. With regard to the request for landscaping in the AMFHN area, the comment includes no discussion or information that suggests a connection between the requested measure and effects of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-11 As discussed in section 4.9, Public Services, and Impacts 4.9-1 and 4.9-2, the Sacramento Police Department (PD) would provide law enforcement services at the ESC, at the Downtown project site, and in surrounding neighborhoods within the city, including the Alkali and Mansion Flats neighborhoods. The Sacramento PD would adjust staffing levels as appropriate in order to ensure adequate service at the Downtown project site (see page 4.9-4). In addition, the Sacramento PD would implement the Proposed Project's Event Traffic Management Plan before, during, and after events. The presence of Sacramento police officers at the Downtown project site and throughout the city would ensure ESC patrons' safety, and that the ESC events would not substantially adversely affect the safety of AMFHN residents.
- O4-12 As discussed in Impact 4.9-1, Mitigation Measure 4.10-1, and Appendix L, Draft Event Transportation Management Plan, the Proposed Project would implement a Revised Draft Event TMP that would provide a range of transportation management strategies designed to address the travel associated with various events at the ESC, and improve operations in downtown before, during, and after ESC events. Implementation of the Revised Draft Event TMP would ensure pedestrian flow would be separated from vehicular traffic to the maximum extent

possible. Please see Response to Comment 04-11 regarding law enforcement during ESC events.

- O4-13 The comment requests that the Proposed Project provide lighting in the Alkali and Mansion Flats neighborhoods. The comment includes no discussion or information that suggests a connection between the requested measure and effects of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-14 The comment requests that the Proposed Project provide lighting in the Mansion Flats neighborhood. The comment includes no discussion or information that suggests a connection between the requested measure and effects of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-15 The comment requests that the Proposed Project provide police officers at the La Valentina light rail station. The comment includes no discussion or information that suggests a connection between the requested measure and effects of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O4-16 The proposed ESC Special Planning District (ESC-SPD) would establish specific development approval procedures to facilitate the development of the surrounding properties and restricts the allowed uses to ensure consistency with the neighboring ESC. As is presented in Chapter 2 of this Final EIR, and discussed elsewhere in response to comments, the applicant has decided to withdraw the application for a PUD. In the absence of site-specific design guidelines, the Planning and Development Code and the Central City Urban Design Guidelines would be the regulating documents related to land use, design, and development standards for future development within the ESC-SPD area.
- The Proposed Project would not involve any physical changes within the Alkali Flat or Mansion Flats neighborhoods. The proposed SPD would not regulate land uses in those neighborhoods. The City of Sacramento Planning and Development Code and the Central City Urban Design Guidelines serve to regulate and guide land use and development throughout the Central City, including in the Alkali Flat and Mansion Flats neighborhoods.
- O4-17 Under the heading, “Economic Viability,” the comment includes an array of requested actions and programs related to economic and social issues that would promote housing availability and cost, business improvement, and street parking in the Alkali Flat and Mansion Flats neighborhoods. Under CEQA, economic and social effects are relevant only insofar as they may serve as a link in a chain of cause and effect that may connect the proposed action with a physical environmental effect, or they may be part of the factors considered in determining

the significance of a physical environmental effect. The comment includes no discussion or information that suggests a connection between the requested measures and the physical environmental effects of the Proposed Project. No evidence has been presented that the Proposed Project would affect, involve or otherwise be connected to the availability or affordability of housing or the level of business activity in the Alkali Flat or Mansion Flats neighborhoods. As such, there is no basis upon which to require the project to implement the measures suggested in this comment. The comment is noted and will be conveyed to the City Council for its consideration.

- O4-18 The Alkali and Mansion Flats neighborhood is outside of the immediate vicinity of the Downtown project site and proposed digital billboard sites. The Alkali and Mansion Flats neighborhood is adjacent to the proposed construction haul route along 7<sup>th</sup> Street, as shown on Figure 2-30 of the Draft EIR. That figure has been updated in Chapter 2 of this Final EIR and reflects a change to only include southbound truck trips on 7<sup>th</sup> Street, eliminating construction truck trips on northbound 8<sup>th</sup> Street from J to G Streets, westbound G Street from 8<sup>th</sup> to 7<sup>th</sup> Streets, and northbound 7<sup>th</sup> Street north of G Street. No building construction or operations would hinder access to the neighborhood, nor degrade the integrity of setting or historic status of the neighborhood as a result of potential impacts to quality of life. Please also see Response to Comment O4-21.

In order to reflect the revised construction haul routes, Figure 2-30 will be modified and the text of the Draft EIR, page 2-67, first and second paragraphs, is revised to read:

Construction vehicles would largely follow truck routes that would be established for the proposed ESC. As depicted on Figure 2-30 (Construction Truck Routes), inbound truck trips would access the project site from Richards Boulevard via southbound 7<sup>th</sup> Street, from northbound I-5 via Q Street and 5<sup>th</sup> Street, or directly from northbound or southbound I-5 via the J Street offramps and J Street between 5<sup>th</sup> and 6<sup>th</sup> Streets.

The direction of outbound truck trips would be determined by the destination of the truck, especially during demolition when trucks would be transporting demolition materials to recycling facilities or landfills. ~~Outbound trucks headed to Richards Boulevard would depart the site on eastbound J Street, turning northbound on 8<sup>th</sup> Street, west on G Street, and north on 7<sup>th</sup> Street.~~ Trucks heading toward I-5 could travel north on 5<sup>th</sup> ~~or 6<sup>th</sup>~~ Street to I Street to the I Street north or southbound onramps. Some trucks may depart the site on westbound L Street, either traveling toward West Sacramento via Tower Bridge, or to I-5 via the L Street onramp or south on 3<sup>rd</sup> Street to the P Street onramps.

- O4-19 Experts in the area of historic resources, including historic architecture, evaluated in detail the Proposed Project's potential effects on cultural and historic resources. Their evaluation, as well as the detailed discussions of potential impacts to aesthetics and air quality resulting from the Proposed Project provided in Draft EIR in Sections 4.1, Aesthetics, Light and Glare, and 4.2, Air Quality, confirm that construction and operation of the ESC would not result in visual changes or air quality impacts to the Alkali and Mansion Flats neighborhood that would result in degradation to its historic status.
- O4-20 Construction and operation of the ESC and surrounding development are not anticipated to result in increased criminal activity impacts to the Alkali and Mansion Flats neighborhood that would result in degradation to its historic status. Please also see Response to Comment O4-19. In Section 4.9, Public Services, the Draft EIR discusses the demand for police services, including serving the areas surrounding the Downtown project site. Impact 4.9-1 analyzes the increased demand for police personnel as a result of the Proposed Project, and confirms the ability of the Sacramento Police Department to adjust staffing levels as appropriate in order to ensure adequate service at and around the Downtown project site.
- O4-21 The Alkali and Mansion Flats neighborhood is located outside of the immediate vicinity of the Downtown project site and proposed digital billboard sites, and are too far away from the Downtown project site to be harmed by vibration during building construction. The Alkali and Mansion Flats neighborhood is adjacent to the proposed construction haul route along 7<sup>th</sup> Street, as shown on Figure 2-30. Resultant construction noise and vibration impacts would be those associated with on-road transportation noise, and are detailed in the Draft EIR in section 4.8, Noise. These impacts are anticipated to be less than significant on 7<sup>th</sup> Street north of I Street, adjacent to the Alkali and Mansion Flats neighborhood.
- O4-22 This comment does not state a specific concern about the adequacy of the EIR or otherwise comment on the contents of the document. The comment is noted and will be conveyed to the City Council for its consideration.

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## Sacramento ESC DEIR Comments:

### Chapter 2: Land Use

Page 7: We agree with the plan of high density growth, rather than further low density sprawl.

05-1

### Chapter 4,

LEED CERTIFICATION - The project should be platinum certified.

05-2

### Section 5 – Climate Change

The project design should consider future extreme weather caused or exacerbated by climate change. For example, the project should consider extended drought and install plumbing and appliances that are extremely water efficient. Further, the project should consider the increased likelihood of flooding and other extreme weather such as high winds and hail and design buildings to withstand such events.

05-3  
05-4

### Appendix B - Criteria Pollutant and GHG Emissions

- 1) The goal should be to be as close to carbon neutral as possible, then mitigate for the rest.
- 2) THE DEIR does not contain sufficient information on the greenhouse gas emissions generated by the project and how these emissions will impact air quality, water availability, human health, and flora and fauna of the region -Delta to Sierras.
- 3) Mitigation needed - installation of solar panels and/or solar hot water heaters.

05-5  
05-6  
05-7

### Appendix E – Water Supply Assessment

- 1) The project should consider extended drought and install plumbing and appliances that are extremely water efficient.
- 2) The project should implement rainwater collection systems and water recycling systems
- 3) The project should consider composting sewage system
- 4) The project should implement native, drought tolerant plantings

05-8

### Appendix H – Urban Decay

05-9

General note – There should be a plan to have accessibility to events for low income residents. A common perception in the area seems to be that “Kings games are for the wealthy or corporations”. A project that is funded in part by the public should serve ALL of the public, not just those whose incomes are high enough to give them a voice and opportunity to participate in cultural events. While the Sacramento Kings Foundation “Kings for Community” does a service for “deserving” individuals to attend games, we suggest the following: Implement a program of deeply discounted same day or day before event tickets that are sold on site in disadvantaged communities.

05-9  
cont.

**Appendix L – Transportation**

We suggest offering discounted tickets with validation of alternative mode of transportation – such as bikers, bus riders, light rail.

05-10

2.1.3 – Bike parking is not adequate for safety and security. It is well known that downtown/midtown Sacramento have a severe bike theft issue. Bike riders would not feel secure leaving their bikes outside for hours locked to bike racks. A better option would have a bike corral with attendant for ALL bikes. There needs to be a plan for adequate and safe protected bike parking to accommodate all bikes. We would expect to see a larger bump in biking as a mode of transportation than is highlighted in the report. By moving the Entertainment Center from a rural location to an urban, dense location, you will make it much more accessible to many more people by bike. Sacramento Rivercats have implemented the bike corral with attendant and it’s a great option for bikers. It will discourage biking if bikers cannot be assured of their bikes being safe.

05-11

2.1.4 - The Project should recognize and incentivize increased use of electric vehicles with charging stations available in all parking lots. The number of stations should be based on the most optimistic projections of electric vehicle usage. The charging stations should allow full charge of vehicles in four hours.

05-12

3.2.1 – Almost 20% of pre-game attendees are projected to come from the Arden Arcade/East Sacramento area. These areas are cut off from straight biking or bus routes to downtown. See notes from section 5.1. Currently there is not a “straight shot” bus route from the east into the city. A logical bus route would be from Fair Oaks Blvd to J to Capital and on to down town, and then back again, with multiple buses doing that trip on days that there are events at the entertainment center. Ideally, this could be expanded to accommodate commuters as well from Fair Oaks/Carmichael/Sacramento on the Fair Oaks Blvd corridor into the city. If building more city bus routes, consider partnering with Megabus or similar for game transportation. OR consider bus routes connecting the Fair Oaks Blvd corridor with light rail.

05-13  
05-14

6.2, figure 10 – Currently there is not a “straight shot” via bike from East Sacramento and east of there – to the proposed entertainment site. If you are travelling west into the city, the bike lanes dump you before the capital, and then you have to wind your way around to continue downtown. The bike route as described would help the bikers coming from east of the city. However, a strong note: if you want to attract families on bikes, there needs to be protected bike paths with direct routes to the complex. One of the most dangerous biking scenarios with children is the bike path that is on a busy main street (like J

05-15

Street for example), with on-street parking. You have cars going fast on the left of the bikers, and potential for car doors opening on the right side of the bikers.

↑ 05-15  
| cont.

6.3 – It is important that the project provide safe and adequate means for bikers and pedestrians to get to/from the center. Many avid bikers are highly accustomed to riding at night, and would prefer to ride at night if the bike access and bike parking is adequate.

| 05-16  
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**Letter O5      350 Sacramento**  
**Response      January 31, 2014**

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- O5-1            The comment is noted and will be conveyed to the City Council for its consideration.
- O5-2            As is described on page 2-36 of the Draft EIR, the Proposed ESC would be designed to meet the criteria for LEED Gold certification. The comment that the Proposed ESC should be designed to be LEED Platinum is noted and will be conveyed to the City Council for its consideration.
- O5-3            The Draft EIR's discussion of global climate change, in the environmental setting section, describes how human activity generates GHG emissions. That section also describes impacts that future climate change is expected to have on weather, ecosystems, biodiversity, and human health. The ESC is being designed to achieve LEED Gold certification. Table 2-6 in the Draft EIR lists the Sacramento ESC's LEED sustainability targets. One target is to include water reduction measures that are 25% more efficient than CalGreen baseline requirements. Thus, to meet the LEED Gold standards, the ESC project would include drought tolerant landscaping, as well as plumbing and associated appliances that achieve substantial reductions in water use.
- O5-4            The ESC and SPD project components would be designed to meet standards included in Title 24 of the California Code of Regulations and the ESC would be designed to obtain LEED Gold certification. The design of structures on the Downtown project site would also include waterproof foundations and effective site drainage. The Downtown project site is located outside of the 100-year floodplain, and as required by law, 200-year flood protection for downtown Sacramento would be provided in the future. The structures on the Downtown project site would be resilient to floods, high winds, and hail storms, even if such events are more frequent in the future.
- O5-5            The Proposed Project would be consistent the City of Sacramento's Climate Action Plan (CAP), and thus, consistent with AB 32 and the California Climate Change Scoping Plan. The City of Sacramento's CAP includes multiple initiatives intended to help the City achieve its overall goals of reducing community-wide emissions by 15% below 2005 levels by 2020, 38% below 2005 levels by 2030, and 83% below 2005 levels by 2050. The CAP outlines seven strategies to meet these goals. To determine the consistency of a project with the CAP, the City developed a CAP consistency checklist to provide a review process for proposed new development projects subject to CEQA. As described in the Draft EIR, the Proposed Project would be consistent with the City's checklist and, therefore, would be consistent with AB 32 and the Scoping Plan.

The Climate Action Plan Consistency Checklist, filled out to describe the Proposed Project's conformity, is included in Appendix B of the Draft EIR.

In addition, Senate Bill 743(PRC section 21168.6.6) requires an evaluation to assess whether travel to-and-from the proposed ESC would be carbon neutral as compared to travel to-and-from the existing Sleep Train Arena in Natomas. As described on pages 4.5-11 to 4.5-12 of the Draft EIR, the analysis found that GHG emissions from private automobiles and light duty trucks traveling to and from the proposed ESC would be carbon neutral when compared to baseline GHG emission from private automobiles and light duty trucks traveling to and from Sleep Train Arena.

O5-6 Greenhouse gas emissions generated by this or any other individual project would not directly affect air quality, water availability, human health, flora, or fauna of the region. However, GHG emissions of any individual project contribute to cumulative worldwide GHG emissions that indirectly affect the human and natural environment via climate change. The effects of climate change on the human and natural environment – including effects on weather, ecosystems, biodiversity, and human health - are discussed in the Draft EIR global climate change environment setting section. AB 32 and the California Air Resources Board's Scoping Plan were enacted to limit California's contribution to global GHG emissions. The City of Sacramento's CAP was created to limit the City's GHG emissions to levels consistent with AB 32. The Proposed Project was found to be consistent with the CAP (see Impact 4.5-1, page 4.5-16, and Appendix B of the Draft EIR). Since it would be consistent with the CAP, the Proposed Project can also be inferred to be consistent with AB 32 (and ARB's Scoping Plan) and, the Draft EIR has correctly concluded that the Project contribution to global climate change would be less than cumulatively considerable.

O5-7 The comment is noted and will be conveyed to the City Council for its consideration. The Sustainability Targets presented in Table 2-6 are unchanged, including the target to achieve energy reduction of at least 15% better than Title 24, and would be achieved through specific design features of the proposed ESC. The features included in the proposed ESC would include heat recovery, displacement ventilation, underfloor radiant heating and cooling, free cooling, high efficiency lighting, and demand control ventilation.

Table 2-6 identifies a target of achieving "up to 1%" on-site generated renewable energy. Based on updated design studies, the current design of the proposed ESC does not include on-site renewable energy generation. Several options continue to be studied and could ultimately be included. In the event that on-site renewable energy generation is not included in the project as constructed, the

project design would allow for future installation of renewable energy generation systems.

- O5-8 A variety of sustainability targets to be met and features to be included in the proposed ESC are presented in Table 2-6 and on page 2-38 of the Draft EIR. The Proposed Project has established a target of achieving water efficiency that is 25% better than the CalGreen Baseline, which would include the provision for low-flow water features throughout the facility and the use of drought tolerant planting in landscaping, consistent with City of Sacramento requirements.

The on-site storm drainage system would be sized to meet runoff standards with all drainage connections made to the separated drainage system which flows to Basin 52. A Low Impact Development (LID) strategy would be implemented for the site design and would utilize LID practices for stormwater treatment in order to obtain LID runoff reduction credits consistent with the guidance in the City's Stormwater Quality Design Manual. LID runoff reduction would reduce the required treatment volume which could potentially result in reduced surface area requirements for the stormwater treatment measures. Appropriate source, runoff reduction, and on-site treatment control measures would capture and process the "first flush" of rainwater from the site using Best Management Practices (BMPs) that are compliant with the current "Stormwater Quality Design Manual for the Sacramento and South Placer Regions," dated May 2007.

A composting sewage system is not being included in the design of the proposed ESC. As a major event facility accommodating as many as 17,500 event attendees, the wastewater management requirements of the ESC would eliminate the practical use of composting sewage systems. In addition, it is unlikely that such systems would be permitted by the City, Regional San, and the Central Valley Regional Water Quality Control Board in a setting such as the Central City section of Sacramento.

In order to further reduce water consumption and to meet the water reduction target of water demand 25% less than the CalGreen baseline, the Proposed Project would include the use of drought tolerant landscaping.

- O5-9 The comment references Appendix H in the Draft EIR, which contains the urban decay study that was prepared for the EIR and that is summarized in Chapter 5, Section 5.5 of the Draft EIR. The comment, however, does not address data, analyses, or the conclusions of the urban decay study. Rather, it suggests that discounted event tickets be made available to low income residents. The issue addressed in the comment is a social or economic consideration, and does not relate to the physical environmental effects that are the subject of the EIR. Please see Response to Comment O4-17 for further discussion of how social and economic effects are considered in a CEQA document.



It should be noted that a wide variety of types of events would take place at the proposed ESC throughout the year. As noted in Table 2-4, it is estimated that events would be conducted at the proposed ESC up to about 189 days per year. Of these, only about 47 events would be Sacramento Kings basketball games. The other events would range in type, cost, and attendance. A number of types of events, such as graduations and certain civic events, are usually free of charge. Other events, including Kings games, offer tickets with a wide range of prices, making events available to a wide range of income groups. Further, through the Sacramento Kings Foundation, thousands of tickets are provided each year to children and adults from economically disadvantaged communities. These efforts of the Sacramento Kings Foundation that currently exist at Sleep Train Arena would continue at the proposed ESC.

- O5-10 The project applicant has indicated its desire to work collaboratively with the City and regional transit providers in order to provide event attendees with multi-modal options for transportation to and from events at the proposed ESC. In addition, the Event Transportation Management Plan, included as Appendix L in the Draft EIR, includes a number of management strategies intended to facilitate alternative mode use by event attendees. The comment pertains to the cost of transit tickets and the potential for discounted ESC event ticket prices for users of alternative modes of travel. The analysis of travel mode use presented in Section 4.10 of the Draft EIR indicates that in the short term it is reasonable to expect about 10 percent of event attendees to use alternative modes of travel, with this percentage increasing over time to about 15%. These predictions of alternative mode use do not anticipate or rely on economic incentives such as ticket price discounts, and thus such discounts would not be required in order to ensure the predicted travel mode split or otherwise mitigate potential significant impacts of the project. Thus, the issue of ticket prices is an economic issue unrelated to the physical environmental impacts of the Proposed Project. Please also see Response to Comment O4-17 for further discussion of the consideration of economic and social effects under CEQA.
- O5-11 Well illuminated outdoor bike parking facilities would be provided with secure bike racks as well as CCTV coverage to insure optimum security. Please see Response to Comment Letter O2-7 for a discussion of bicycle parking.
- O5-12 The comment is noted and will be conveyed to the City Council for its consideration. Please also see Response to Comment O5-7.
- O5-13 Please see Response to Comment A3-8 for a discussion of bicycle access.
- O5-14 Sacramento Regional Transit (RT) and other transit agencies are responsible for establishing bus routes, scheduling, and hour of operations. Should demand exist for a new, direct route that connects the project with Arden Arcade/East Sacramento, RT could decide to implement such a route. The comment does not

raise any issues regarding the environmental impact analysis. The comment is noted and will be conveyed to the City Council for its consideration.

O5-15 Please see Response to Comment A3-8 for a discussion of bicycle access.

O5-16 The comment is a summary paragraph relating to bicycle and pedestrian safety. The comment is noted and will be conveyed to the City Council for its consideration. The comment does not raise any issues regarding the environmental impact analysis.

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Scott Johnson

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**From:** Working Animal Advocates <workinganimaladvocates@gmail.com>  
**Sent:** Friday, January 31, 2014 11:34 AM  
**To:** Scott Johnson  
**Subject:** Comments Re Entertainment and Sports Center Draft EIR  
**Attachments:** horse-drawn-carriage-accidents.pdf; 8.20.2013 HC ltr to Mayor Johnson.pdf; chac-Philadelphia Bar Institute 8-10-3.pdf; Letter to Liz Brenner - 11.28.12.pdf

Dear Mr. Johnson and Members of the Planning and Design Commission,

We are writing today as a group of citizens concerned with the Proposed Project’s potential adverse impacts on the horses used to pull carriages in and around the City’s Old Town Historic District.

06-1

At present, horse-drawn carriage rides are offered on routes in Old Sacramento and on routes outside Old Sacramento in the area of the proposed Arena. The Draft EIR fails to consider the potential impacts that increases in vehicle, bike and pedestrian traffic resulting from the construction and use of the proposed Arena will have on the occurrence and severity of accidents involving horse-drawn carriages operating in and around Old Sacramento. As documented in the attached information, horse-drawn carriages that operate in urban environments and share busy streets with motorized vehicles, bicycles and pedestrians can be a cause of serious accidents that result in grave injury, or even death, to the horses and members of the public. The Proposed Project will increase all three types of traffic and, therefore, likely cause significant risks to the safety and well-being of the horses and public.

06-2

Further, the Draft EIR fails to consider the impact of increased noise and vehicle pollution on the carriage horses in the area of the Arena as a result of its construction and use. Again, as documented in the attached information, noise and vehicle pollution potentially creates a significant adverse impact on the health and welfare of horses used to pull carriages in urban settings. The construction and use of the Arena will introduce increased levels of urban noise and vehicle pollution in the immediate vicinity of horses pulling carriages in the streets around the Arena. Because carriage horses operate in a nose-to-tailpipe setting, any increase in surface street traffic will increase the horses’ exposure to vehicle noise and pollution emissions. Additionally, horses being "spooked" by loud or startling noises is a primary cause of accidents involving horse-drawn carriages.

06-3

Finally, we believe the significant adverse impacts posed by the construction and use of the Arena require consideration of the mitigation measures of (i) the elimination of horse-drawn carriage routes in the affected area of the Proposed Project during its construction and (ii) the banning of horse-drawn carriage operations on streets in the area of increased traffic during times the Arena is in use.

06-4

Thank you in advance for your consideration of, and response to, these comments.

Sincerely,

Kim Flaherty

Working Animal Advocates

<http://www.workinganimal.org/>

# Incidents Involving Horse-Drawn Carriages

The following is a partial list of incidents involving horses used in carriage operations. Contact PETA for documentation.

**December 28, 2013/San Antonio, Texas:** A car hit a carriage, knocking the driver out of the rig. The car then fled the scene.

**December 21, 2013/St. Louis, Missouri:** A horse named King keeled over and died while pulling a carriage in a holiday light display.

**December 12, 2013/Louisville, Kentucky:**

A car rear-ended a carriage that was being operated by the Louisville Horse Trams company, causing the horse to break free and take off down the street.

**November 10, 2013/Galveston, Texas:**

The driver of a carriage jumped out of the rig after the horse took off running, leaving two passengers behind. The driver was run over by the carriage, and one passenger jumped out as the other tried to regain control. The carriage plowed through a fence.

**November 9, 2013/Philadelphia, Pennsylvania:** A horse named Silver, who was pulling a carriage for the 76 Carriage Co., slipped and fell and was unable to get up. He was then strapped to a tractor and raised to his feet.

**June 10, 2010/Philadelphia, Pennsylvania:** A pit bull slipped out of her leash and attacked a horse pulling a carriage.

**April 10, 2010/Anchorage, Alaska:** A drunk driver crashed her pickup truck into a horse-drawn carriage.



**September 26, 2013/New York City, New York:** A horse named Chris sustained scratches after he bolted through midtown, sideswiped a car, and flipped the carriage. Chris was pinned under the overturned carriage and was freed after a group of bystanders lifted the rig off his hind legs. The driver, Frank Luo, owner of the Manhattan Carriage Co., had been charged just the previous day for operating a carriage for more than 12 hours in a 20-hour period and for overcharging riders. Luo admitted that Chris had been acting strangely as soon as they left the stable, yet Luo continued on his way.

**August 17, 2013/Salt Lake City, Utah:** A horse named Jerry collapsed on State Street in downtown Salt Lake City in sweltering heat while pulling a carriage. He sustained cuts and abrasions when he fell on the hot asphalt. Straps were tied to him so that he could be dragged into a trailer. Back at the stable, a tractor was used to lift his limp body into a barn. Jerry subsequently died.

**July 9, 2013/Salt Lake City, Utah:** A 2-year-old child was thrown from a carriage onto the street near Temple Square. After she landed on the street, a carriage wheel ran over her leg. She was transported to Primary Children's Medical Center with road rash and abrasions.

**April 4, 2013/Salt Lake City, Utah:**

A horse became spooked on North Temple after children were throwing wads of paper at him. The horse bucked and tipped the carriage over into a Utah Transit Authority bus, obstructing traffic for about an hour.

**August 10, 2013/Petaluma, California:**

An 11-year-old girl riding in a horse-drawn carriage was injured after the horse was spooked and took off running full speed down the street. The driver was ejected and dragged for several yards, and the girl sustained minor and moderate injuries and was taken to the hospital. The horse was caught and reportedly sustained minor injuries.

**February 2, 2013/Ashfield, Ontario:** A car collided with a carriage, sending two passengers to the hospital.

**January 13, 2013/Scottsdale, Arizona:** Three passengers were taken to the hospital after a carriage hit a curb and flipped over. In a separate incident four days earlier, a horse and carriage plunged into a canal after the horse got spooked.

## Incidents Involving Horse-Drawn Carriages

**January 5, 2013/Burbank, California:** A woman sustained head injuries after being ejected from the carriage in which she was riding. The horse pulling the carriage had gotten spooked, causing the carriage to overturn.



**December 21, 2012/Denver, Colorado:** A carriage unexpectedly cracked and splintered in half during a holiday ride, leaving passengers stranded in the carriage.

**December 8, 2012/Guelph, Ontario:** A driver sustained serious injuries after being dragged by two horses who got spooked after the brakes on a nearby car squeaked. The carriage flipped over.

**December 5, 2012/Bethlehem, Pennsylvania:** A witness reported seeing two horses on the side of the road, one lying on the ground and another rearing and bucking. Police said one horse slipped and fell.

**December 3, 2012/North Vernon, Indiana:** A woman died of injuries that she sustained in a carriage accident on November 18. The two horses had gotten spooked and took off, overturning the carriage.

**November 28, 2012/Natchez, Mississippi:** A carriage driver sustained bumps and bruises after a car rear-ended the carriage and he was knocked off it.

**November 25, 2012/Bedford, Pennsylvania:** Two horses who got spooked by band music took off, causing the driver to jump out of the carriage. He was flown by helicopter to the hospital and treated for head injuries. Two passengers were also taken to the hospital with minor injuries.

**November 12, 2012/New York, New York:** A horse named Henry, who was pulling a carriage in Central Park, hurt his leg after stumbling. He was pulled from service.

**October 28, 2012/Montréal, Québec:** A horse pulling a carriage collapsed, and witnesses reported that the driver kicked him while he was on the ground. The carriage operator surrendered the horse, along with another horse he no longer wanted, to the SPCA.

**September 22, 2012/Salt Lake City, Utah:** A horse-drawn carriage was struck in the rear by a motor vehicle near 200 South and State Street. The driver fled the scene, but police tracked him down and charged him with a hit-and-run. No injuries were reported.

**September 1, 2012/Houston, Texas:** Two people were sent to the hospital after a car crashed into a carriage.

**August 16, 2012/New York, New York:** A spooked horse took off into busy traffic, dumped the driver and two passengers, struck two cars, split the carriage in two, and ran for four blocks before being captured. The two passengers and the driver were treated for minor injuries. The horse, named Oreo, was tranquilized before being taken back to the stables.

**July 21, 2012/Galveston, Texas:** A man was killed and three others were hospitalized after the carriage in which they were riding was hit by a car. The horse's leg was cut open, according to an eyewitness, and the animal was led away limping.

**July 13, 2012/Philadelphia, Pennsylvania:** A horse named Dutch, who was pulling a carriage, became startled and ran into an intersection, where two cars hit the carriage. The driver was thrown from the carriage and hospitalized. The horse took off down the street and sustained a leg injury.

**July 10, 2012/Casper, Wyoming:** Two horses were euthanized and three people sustained injuries when an SUV rear-ended a carriage. A witness said that the carriage and horses were thrown into the air.

**June 7, 2012/New York, New York:** A horse sustained a "nasty-looking gash" after an SUV collided with the carriage she was pulling. The horse's head cracked the automobile's windshield after the animal was sideswiped.

**May 28, 2012/Milwaukee, Wisconsin:** A car hit a carriage and took off. The horse, Smokey, sustained cuts to his legs, and the driver was thrown from the carriage and sustained cuts and bruises. The carriage was operated by Milwaukee Coach and Carriage.

**May 10, 2012/St. Louis, Missouri:** A driver abandoned a carriage after a man allegedly hijacked it, and Harry, the horse being used by the St. Louis



## Incidents Involving Horse-Drawn Carriages

Carriage Company, took off running for 10 blocks before crashing. The assailant jumped out and punched and kicked Harry before passersby intervened.

**April 28, 2012/Old Montréal, Québec:** A horse pulling a carriage bolted full-speed down the street. The driver was dragged before she fell off. Several parked vehicles were damaged, and the carriage was broken apart. The woman sustained minor injuries, but the horse's condition wasn't reported.

**December 18, 2011/New Orleans, Louisiana:** A horse pulling a rickshaw collapsed and died on Bourbon Street.

**December 16, 2011/Wichita Falls, Texas:** Several people were injured, including two who were hospitalized, after falling out of a carriage that turned over. The riders had been viewing holiday lights.

**December 4, 2011/New York, New York:** A horse pulling a carriage with four passengers near Central Park stumbled and fell to the street. A representative of the Horse and Carriage Association of New York downplayed the incident, saying the horse "caught [his] toe in the pavement, which is quite common."

**December 3, 2011/Hemet, California:** After participating in a Christmas parade, a spooked horse took off running, rolling over the animal's owner with the carriage and striking light poles and parked cars before collapsing. The owner was treated at the hospital.

**November 4, 2011/New York, New York:** A horse pulling a carriage collapsed in midtown.

**October 28, 2011/New York, New York:** A spooked horse charged into traffic and ran down the street before crashing. A witness reported that it was quiet and that it was unclear what had prompted the horse to bolt, saying, "The entire incident happened so fast and was extremely shocking. The horse took off at top speed and could not be stopped. He could have easily trampled a pedestrian."

**October 23, 2011/New York, New York:** A horse pulling a carriage collapsed and died in the street.

**September 25, 2011/Hampton Falls, New Hampshire:** Two horses pulling a carriage carrying about a dozen passengers bolted and collided with another carriage. A woman who tried to stop the horses was trampled and airlifted to the hospital with life-threatening injuries. Another passenger was

hospitalized with serious injuries, and four others sustained minor injuries.

**September 23, 2011/Salt Lake City, Utah:** A horse named Cletus lost his footing, slipped, and collapsed in front of Temple Square. He died later that evening.

**August 17, 2011/Mackinac Island, Michigan:** A witness reported seeing a horse collapse to the ground, have a seizure, and die. The carriage driver continued to pull on the reins in an effort to get the horse up while the animal was dying.

**July 28, 2011/New York, New York:** Three tourists and a carriage driver were hurt when a taxi rear-ended a horse-drawn carriage near Central Park. One passenger was thrown to the sidewalk, and the driver was in critical condition with a head injury. The horse was knocked to the ground, and the carriage fell on top of him.

**July 27, 2011/Quinton, Oklahoma:** Five people riding in a horse-drawn carriage died of massive injuries after a truck collided with the carriage.

**July 15, 2011/Salt Lake City, Utah:** A horse pulling a carriage spooked when he or she heard the air brake release from a nearby bus. The horse reared up, causing the carriage to jack-knife, and the passengers were thrown around inside it. The carriage was damaged, but no one was seriously injured.

**July 3, 2011/Toronto, Ontario:** While pulling a carriage, a pair of horses became spooked, bolted, and ran over the carriage's owner before the carriage flipped over. The rig's owner sustained broken ribs and was taken to the hospital, and two passengers were also taken to the hospital. One of the horses was injured.

**March 20, 2011/Natchez, Mississippi:** A horse-drawn carriage driver and several passengers sustained injuries when a car rear-ended the carriage, operated by Southern Carriage Tours. The driver was ejected and fell to the street, injuring his leg. The startled horse panicked and took off running. Some of the passengers sustained cuts from being thrown around in the carriage.

**February 12, 2011/Ottawa, Ontario:** Four people, including a 3-year-old girl, were injured after they were hit by a horse running through a park. The horse had been giving rides at a winter carnival. The operator later found the horse lying on a sidewalk. The toddler and another bystander were taken to the hospital, and two others were treated at the scene.

## Incidents Involving Horse-Drawn Carriages

**November 3, 2010/New York, New York:** A horse was hit by a city bus in midtown Manhattan during rush hour. Witnesses say the horse looked traumatized, but after the carriage driver exchanged words with the bus driver, the carriage continued on its way.

**October 3, 2010/Palm Springs, California:** A horse was injured after a car smashed into the carriage she was pulling.

**July 31, 2010/Eureka, California:** The driver and owner of Old Town Carriage Co. was hospitalized with serious injuries after the horse who was pulling the carriage became spooked—possibly by a passing skateboarder—and took off running. The carriage crashed into a parked car and a wooden post, tossing the driver to the ground. One passenger complained of leg pain, and the horse, Cinnamon, also sustained injuries.

**July 4, 2010/Bellevue, Iowa:** A woman was killed and multiple children were trampled and injured when two horses who were pulling a carriage in the Heritage Days parade became spooked and took off, dragging the carriage through crowds of people at a ejected from the vehicle.

**May 31, 2010/Thunder Bay, Ontario:** A 4-year-old girl was killed after a horse became startled and bolted while being petted by the child and other kindergartners, who were on a field trip. The wheel of the carriage went over the toddler's body. Several other children were also injured.

**May 11, 2010/New York, New York:** Witnesses reported seeing a collision between a cab and a carriage.

**May 1, 2010/New York, New York:** Witnesses reported that a horse pulling a carriage became spooked and crashed near Central Park South after running against traffic and sideswiping several cars. The horse reportedly appeared to be injured, and several emergency vehicles responded to the scene.

**April 19, 2010/Philadelphia, Pennsylvania:** Five people were injured—including one man whose ear was partially ripped off—and five horses were injured when a car crashed into a horse-drawn carriage, triggering a chain-reaction crash involving two other carriages.

**April 16, 2010/Atlanta, Georgia:** Four riders were seriously injured—one critically—when the carriage in which they were riding was totaled after a car ran into it.

**April 10, 2010/New Bern, North Carolina:** At least three people were transported to the hospital after a car rear-ended a horse-drawn carriage that was being operated by Carolina Carriage Tours. The collision pushed the carriage into the horse, causing the horse to bolt. The horse was also injured.

**February 13, 2010/Fort Worth, Texas:** The driver of a horse-drawn carriage sustained a fractured eye socket, three broken bones in his back, a bruised lung, and a shoulder injury after his carriage was hit by a car in a hit-and-run collision.

**January 23, 2010/Mesa, Arizona:** A man was seriously injured and two horses were hurt after a barking dog startled four horses while they were pulling a carriage. The front two horses took off running, and the back two horses stumbled and were dragged along with the carriage approximately 75 feet down the street. The driver sustained serious road-rash injuries, some down to the bone. The back two horses also sustained road rash. A motorcycle driver was also injured when he had to lay down his motorcycle in an attempt to get out of the way of the out-of-control rig.

**December 27, 2009/Canandaigua, New York:** A horse was euthanized and four people were injured after a car hit a carriage from behind and all four passengers were ejected. Two were airlifted to a local hospital. The carriage was demolished.

**December 27, 2009/Sacramento, California:** A car struck a horse-drawn carriage from behind, upending the carriage and snapping it in half. The two riders were treated at a hospital after they and the driver were ejected from the carriage. The horse sustained leg injuries.

**December 25, 2009/Covington, Ohio:** A car crashed into a horse-drawn carriage, injuring the carriage driver and destroying the carriage. According to police, the carriage driver sustained a "fairly severe head injury" and was taken to the hospital. A passenger sustained minor injuries. This was the second carriage accident in Covington in one week.

**December 23, 2009/Covington, Ohio:** A horse who was pulling a carriage was startled and took off, flipping the carriage and ejecting the driver. The horse broke free and ran through the neighborhood before being recaptured.

**December 15, 2009/Stanley, Virginia:** Fourteen people on a holiday ride in a horse-drawn carriage were hurt when a car slammed into the carriage, ejecting the driver and causing the horses to run 100 yards before hitting an electric pole. All 14 people

## Incidents Involving Horse-Drawn Carriages

were taken to the hospital, including one who had to be airlifted.

**December 6, 2009/Philadelphia, Pennsylvania:** A horse who was pulling carriages for holiday rides was startled by a bus and took off down the street, hitting a parked car and injuring the driver, who was standing nearby.

**November 20, 2009/Beachwood, Ohio:** A horse who was pulling a carriage was spooked by a high-school band and ran through a barricade and over a curb, colliding with two cars before breaking away from the carriage and taking off at a full gallop. The driver was injured after being pulled to the ground while trying to regain control.

**October 8, 2009/Charleston, South Carolina:** A horse pulling a carriage for Carolina Polo and Carriage Co. fell after his leg became caught in the carriage. The horse sustained abrasions but was put back to work the next day.

**September 23, 2009/Chicago, Illinois:** Two drivers who had worked for J.C. Cutters Horse Drawn Carriages were convicted of mistreating horses. Six horses were seized earlier in the year after animal-control officers repeatedly found horses who were coated with dirt and whose hooves were covered in manure as well as horses who were living in stalls in which manure was mixed with hay. The city had previously denied J.C. Cutters' application for a 2009 license to conduct carriage rides.

**September 19, 2009/New York, New York:** A cab plowed into a horse-drawn carriage near Central Park. Both drivers were taken to the hospital.

**August 29, 2009/Philadelphia, Pennsylvania:** A horse was injured after crashing and falling to the ground. The carriage collided with a pole.

**August 29, 2009/Québec, Canada:** Three children were ejected from a runaway carriage and sustained minor injuries after a team of ponies panicked and took off down the street during a community parade. The cart hit a car, throwing the driver under the rig and severing his leg below the knee.

**August 29, 2009/Salt Lake City, Utah:** A horse who was pulling a carriage containing a family of seven became startled and ran down the street before being stopped. The driver exited the rig, but the horse became frightened again and took off, dragging the driver until he was forced to let go while the horse continued running. A police officer riding a bike attempted to intervene, but his bike became tangled

with the carriage and he fell down while trying to stop the animal. The carriage came to a stop two blocks later when it hit a parked car. Both the driver and the police officer sustained minor injuries, and the carriage and the officer's bike were both totaled.

**August 7, 2009/Santa Barbara, California:** Several people were injured during the city's Old Spanish Days Fiesta parade when a horse pulling a carriage became spooked, ran out of control for nearly two blocks, and collided with another carriage. Both horses collapsed, and one lost consciousness and received aid from a veterinarian before reviving.

**August 6, 2009/Savannah, Georgia:** A horse pulling a carriage for Historic Savannah Carriage Tours became spooked, ran into traffic, and was hit by a car. A dog traveling in the carriage was injured and was taken to a veterinarian for treatment.

**August 1, 2009/Portland, Oregon:** A 23-year-old horse pulling a carriage in a wedding procession died after falling and breaking his leg.

**July 4, 2009/San Antonio, Texas:** A horse became spooked by a bus's air brakes and took off running through the downtown streets. The driver was thrown from the rig, and the horse broke free of the carriage and ran away. Later that day, the same horse lost balance after the carriage hit a curb on the way back to the barn, causing the rig to flip over. The driver was ejected.

**July 2009/Charleston, South Carolina:** Charleston officials issued the Carolina Polo and Carriage Co. six citations for various issues, including providing its horses the lowest quality feed and hay, submitting altered medical records, and using bleach to clean stalls (urine in the stalls produces ammonia, which, when mixed with bleach, can create toxic gas). The city issued five more citations after the company failed to meet deadlines to bring the operation up to code.

**July 2009/St. Augustine, Florida:** A case was settled for an undisclosed amount for a 2002 accident in which a Buffalo, New York, woman sustained serious neck and wrist injuries when a carriage that was changing lanes was struck in the side by a drunk driver. The carriage seat in which the woman and her husband were sitting broke loose and flipped backward.

**June 8, 2009/San Francisco, California:** A horse pulling a carriage became spooked, threw the driver out of the rig, and ran over him before taking off down the street near Fisherman's Wharf. After being stopped by a passerby, the horse broke free and ran down the Embarcadero, knocking at least two

## Incidents Involving Horse-Drawn Carriages

bicyclists to the ground before being stopped. The driver died after spending two weeks in a coma.

**June 3, 2009/Mackinac Island, Michigan:** The driver of a carriage on Mackinac Island was injured after he was run over by his own rig after his horse was spooked by a dog.

**May 23, 2009/Morristown, New Jersey:** A man was taken to the hospital with broken ribs, severe scrapes, and bruising when two horses pulling a carriage in a parade became spooked and took off running. The man was thrown against the curb, was kicked, and became pinned under the carriage when it tipped over on top of him. A 9-year-old passenger was thrown to the street, and his 8-year-old friend clung to the side of the rig as the horses dragged it down the street. One horse sustained injuries, and the driver was also slightly injured. After the carriage was righted, the horses took off again, pulling the empty carriage.

**May 6, 2009/Mineral Wells, Texas:** A horse pulling a wagon in a rodeo parade bolted, injuring the driver and damaging a house and at least two parked cars. Bystanders were forced to run into a yard for safety, and a woman positioned her car between a mother with her baby and the horse, who was bolting toward them.

**April 24, 2009/Pratt, Kansas:** A man died and his wife was injured after a wheel came off the carriage in which they were riding and spooked the horses. The carriage went off the road, into a ditch, and up an incline before overturning. The man sustained a chest injury that punctured his lung, and he died during surgery. His wife sustained a sprained ankle. The couple was conducting a "test run" in preparation for an upcoming wedding ceremony.

**April 12, 2009/Logan, Utah:** The driver of a horse-drawn carriage was hospitalized after the carriage went off the road and tipped over.

**April 3, 2009/Nebraska City, Nebraska:** A horse pulling a carriage ran out of control and hit a curb, damaging a vehicle.

**March 26, 2009/Charleston, South Carolina:** A horse pulling a carriage with Classic Carriage Tours Co. was startled by the sound of construction machinery and ran down the street "at a high rate of speed." The driver had to veer the horse and carriage to the side of the road in order to avoid hitting pedestrians. The carriage overturned, bending a stop sign completely over onto the sidewalk.

**March 23, 2009/Salem, New York:** A horse pulling a carriage that held eight to 10 passengers became frightened and ran down a steep embankment. A 9-year-old boy was injured when the carriage overturned, and he was airlifted to the hospital. The other passengers sustained minor injuries.

**February 14, 2009/Waseca, Minnesota:** Two horses pulling a carriage during Waseca's Sleigh and Cutter Days Parade broke free and took off down the parade route. Witnesses reported that the driver was thrown into the street and was believed to have been taken to a nearby hospital. One woman sustained a foot injury, and a parked city truck was damaged.

**January 17, 2009/Eureka Springs, Arkansas:** A horse died of a heart attack while pulling a carriage for Southern Pride Carriage Tours.

**January 2009/Charleston, South Carolina:** A carriage with the Palmetto Carriage Co. hit the rear bumper of a police car. The carriage driver told police that the horse was "spooked" by a puddle of water.

**December 18, 2008/Fountain Inn, South Carolina:** A car struck a horse-drawn carriage. The driver reported that he didn't see the carriage in time to stop.

**December 15, 2008/St. Augustine, Florida:** A speeding car hit a horse-drawn carriage belonging to Avalon Carriage Services, causing the carriage to crash into another carriage. The accident spooked several horses. One horse bolted, causing a carriage to collide with a light pole. The accident caused several thousand dollars in damages.

**December 6, 2008/Fountain Inn, South Carolina:** One person was thrown to the ground and taken to the hospital after a car ran into the back of a horse-drawn carriage owned by Classic Carriage Co. Two other passengers later reported back injuries.

**November 28, 2008/Little Rock, Arkansas:** Six people, including two children, were injured when a bus struck a horse-drawn carriage owned by Little Rock Horse and Carriage Co. The carriage driver sustained a broken neck and had to have a steel plate, an artificial bone, and four screws inserted into her neck. Her right arm is partially paralyzed. A 7-year-old girl was blinded in her right eye. Doctors were unsure whether the damage to the girl's eye would be permanent.

**November 28, 2008/Rhineland, Wisconsin:** Horses pulling a Santa Claus in a carriage at a holiday event were startled by the lighting of a Christmas tree. Still harnessed to the carriage, the

## Incidents Involving Horse-Drawn Carriages

horses bolted, ran over a man, collided with two light poles, and briefly ran loose in the city. The man was transported to a hospital. At least one parked vehicle was damaged.

**October 18, 2008/Charleston, South Carolina:** A horse with Classic Carriage Co. was startled when the rubber around one wheel of the carriage came off. The horse dashed between two parked cars, causing damage to the front bumper of one of the vehicles and overturning the carriage. The driver, who was thrown to the ground, sustained head injuries and was taken to the hospital.

**October 4, 2008/Portsmouth, Rhode Island:** Horses pulling a carriage at a sporting club became spooked and galloped into a wooded area where the carriage struck a wall and tipped over. Three passengers were injured.

**August 31, 2008/Brooklyn, New York:** Two horses waiting to pull a wedding carriage panicked when the pole that connected them to the carriage snapped. One of the carriage drivers was thrown from the buggy and landed on the windshield of an occupied Lincoln Town Car. The reins broke as the other carriage driver tried to steer the running horses, who eventually stopped when they encountered a light pole in their path. A man who was found under the carriage was taken to a nearby hospital, and one of the horses was treated for injuries.

**July 24, 2008/St. Augustine, Florida:** Three passengers in a horse-drawn carriage were treated for minor injuries at a local hospital after the horse made a sharp U-turn, flipping the buggy. The driver also sustained minor injuries, and the horse sustained scrapes and scratches.

**July 8, 2008/Memphis, Tennessee:** A pickup truck plowed into a horse-drawn carriage that was waiting for passengers, flipping the carriage over and tearing it in half. The carriage driver was taken to the hospital. The horse was knocked to the ground and sustained scratches on his legs.

**April 12, 2008/Cincinnati, Ohio:** A horse pulling a carriage tossed the driver and galloped along a sidewalk. Some of the four adult passengers jumped out of the carriage, and some fell out. The horse then dragged the overturned carriage at least another half-block before police stopped the animal. One passenger sustained a head injury, the driver sustained a back injury, and minor damage was done to a building.

**March 9, 2008/Waynesboro, Tennessee:** A man died after the horse-drawn carriage in which he was

riding was struck from behind by a car, throwing him from the carriage. The victim's daughter, the horse, and the carriage were knocked approximately 25 feet off the road. The impact also killed the horse.

**March 2008/Charleston, South Carolina:** According to news reports, someone struck the wheel of a horse-drawn carriage, spooking the horse and sending the carriage racing down the street. The carriage sustained approximately \$2,500 in damage.

**January 19, 2008/Charleston, South Carolina:** A horse with the Old South Carriage Co. became spooked and ran off, knocking an employee to the ground and dragging the carriage around a corner, where it broke a restaurant window.

**January 9, 2008/Charleston, South Carolina:** Six tourists in a carriage owned by Old South Carriage Co. were injured after a loose bridle slipped over the ears of the horse who was pulling their carriage and the horse became startled. The horse ran and dragged the carriage until it hit a curb, shattering a wheel. Three of the passengers were thrown from the carriage as it fell on its side.

**December 29, 2007/Farmington, Pennsylvania:** Five people, including two children, were injured when they were thrown to the ground after the horse-drawn carriage in which they were riding overturned. An adult woman and a young boy were pinned under the carriage. All five were taken to hospitals for treatment.

**December 16, 2007/Kansas City, Missouri:** Two horse-drawn carriages collided at an intersection, causing injuries to several people.

**December 13, 2007/Thomasville, Georgia:** A horse who had pulled carriages for years at the city's annual Victorian Christmas event became spooked and bolted while pulling a carriage with six passengers, then ran into a tree and a guy wire. The driver was pulled across the carriage's dashboard when the horse's harness came loose and broke. Passengers with minor injuries and a woman who experienced a panic attack were treated at the scene. The horse sustained a broken neck and other serious injuries and died as a result of the accident.

**December 8, 2007/St. Augustine, Florida:** A car ran into the back of a horse-drawn carriage belonging to the St. Augustine Transfer Co., pushing the carriage into two parked cars. The crash spooked the horse, who took off running. The horse continued to run when the carriage front broke, freeing him from the carriage. The drivers were thrown from the carriage and were badly bruised.

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**September 14, 2007/New York, New York:** A horse who was spooked by a street performer's drum ran nearly a block along the sidewalk before slamming into a tree and suffering fatal injuries. The horse's panicking caused a second horse—who was still attached to a carriage—to dart into traffic and collide with a car.

**August 17, 2007/Cincinnati, Ohio:** A taxi hit the back of a carriage, knocking the carriage driver and two passengers out of the buggy. The horse—with the carriage in tow—bolted and ran into a moving vehicle. The horse sustained a gash on one leg, and the driver was taken to the hospital with a leg injury.

**August 3, 2007/Mackinac Island, Michigan:** A horse-drawn carriage operated by Gough Livery crashed through a fence, fell approximately 6 feet down an embankment, and hit a tree after one of the horses pulling it became spooked, which caused both horses to run. The impact threw the driver and two passengers from the carriage, and all three were taken by ambulance to the island's medical center for treatment. One of the passengers blacked out and needed 30 staples to close an injury to his scalp; the other passenger sustained a bruised kneecap and broken bones in her feet. The driver broke her femur, and one of the horses received stitches.

**July 29, 2007/Roanoke, Virginia:** Three people, including a 4-year-old girl and a 15-year-old girl, were hospitalized after being thrown from a runaway horse-drawn carriage. The carriage's two horses bolted, and the driver lost control. The carriage ran over the 15-year-old's leg.

**July 4, 2007/New York, New York:** A frightened horse who was pulling a carriage bolted and collided with a taxi on Central Park South. A motorcyclist abandoned his bike in order to avoid the horse. The cab driver was treated for injuries at the hospital, the horse sustained several gashes on one leg, and the cab sustained significant front-end damage.

**June 17, 2007/Council Grove, Kansas:** A car crashed into the back of a horse-drawn carriage, and a second car crashed into the back of the first car. Two people were taken to the hospital for injuries. The horse was euthanized because of severe injuries.

**June 9, 2007/St. Augustine, Florida:** Five passengers jumped out of a carriage when a horse bolted and ran for several blocks. Two people were injured, including one who was taken to the hospital and treated for injuries.

**June 2, 2007/New York, New York:** A spooked horse who was pulling a carriage was hit by an SUV

at an intersection after the horse galloped away from the driver. When the horse fell, the carriage broke loose, was propelled into the air, and landed on the curb, barely missing pedestrians.

**April 30, 2007/Blacksburg, Virginia:** Two horses were spooked when the carriage they were pulling sideswiped a curb. They bolted and ran at least a half-mile. A 73-year-old man and his daughter were thrown out of the carriage. The man was airlifted to the hospital.

**April 13, 2007/New York, New York:** A horse who was pulling a carriage was hit by a taxi at Grand Army Plaza.

**April 9, 2007/Indianapolis, Indiana:** A collision with a van threw a carriage driver to the ground and sent a driverless carriage racing through downtown Indianapolis with two passengers trapped inside. The driver was knocked unconscious, and both passengers were taken to the hospital and examined. A bystander who jumped into the carriage from a moving taxi was credited with saving the passengers' lives.

**September 14, 2006/New York, New York:** After collapsing in Central Park, Juliet, a horse who had pulled carriages in New York City for almost two decades, was whipped repeatedly by a carriage driver who was trying to get her to stand up. A horrified crowd gathered and begged the carriage driver to stop beating her. Juliet was eventually hauled away in a police trailer to her stable, where she died early the next morning.

**May 20, 2006/Chatanooga, Tennessee:** A horse pulling a carriage was spooked by buses and collided with a car that was stopped at a traffic light. The horse reared up, stomping on the roof of the car, shattering the back window, and crushing the trunk and hood. The horse sustained leg injuries.

**May 5, 2006/New York, New York:** A horse pulling a carriage through Manhattan became spooked and ran amok, narrowly missing several vehicles before colliding with and overturning a moving car. The driver of the car was hospitalized, and witnesses claimed that the horse sustained an open neck wound.

**April 28, 2006/New York, New York:** A young horse who was being trained to pull carriages suddenly became spooked and bolted, colliding with a 71-year-old bicyclist in Central Park. The bicyclist was hospitalized. The carriage driver jumped out of the vehicle during the incident and injured his knee.

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**January 2, 2006/New York, New York:** A horse who was pulling a carriage in Manhattan suddenly bolted and collided with an automobile. The horse was pinned under the car and was later euthanized because of severe injuries. The carriage driver was hospitalized in critical condition with a fractured skull, and two men in the car were also seriously injured.

**September 30, 2005/Boston, Massachusetts:** A horse who was being used to pull carriages in downtown Boston collapsed in the street, where the animal, according to reports, "clapped the pavement with [his or her] hooves trying desperately to stand up." More than two hours passed before a veterinarian arrived.

**June 22, 2005/Chicago, Illinois:** A spooked horse reared up, overturned the carriage he was pulling, and threw the driver into the street. The horse galloped down the street, hitting at least one car before he was stopped. One witness said, "He was really scared, scared to death, you could see it." The driver went to the hospital with a broken leg.

**May 14, 2005/New York, New York:** Two horses broke free from their carriage after a hit-and-run collision with a van. The driver was thrown from the rig and landed on his head.

**September 5, 2004/Brewster, Massachusetts:** Two people were hospitalized with life-threatening injuries after several passengers were thrown from a horse-drawn carriage at a state park on Cape Cod. Two other riders sustained less serious injuries.

**September 5, 2004/Hamilton, Virginia:** A horse who was pulling a carriage was impaled and killed by a piece of the buggy after it was hit by a car. Two other horses sustained scrapes, and a fourth horse sustained leg injuries.

**August 28, 2004/Wilkes-Barre, Pennsylvania:** A horse who was pulling a carriage was severely injured after being struck by a hit-and-run driver.

**December 22, 2003/Kansas City, Missouri:** The driver of a horse-drawn carriage that carried six passengers was hospitalized with a broken leg after his carriage was involved in an accident.

**November 30, 2003/Louisville, Kentucky:** The driver of a horse-drawn carriage was injured after a car "clipped" the back of the rig. The accident was at least the third involving horse-drawn carriages in two years. Two horses were killed in 2002 after vehicle accidents.

**October 27, 2003:** An article in *Fortune* magazine detailed the financial costs of animal-related traffic accidents (including horse-drawn carriage accidents). The article said that the accidents cause \$1.2 billion in damage annually, according to the Insurance Information Institute.

**October 25, 2003/New York, New York:** Four people got the "scare of their lives" when a horse who was pulling a carriage suddenly bolted down the street and barreled into another carriage, causing both rigs to flip over. Four people were treated for injuries.

**October 5, 2003/Las Vegas, Nevada:** An article in the *Las Vegas Review-Journal* about transportation issues in the city recounted an accident in which a team of horses who were pulling a carriage bolted and threw two passengers, leaving one in a coma. The county subsequently banned horse-drawn carriages.

**September 5, 2003/Beaufort, Pennsylvania:** A woman was injured while attempting to board a horse-drawn carriage. The horse became spooked and started running, dragging the woman more than 100 feet through a parking lot.

**August 8, 2003/Apple Valley, California:** The driver of a horse-drawn hearse lost control of the horse during a practice run and jumped from the rapidly moving carriage. The horse and carriage ran into a wall and some cacti. The driver broke both of his arms and one of his legs. The horse received stitches to the face and had to have cactus spines removed.

**July 14, 2003/Covington, Ohio:** Horses who were pulling a carriage became spooked and caused the carriage to topple over onto the carriage driver. After the carriage was righted, the driver continued on, only to be fatally injured when the horses toppled the carriage again just a few blocks later.

**April 28, 2003/Honolulu, Hawaii:** A horse-drawn carriage that was carrying tourists flipped over, slightly injuring three of its nine passengers. The horses became spooked and toppled the wagon, spilling the passengers and driver onto the road.

**December 4, 2002/St. Augustine, Florida:** A vehicle crashed into a horse-drawn carriage, ejecting the guide and two riders. The driver of the vehicle who hit the carriage was charged with driving under the influence, and police cited the carriage driver for pulling into the car's path. The riders were taken to the hospital.



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**October 30, 2002/Pennsylvania:** An article in *The Patriot-News* reported that there were 371 horse-and-buggy crashes in Pennsylvania from 1996 through 2000, which resulted in 18 deaths and 442 injuries.

**October 11, 2002/Belding, Indiana:** The parents of a 4-year-old boy who was killed while riding in a horse-drawn carriage filed a wrongful death lawsuit against the carriage service and the city of Belding. The boy, his siblings, and his mother were riding in a Christmas carriage event when a horse became spooked, reared up, and bolted. The boy was run over after he was thrown from the carriage. The parents filed a lawsuit, seeking more than \$1 million.

**July 8, 2002/Madison, Wisconsin:** After the occupants of a passing car threw firecrackers at a horse who was pulling a carriage, the animal broke free and raced through 10 blocks of traffic before stopping. At one point, a passerby jumped into the carriage but was thrown when the horse swerved and the carriage struck a curb.

**January 22, 2002/New York, New York:** A horse who was pulling a carriage through traffic became frightened and bolted. The carriage became wedged between two cars, damaging both of them as well as other vehicles. The horse had to be tranquilized, and it took the efforts of several people to free the animal



and the carriage.

**2002/Louisville, Kentucky:** A 17-year-old horse named Pam and a 7-year-old horse named Della were killed in separate vehicle-related accidents.

**December 8, 2001/Belding, Indiana:** A 4-year-old boy fell out of a horse-drawn carriage when the animal who was pulling the carriage bolted. The boy was run over by the carriage and died soon after at an area hospital. Another passenger sustained minor injuries. City officials said that the horse had been

spooked by a passing car. The carriage company suspended operations after the incident.

**November 26, 2001/New York, New York:** A taxi collided with a horse-drawn carriage in Central Park, startling the horse and injuring the carriage driver.

**July 27, 2001/Philadelphia, Pennsylvania:** A spooked horse ran amok in downtown traffic. The carriage collided with two cars before it tipped over and struck a third vehicle. The carriage driver, one of the car's occupants, and the horse were injured.

**July 13, 2001/Philadelphia, Pennsylvania:** A horse broke free from a carriage in downtown traffic. The carriage then ran into three cars before falling over. Two tourists, who jumped out of the carriage just before it toppled, were taken to a nearby hospital for treatment. This accident and the one on July 27 in which a carriage in Philadelphia collided with two cars prompted a member of the mayor's Animal Advisory Committee to voice concerns about horse-drawn carriage operations. He stated, in part, "Horses and traffic like this don't mix."

**December 1, 2000/Old Bridge, New Jersey:** Several members of a wedding party were injured when a horse stumbled and the carriage that they were riding in crashed onto its side. The horse trampled the carriage driver, who was critically injured. A 6-year-old boy was taken to a nearby hospital for evaluation, and others sustained cuts and bruises.

**November 2000/New York, New York:** A horse who was pulling a carriage broke free, bolted, and collided with a car while galloping down the street. The horse tripped and fell to the ground, injuring a leg.

**September 18, 2000/Chicago, Illinois:** A horse who had bolted from a wedding in Lincoln Park after being stung by a bee broke free from the carriage after it became wedged between two cars. The horse and a pedestrian were injured.

**August 27, 2000/New York, New York:** A horse-drawn carriage that was turning a corner in Central Park tilted past its balance point and suddenly slammed onto its side. Four tourists were strapped to backboards and were taken by ambulance to a nearby hospital.

**April 26, 2000/New York, New York:** A horse in a carriage-ride stable escaped and ran down the street, creating havoc as drivers slammed on their brakes to avoid hitting the animal. A traffic control officer avoided serious injury by jumping back when the

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horse came within 3 feet of her. The horse narrowly missed being hit by a bus.

**March 30, 2000/Pullman, Washington:** Three students were injured (one seriously enough to require hospitalization) and a horse was badly injured when the animal bolted down city streets for “no obvious reason.”

**December 24, 1999/Charleston, South Carolina:** A horse collapsed and lay moaning in the street for several hours before a veterinarian arrived to euthanize the animal.

**December 24, 1999/Dover, Delaware:** One person was partially paralyzed and two others were injured after a truck ran into the carriage in which they were riding.

**December 13, 1999/Sarnia, Ontario:** During pre-Christmas festivities, a woman was dragged to death when the horses she was unhitching after a wagon ride bolted. The woman became entangled in a harness and was killed when she was thrown into a hydro pole. The woman had spent the day offering rides at a city park. Just three weeks earlier, another pair of horses had run amok in Sarnia, denting cars.

**December 7, 1999/Eastham, Massachusetts:** Twenty Christmas festival participants were injured when a pickup truck rammed into the horse-drawn wagon that they were riding in, tipping it over. Some of the riders, including several small children, became trapped beneath the wagon.

**November 27, 1999/Holland, Pennsylvania:** A man was injured when his horse-drawn buggy collided with a car. Both vehicles sustained damage.

**November 24, 1999/New Orleans, Louisiana:** Three horses escaped their barn and ran through the streets of New Orleans before one struck a bus and broke its windshield.

**August 10, 1999/Helen, Georgia:** The driver of a carriage was dragged along the ground and sustained injuries after a spooked horse ran away from the carriage while giving rides in downtown Helen, Georgia. Police officials were not certain what had spooked the horse.

**August 5, 1999/New York, New York:** A runaway horse who was pulling a carriage jumped onto the sidewalk, injuring two elderly pedestrians and hitting a car.

**July 4, 1999/Salt Lake City, Utah:** A horse who was pulling a carriage at Heritage Park ran amok; nine people were hospitalized following the incident.

**June 28, 1999/New York, New York:** A hit-and-run driver crashed into a horse-drawn carriage, breaking the driver's jaw and sending the horse galloping down the street. The horse was later hit by an oncoming car.

**May 30, 1999/Baltimore, Maryland:** A horse who was pulling a carriage was killed by an oncoming car after the driver ran a red light. Another horse pulling a carriage was spooked by the incident and ran for eight blocks, injuring a passenger.

**April 7, 1999/Philadelphia, Pennsylvania:** Two horses who were pulling carriages collided, throwing three passengers 10 feet into the air and out into the street.

**April 4, 1999/Orlando, Florida:** A speeding car hit a carriage that was being pulled by a horse, prompting the terrified animal to run through the streets, injuring four bystanders.

**February 19, 1999/Cincinnati, Ohio:** Four people, including three children, were injured when a truck collided with the carriage in which they were riding.

**January 8, 1999/New York, New York:** A horse was fatally electrocuted while pulling a carriage.

**1999/Apple Valley, California:** A horse pulling an old-fashioned hearse became spooked and ran through a parade, injuring two people and damaging four vehicles.

**December 14, 1998/Milwaukee, Wisconsin:** A horse who was pulling a carriage was hit by a car and sustained serious injuries. Police killed the horse with four shotgun blasts. The carriage driver sustained neck and back injuries. The driver of the car was also treated for injuries.

**October 13, 1998/Sheridan, Indiana:** One man was injured when a train whistle spooked his horses. The horses ran at full speed through three four-way-stop intersections before finally slamming into a tree.

**July 20, 1998/Duluth, Minnesota:** Two carriages carrying passengers and drivers overturned.

**July 10, 1998/Markesan, Wisconsin:** Four people were injured after a horse became spooked.

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**April 29, 1998/New York, New York:** A horse broke the halter, ran into a busy street, and was killed by an oncoming car. The driver of the car was treated for back injuries.

**January 17, 1998/New York, New York:** A spooked horse ran wild, overturning the carriage that he was pulling.

**1998/New York, New York:** A horse ran amok in Times Square. Two passengers jumped to safety just seconds before the carriage that the animal was pulling slammed into a light pole.

**November 24, 1997/New York, New York:** A runaway horse in Central Park struck and injured a pedestrian. The carriage also damaged a car.

**November 18, 1997/Dallas, Texas:** Passing motorcycles spooked a horse, causing the animal to crash into a vehicle. The driver was thrown from the carriage, and the horse sustained a cut that required stitches.

**September 12, 1997/Mechanicsville, Maryland:** A woman and her three children were injured when a van collided with their horse-drawn carriage. The spooked horse broke free and ran a quarter-mile before being killed by a car. The family was airlifted to a local hospital for treatment.

**September 4, 1997/New York, New York:** An elderly woman was seriously injured and eight other people were hurt when two carriages overturned after the horses who were pulling them were spooked by a passing car.

**August 12, 1997/Boston, Massachusetts:** A horse who was pulling a carriage had to be euthanized after the carriage was hit by a truck. The horse's body was punctured by shattered wooden shafts. The driver was hospitalized with a fractured ankle and other injuries. The driver of the truck left the scene without stopping.

**July 2, 1997/Kingsport, Tennessee:** A newlywed husband and wife were injured when a car rear-ended the horse-drawn carriage in which the two were riding. Both riders were hospitalized, and one sustained serious injuries.

**May 1, 1997/New York, New York:** A horse who was pulling a carriage tripped and died while struggling to get up.

**December 20, 1996/Kansas City, Missouri:** A pregnant horse collapsed in the middle of a street

while pulling a carriage and later died. The horse was believed to have been going into labor.

**November 11, 1996/Cocoa Beach, Florida:** Newlyweds who were riding in a horse-drawn carriage were injured when the carriage was rear-ended by a car. The couple and the driver of the carriage all required treatment at a local hospital. The horse sustained a broken leg and was euthanized.

**October 1996/Dallas, Texas:** A horse who was pulling a carriage ran into a crowd. Eleven people were injured.

**June 4, 1996/Branson, Missouri:** A 10-year-old boy was killed when a horse-drawn carriage overturned, throwing 11 passengers to the ground.

**1996/Denver, Colorado:** Two horses who were pulling a carriage became spooked and took off down the street for six blocks before crashing into a light pole. The passengers leaped off the carriage before it crashed. One horse sustained a broken eye socket, and the carriage was destroyed.

**May 7, 1995/New York, New York:** Twelve children and four adults were injured when a horse who was powering a ride at a carnival "went berserk," throwing passengers off the ride and running over them.

**October 31, 1994/Frederick, Maryland:** Seven people were injured when the horse who was pulling the carriage in which they were riding bolted down the street. The carriage sideswiped five cars before it overturned and the passengers fell out.

**October 1994/Dallas, Texas:** A driver was killed when a car slammed into her carriage.

**August 22, 1994/Branford, Connecticut:** Thirteen people were injured when two horses who were pulling a carriage became spooked and took off down the street, crashing into a parked car.

**April 29, 1994/New York, New York:** Following an error in a horse's diet, the animal experienced severe cramps and had to be euthanized after collapsing in Central Park.

**December 19, 1993/Plantation, Florida:** Two horses who were pulling a wagon ran out of control, injuring all 12 people on board. One of the injured riders was run over by the wheels of the wagon and was hospitalized in serious condition. Both horses sustained serious cuts to their legs.

## Incidents Involving Horse-Drawn Carriages

**November 23, 1992/Salt Lake City, Utah:** A horse who was pulling a carriage was struck from behind by a car and was thrown to the ground along with four passengers. The panicked horse bolted down the street and was hit by another car.

**September 9, 1991/Cleveland, Ohio:** A horse who was pulling a carriage bolted and collided with a car, falling on the car's roof. The driver of the car and the horse were both killed.

**September 9, 1991/Houston, Texas:** Two people were hospitalized when the horse-drawn carriage in which they were riding went out of control and hit a police car. The horse sustained extensive injuries. The driver of the carriage said at the scene, "[H]e's a hard horse to control," because he had already been hit by cars on three previous occasions.

**August 25, 1991/New York, New York:** A horse had to be euthanized after suffering from crippling leg cramps.

**May 15, 1990/New York, New York:** A horse who was pulling a carriage was fatally injured in Manhattan after becoming trapped between a bus and a car.

**December 4, 1989/Kansas City, Missouri:** The driver of a carriage was injured after the horses bolted and collided with four parked vehicles and a car that was stopped in traffic.

**September 4, 1989/Baltimore, Maryland:** A driver of a horse-drawn carriage was killed when the carriage was hit by a car.

**August 1, 1989/Columbus, Ohio:** A horse took off down the street, pulling a driverless carriage behind him. The owner of the carriage said, "When a horse gets spooked, you have to let him run until he stops." The business had been involved in at least three other accidents since it began operating in 1981.

**May 23, 1988/New York, New York:** A horse who was pulling a carriage fell into a hole in the street.

**November 9, 1986/New York, New York:** Frightened by a passing car, a horse took off down the street and crashed into a building.

**December 9, 1985/New York, New York:** Two horses who were pulling a carriage became spooked by a passing car and ran out of control. Four people were injured and a car's windshield was smashed when one of the horses jumped onto the hood. The horse was euthanized.



November 28, 2012

*Via Email*

Ms. Liz Brenner, Manager  
Old Sacramento Historic District Office  
City of Sacramento  
922 Second Street, 2nd Floor  
Sacramento, CA 95814

**RE: Horse-Drawn Carriages in Old Sacramento**

Dear Ms. Brenner,

We are writing to express our concern for the welfare of the carriage horses in Old Sacramento. Over the past few months we have observed the horses on numerous occasions and documented their working conditions. As a result of our observations, we have noted several violations of Sacramento City Code Section 10.64 ("the Carriage Code") and other serious issues that need to be addressed in order to ensure the humane treatment and safety of the horses, as well as the safety of the public. We ask that you review the list below and kindly provide us with a written response on how these violations and other issues will be addressed by the City of Sacramento.

**I. Location of the Thermometer Used to Regulate Working Temperatures**

Section 10.64.110 D (2) of The Carriage Code states: *"No animal shall work when a thermometer, placed at a street level location selected by the director, registers one hundred (100) degrees F., except that when an operator previously entered into an agreement to provide service on such date, an animal may be worked for the previously agreed upon service only."*

Section 10.64.110 D (1) of The Carriage Code states: *"An animal shall be rested and watered for at least twenty (20) minutes after two hours of work and at least thirty (30) minutes after both four hours (total) and six hours (total) of work. When the outdoor temperature exceeds ninety (90) degrees F., the rest shall be provided in a shaded location."*

The current location of the official thermometer that is authorized by the City of Sacramento for the carriage operators to use for the purpose of determining when it is too hot for a horse to work and for when horses should be getting their breaks in the shade is in violation of the code because it is not at a street level location. It is located 13.5 feet from the ground, up high on the north side of a building under shade of a balcony and does not accurately reflect the street level temperature where the horses are working. We have used six different thermometers to compare the street level temperature to that of the

thermometer used by the City and have recorded a consistently higher reading of five to ten degrees Fahrenheit on our thermometers when placed at street level in the shade directly under the location of the official thermometer. Thus, the violation of the requirement that the official thermometer be located at street level is a material violation of the Ordinance that has direct adverse health impacts on the horses. It is important to note that even if the official thermometer was properly located at street level, the shade is not where the horses are located and so is not a true reflection of the street temperature where they are working. Please see Attachment 1.

As a result of the improper placement of the thermometer and resulting erroneously low temperatures, the carriage horses do not receive their breaks in the shade when they should and are worked when the street level temperature is above 100 degrees. Please correct this violation of the Carriage Code so that horses will be given their proper breaks in the shade when street level temperatures are at 90 degree temperatures, and so they will be removed from working when the street temperature reaches 100 degrees. As our planet heats up due to global warming and Sacramento continues to set new heat records as it did in September, it will be more important than ever that the measurement of these temperatures be accurate for the welfare and safety of the horses. The city of Baltimore requires each carriage to be equipped with a thermometer located on the side of the carriage, and we would suggest that as a possible solution Sacramento should consider, provided there would be proper regulation and enforcement.

We note that the improper placement of the City's thermometer and its resulting consequences for the horses was brought to your attention by Animal Legal Defense Fund in August and to date has still not been corrected.

## **II. Lack of Rest Periods**

Section 10.64.110 D (1) of The Carriage Code states: *"No animal shall work for more than eight hours per day. An animal shall be deemed to be working whenever it is attached to a horse-drawn vehicle. An animal shall be rested and watered for at least twenty (20) minutes after two hours of work and at least thirty (30) minutes after both four hours (total) and six hours (total) of work. When the outdoor temperature exceeds ninety (90) degrees F., the rest shall be provided in a shaded location."*

Upon observing the horses continuously for three to five hour periods of time on numerous occasions, we have never seen the horses unharnessed for their breaks. If a horse is defined as *working* when harnessed to a carriage, then necessarily they must be unharnessed and detached from their carriage when *not working* during rest periods. In addition, we have never seen the horses receive a 20 or 30 minute uninterrupted period of rest even when attached to the carriage. It is our understanding from talking with one of the carriage operators from Top Hand Ranch that they consider the horses to be getting their rest whenever they are standing at the hack line in between rides. We assert that a couple minutes here and there in between fares, often standing in full exposure of the sun, is not a proper form of rest as required by the code, and that on busy days, these minutes in between fares do not add up to a full 20 or 30 minute break, even if they were considered part of their rest period.

We have several documented examples of horses not being properly rested as revealed by time/date stamped photos showing the horses in a constant state of work in which a proper 20 or 30 minute break, unharnessed and in the shade, could not have occurred. Please see Attachment 2 for a few of our examples.

### **III. Horses Being Trotted at a Fast Pace**

Section 10.64.110 A (4) of the Carriage Code states: *"Horses or other animals used to draw vehicles shall be worked no faster than at a slow trot. When traffic permits, the animal shall be walked."*

It is routine practice for horses to be run uphill on 2<sup>nd</sup> Street as they return from the Promenade, Park and Capitol routes. Please see video evidence on our website at [www.workinganimal.org](http://www.workinganimal.org).

### **IV. Violation of Basic Traffic Laws**

Section 10.64.110 A (1) of the Carriage Code states: *"Drivers of horse-drawn vehicles shall obey all traffic laws and regulations of the city and the state."*

It is routine practice for carriages to run stop signs at the intersection of 2nd Street and Neasham Circle. Please see videos demonstrating this on our website at [www.workinganimal.org](http://www.workinganimal.org).

We have also witnessed carriages obstructing the flow of traffic, parking illegally in a disabled parking zone on J Street and making illegal u-turns near the intersection of 2nd and J Streets. Please see photos and videos on our website at [www.workinganimal.org](http://www.workinganimal.org).

### **V. Lack of Proper Record Keeping and Reporting of Accidents and Injuries**

Section 10.64.110 E (5) of the Carriage Code states: *"One copy of the health passport/work log shall be kept with the animal at all times. Each [sic] operator shall provide a copy of the health passport/work log for every animal used in his or her operation to Old Sacramento management office by the 5th of each month for the previous calendar month."*

We have made two formal document requests under the California Public Records Act that expressly requested all such health passport/work logs and the City has not provided even a single such document as are required to be submitted to the City by the carriage operators showing the dates and times horses were worked; see Section 10.64.110 E (4) of the Carriage Code.

We are also aware of two incidents in which horses were attacked by dogs on December 21, 2010 and March 4, 2012, and of a hit and run accident on December 28, 2009, in which a carriage was hit by a car. Horses were injured in each case as well as injuries to passengers in the hit-and-run accident. Other than a very brief accident report involving the March 2012 dog attack incident, we received no documentation in response to our Public Records Act requests regarding the other dog attack incident or the hit-and-run accident (other than a call log from an unidentified source of calls made reporting the accident). Thorough investigative reports of such incidents should be kept and made available as a matter of public record.

### **VI. Other Carriage Code Violations**

Other violations of the Carriage Code we have witnessed include carriage operators not being dressed in historical attire, horses defecating in the street without clean-up by the operators, carriage operators picking up passengers in non-designated locations and carriage operators eating and drinking while driving. Examples of some of these violations which we were able to capture on photo or video can be seen on our website at [www.workinganimal.org](http://www.workinganimal.org).



**VII. Inhumane Working Conditions**

In addition to the above violations of the Carriage Code, the following factors do not provide for humane working conditions for the horses:

- **High Temperatures**

Section 10.64.110 D (2) of the Carriage Code states: *“No animal shall work when a thermometer, placed at a street level location selected by the director, registers one hundred (100) degrees F, except that when an operator previously entered into an agreement to provide service on such date, an animal may be worked for the previously agreed upon service only.”*

We surveyed horse-drawn carriage regulations in more than 15 major U.S. cities and found that Sacramento has established one of the highest temperatures at which horses must cease working to protect them against heat exhaustion. The only city we found with a higher threshold temperature was Memphis, Tennessee, at 101°F. As seen below, most cities have lower maximum temperature regulations governing their working horses.

Maximum Temperature (°F) for Horse-Drawn Carriages in Select U.S. Cities:

Memphis, TN – 101	Kansas City, MO – 97	Seattle, WA – 91
Sacramento, CA – 100	St. Augustine, FL – 95	Chicago, IL - 90
Dallas, TX – 100	Baltimore, MD – 93	Cleveland, OH – 90
Charleston, SC – 98	Philadelphia, PA – 92	New York City, NY - 90
Atlanta, GA – 97	Portland, OR – 91	Washington, DC – 90

During the hot summer months in Sacramento, when daily temperatures are 90+ degrees, the horses work exposed to the sun in blistering heat for hours non-stop as they pull carriages and stand at the hack line in between fares. On several occasions, we noted carriage operators who would get down from their carriages in order to stand in the shade for relief while their horses were left to stand in full exposure of the sun. And as previously mentioned and shown by the attached time/date stamped photos, these horses never received their proper 20 or 30 minute breaks in the shade as required by the Carriage Code when temperatures are over 90 degrees. They also did not have free access to water in between fares and instead had to rely on their carriage operators to provide it to them which at most was approximately once every couple of hours. We noted one occasion in which Fox, the horse driven by Wolverton Carriage Company, worked for three hours in 90+ degree temperatures before finally receiving a drink of water, and only after we made an issue of it with the operator.

Carriage horses forced to work in very high temperatures are at risk of heat stroke and heat exhaustion, which can be as life-threatening for them as it is for humans. Cal OSHA has determined that strenuous work in direct sunlight can effectively add 15 degrees to the measured heat index as experienced by workers. Further, Cal OSHA warns that working in the heat in low humidity settings can quickly result in dehydration and heat exhaustion. These conditions likewise apply to the horses working in Old Sacramento and should be a matter of consideration by the City.

If the City of Sacramento is going to have horse-drawn carriages, we request the maximum temperature that horses must toil be lowered to a more humane temperature that does not pose health risks to the horses. We would also request that water, a shade canopy and a dirt surface for standing be

provided at the hack line so that the horses have some relief from the blistering heat and hard, hot ground while waiting for fares.

- **Traffic and Busy City Streets**

Carriage horses in Old Sacramento are made to wear blinders on their eyes so that they will be less likely to get spooked from the many cars, motorcycles, trucks, bicyclists, pedestrians and companion animals that surround them and cross their paths. They must constantly stop and start and navigate around traffic. In addition, they often obstruct the flow of traffic, resulting in motorized vehicles having to pass around them. These circumstances are not humane for the horses and pose great risks to both public and horse safety.

As previously mentioned, in recent years, there was an accident involving a collision with a motor vehicle that resulted in injuries to the horse as well as to two passengers, and two incidents in which horses were attacked and injured by dogs, resulting in one of the dogs being shot and killed. These cases demonstrate the uncontrollable risks to safety that exist for the horses, carriage operators, passengers, the public, and their companion animals when horse-drawn carriages are allowed to operate in busy urban environments. When faced with a potential threat, horses are either rendered immobile and defenseless as a result of being harnessed and attached to a braked carriage, or they pose a danger to themselves and everyone in their path when frightened and able to flee.

It should be noted that in the 2012 dog attack incident, there were four passengers all under the age of 18 who could have been seriously harmed. Episodes involving injuries and death to horses and people occur with regularity in cities across the country where horse-drawn vehicles still operate, and accidents are sure to occur again in Sacramento. Please see Attachment 3 for a comprehensive record of injuries and accidents involving horse-drawn carriages in the United States.

If the City of Sacramento is going to have horse-drawn carriages, we request that Old Sacramento be made into a pedestrian-only zone so that some of the dangers to public and horse safety which come from horses and motorized vehicles having to share limited space on congested city streets be reduced.

- **Pollution**

Carriage horses must constantly breathe in exhaust fumes from vehicular traffic which puts them at risk for respiratory disease. Please see the attached statement and information (Attachment 4) from noted equine veterinarian Dr. Holly Cheever, DVM, who worked many years for the ASPCA regulating the carriage horse industry in New York City. She is an expert in the field who is regularly consulted by city councils who have horse-drawn carriage industries in their cities.

Further, urban air pollution and exhaust fumes are made more hazardous in high temperatures. Cities recognize this fact by declaring very hot days as “spare the air” days in order to minimize the detrimental effects of smog pollution on public health and the environment. In order to reduce these same harmful effects of pollution on horse health, we would again request that they not have to work in very high temperatures or be exposed to auto exhaust fumes.

- **Hard City Streets**

The horses in Old Sacramento must constantly pound hard, concussive streets made of asphalt and

cobblestone which subject them to hoof and leg injury, arthritis and lameness. Hard city streets of asphalt and cobblestone are unnatural and do not provide a healthy, humane environment for horses. In order to reduce the potential damage, pain and injury caused to horses from working on hard city streets, we would request that the City of Sacramento greatly limit the hours carriage horses are forced to work each day. Portland, Oregon has set a daily maximum limit of five hours and we would recommend a five hour limit in Sacramento as well.

- **Loud Noise**

In addition to the cacophony of loud sounds on the streets of Old Sacramento—including honking horns, car alarms, roaring motorcycles, loud music and train whistles from the nearby train station—carriage horses are routinely exposed to very high levels of noise several times a day whenever they must travel right along the freeway on 2nd Street en route to and from the Promenade, Park or Capitol destinations. We measured the noise levels along the freeway using a decibel meter and consistently measured levels averaging between 75 and 85 decibels and at times even above 90 decibels. Please see video evidence on our website at [www.workinganimal.org](http://www.workinganimal.org). According to the American Speech-Language Hearing Association ([www.asha.org/public/hearing/Noise/](http://www.asha.org/public/hearing/Noise/)), sustained and routine exposure to noise at these levels can damage hearing and should be avoided. As prey animals, horses have a keen sense of hearing that is more sensitive than our own, so it stands to reason that these noise levels could likewise cause damage to their hearing and therefore should be a matter of study and consideration by the City before continuing to subject them to such noise levels. Moreover, horse-drawn carriage accidents often occur as a result of horses getting spooked by loud and/or startling noises (please see Attachment 3).

If the City of Sacramento is going to have horse-drawn carriages in Old Sacramento, we request that it provide as humane an environment as possible by eliminating cars on the streets of Old Sacramento and eliminate the routes that cause the horses to go right along the freeway and be exposed to such unhealthy and stressful noise levels.

### **VIII. Purpose and Enforcement of the Carriage Code**

Section 10.64.010 of the Carriage Code states: *“The purpose of this chapter is to regulate the operation of horse-drawn vehicles in the city, in order to insure that horse-drawn vehicles are operated safely, to protect the public health, safety and welfare, and, in Old Sacramento, to help preserve, recapture and maintain the historic ambience of the area.”*

Section 10.64.020 of the Carriage Code states: *“Additional regulation of horse-drawn vehicle operations in Old Sacramento and throughout the city is necessary. Experience with the operation of horse-drawn vehicles in Old Sacramento has raised several concerns requiring legislative action:*

*A. Operators/drivers sometimes do not inform patrons in advance and clearly of the route, length and price of the ride being offered.*

*B. Prospective patrons do not have an adequate opportunity to compare the price and quality of offerings by different operators before selecting a vehicle to board.*

*C. Operation of too many horse-drawn vehicles at once in the three-square block area of Old Sacramento causes confusion, obstruction of motor vehicle traffic on the public streets and increased risks for pedestrians.*

*D. Animals used to draw vehicles may be adversely affected by hot summer days, lack of adequate watering and other working conditions. (Prior code § 25.12.250-1)*

We contend that due to all the aforementioned violations, inhumane working conditions and threats to horse and public safety, the purpose of the Carriage Code is not being met. Based on our observations, and on the documents the City produced in response to our California Public Records Act requests, the only evidence of horse-drawn vehicles being regulated, or of the Carriage Code being enforced, appears to be with the "paper requirements," such as the payment of license fees, filing of permit applications, and the issuance of insurance certificates.

One of the stated goals of having horse-drawn vehicles in Old Sacramento is to "*preserve, recapture and maintain the historic ambience of the area.*" There is nothing nostalgic or historically accurate about horse-drawn carriages being in congested traffic, alongside cars, motorcycles, trucks, bicycles and limousines, amidst sounds of honking horns, car alarms, loud music and freeway noise. This modern, urban environment is not only unsafe and inhumane for the horses, but the presence of horse-drawn carriages in this setting is incongruent and does not contribute to recapturing the historic ambience of the area.

### **IX. Relief Requested**

In the paragraphs above, Working Animal Advocates has made numerous suggestions on how the City should improve its regulation of horse-drawn carriage operations. However, given the City's apparent inability to enforce the Carriage Code, and in light of the inhumane realities inherent in the carriage industry described herein, we respectfully suggest that the City must consider the elimination of horse-drawn carriages from Old Sacramento. Many cities, including Reno and Las Vegas, NV; Santa Fe, NM; Camden, NJ; Palm Beach, Deerfield Beach, Key West, Panama City Beach and Venice, FL; Biloxi, MS; Toronto, Canada; Beijing, China; London, England and Paris, France have enacted bans on horse-drawn carriages. Sacramento's current horse-drawn industry practices make a compelling case for Sacramento joining the ranks of such cities by responding to the inhumane treatment of horses forced to work pulling carriages by enacting a ban on horse-drawn carriages.

Should the City decide to continue to allow the operation of horse-drawn carriages, we respectfully assert that the City must immediately initiate real and demonstrable enforcement of the Carriage Code and in particular with respect to violations of the sections enumerated herein. In either event, we respectfully request a formal investigation and review of current practices and a written response on how the city intends to address the issues raised in this letter.

Working Animal Advocates hopes the City will meet its obligation with respect to the issues presented in this letter. However, should the City demonstrate an unwillingness to take its enforcement obligations seriously, Working Animal Advocates will, unfortunately, be compelled to pursue other available legal and public means to encourage the City to embrace its enforcement obligations and ensure the humane treatment of working horses.

Thank you for your time and attention to this matter.

Sincerely,



Kim Flaherty  
Working Animal Advocates

cc: Kevin Johnson, Mayor  
Angelique Ashby, Council Member, District One  
Sandy Sheedy, Council Member, District Two  
Steve Cohn, Council Member, District Three  
Robert King Fong, Council Member, District Four  
Jay Schenirir, Council Member, District Five  
Kevin McCarty, Council Member, District Six  
Darrell Fong, Council Member, District Seven  
Bonnie Pannell, Council Member, District Eight  
Jerry Way, Director of Transportation  
Reina J. Schwartz, Director, Dept. of General Services  
Kourtney C. Burdick, Deputy City Attorney  
Rick Braziel, Chief of Police



**Holly Cheever, DVM**  
**665 Clipp Rd.**  
**Voorheesville, NY 12186**  
**518-765-4213**

August 20, 2013

Mayor Kevin Johnson  
Members of the Sacramento City Council  
915 I Street  
Sacramento, CA 95814

Dear Mayor Johnson and members of the Sacramento City Council:

I have been asked to offer my expertise and advice to improve the working conditions for the carriage horses used in the tourist trade in your city. My attached presentation to the Philadelphia Bar Institute cites my credentials and long history (since 1988) in advising municipalities and two states (Florida and Massachusetts) in working to improve carriage horse care and working conditions. If carriage horse rides cannot be banned in inappropriate and stressful urban settings, then it is critically important that protective regulations and **THE MEANS TO ENFORCE THEM** be promulgated. Because these tourist attractions cannot be maintained humanely in the 21<sup>st</sup> century's busy urban settings with their high volume of vehicular traffic, it is my opinion that they should be phased out and eventually banned, in the interests of humane treatment of the horses involved.

My attached presentation gives an in-depth synopsis of the hazards and abuses facing carriage horses in modern urban settings; I urge you all to review this article. Because of Sacramento's history of their carriage horse injuries and working conditions, I direct your attention to the sections on **lameness, heat stress, and spooking**, and will also comment on their "**rest periods**" as specified in your city regulations pertaining to this industry.

**LAMENESS:** In addition to the analysis in the attached presentation, I would add that Sacramento has cobbled streets in some sections, which are particularly punishing on equine hooves, limbs, and shoeing. As stated, pounding continually on unnaturally hard concussive surfaces is very stressful on the equine musculoskeletal system, and will both create and exacerbate lameness. Any horse exhibiting lameness should be promptly evaluated by an equine veterinarian and given pain management and sufficient rest to permit full healing.

**HEAT:** working in high temperatures is one of the leading causes of collapse and even death from heat stress in urban carriage horses. Such fatalities have occurred in New York, Boston, and Atlanta—and since such deaths are immediately concealed to avoid the inevitable bad publicity that results from such abuse, the statistics are based on underreporting of these collapses and fatalities. I am informed that Sacramento permits horses to work until the ambient air temperature (which is not recorded where the horses are actually working) exceeds 100 degrees Fahrenheit. This is unacceptably stressful on equines, especially those of the draft breeds who cannot dissipate heat from their body mass as efficiently as light horses. Whether Sacramento has high or average humidity, 100 degrees is not a humane working environment.

Please refer to the section in the attached article on New York's heat stress problems. You will note therein that the temperature as recorded by the US Weather Bureau is taken in a location that is much cooler than the microenvironment in which the horses work, which has been found to be as much as 45 degrees higher. For this reason, the temperature that the horses are experiencing should be recorded at the **height of their elbow**, which reflects the increased heat radiating up from the hot paved roadway surface. I recommend that the upper working limit in your city be set no higher than 90 degrees. This temperature maximum must be strictly enforced to make these horses' lives humane.

In addition, the horses should be offered the rest breaks as specified in your city's regulations, and they should be given access to shaded areas in which to rest so that they are not baking in the hot sunshine, which is hardly "restful" and presents a health risk rather than a respite from their working conditions. Any horse given an option between rest in the high heat versus under a cooler shaded structure will always choose relief from the punishing heat. Additionally, the harnesses should be at least loosened (removing them would be better) during their rest periods.

**SPOOKING:** please refer to the attached article. I understand that Sacramento has had additional incidents due to dogs attacking the carriage horses, which presents a very instinctive fear trigger to animals whose ancestors were killed by wild canids (wolves, coyotes.) I assume your animal control officials are assiduous in preventing such occurrences from happening again.

In reviewing your city's regulations regarding this tourist industry. It appears that they are not being enforced. I understand the budgetary restrictions that make inspecting the carriage horses a challenge, but since abuses are so common in this industry, constant surveillance is essential in order to make their working conditions **not only survivable but humane**.

I thank you for your attention in this matter, and offer my services if I can be of any assistance.

Sincerely,  


Holly Cheever, DVM  
Chairperson, Leadership Council of the Humane Society of the U.S.  
Vice president, New York State Humane Association  
Member, American Association of Equine Practitioners.



**Philadelphia Bar Institute: Animal Law Conference  
August 26, 2010**

**URBAN CARRIAGE HORSE RIDES:  
A 21<sup>ST</sup> CENTURY ANACHRONISM  
Holly Cheever, DVM**

To introduce myself, I am an equine veterinarian, educated at Harvard University and at the College of Veterinary Medicine at Cornell, with a lifetime of experience in horse management, including the driving of carriage horses. Since 1988, I have been the primary equine advisor for 2 states and, to date, 15 municipalities (including Philadelphia) that have sought knowledgeable assistance either to ban carriage horses from operating in their cities or to devise protective codes and legislation to prevent the all too common animal abuse that occurs in this industry. In particular, I was very involved with the campaign initiated by the American Society for the Protection of Animals and the New York-based Carriage Horse Action Committee between 1988 and 1996, calling for a ban of the use of carriage horses on New York City's streets, and have been an ongoing advisor for New York's Coalition to Ban Horse Drawn Carriages.

To begin with, I would like to state unequivocally that I don't believe that horse-drawn carriages and motor vehicles should share the same roadways due to the distressing history of injuries and deaths (both equine and human) that have occurred across the country due to carriage-car collisions. There is no way that cities with their exhaust fumes, hard road surfaces, and busy traffic patterns can provide a **humane** (as opposed to merely **survivable**) environment for a carriage horse. For that reason, I recommend that a ban against city carriage horse rides be implemented in each municipality, unless the horses can be restricted to a park or other area where they will not be competing with motor vehicles for road space and where their stabling can provide the essentials for comfortable, humane, and safe housing, including the provision of daily "turn-out". If a ban is not possible due to the tenacity of an entrenched tourist industry, then **detailed protective regulations and the ability to enforce them** are essential. In the case of New York, the only safe place for this tourist attraction would be to restrict them to Central Park, to which the Park Commissioner has expressed adamant opposition. I am not aware if there is any comparable area within the city limits of Philadelphia that could afford sufficient space for equine stabling and non-vehicular roadways for carriage rides.

In debating whether urban carriage horse rides as tourist attractions are a benign entertainment or an inherently abusive misuse of animals, we must examine all aspects of the horses' lives, care and use in the inherently inappropriate and hazardous (to horses) environment provided by busy city streets. Relevant aspects include the horses' source, training, stabling, proper management by their stable hands and drivers, availability of veterinary care, rest periods, and final disposition when they are no longer capable of pulling a carriage.

**SOURCE**

The owner of a carriage horse operation adheres to the strict bottom line to achieve a maximum profit with a minimum of expenditure of time or resources. For this reason, the horses that are purchased for urban carriage rides are selected based on their prior experience in carriage pulling—the new owner has no interest in training a new horse to be proficient and reliable in an entirely new skill set and environment. Therefore, the horses selected and purchased at horse auctions (often from “killer sales”) are typically from one of two backgrounds: the draft breeds in the northeast come from Amish farms wherein they served as draft animals doing field work, while the smaller horses may also come from the Amish community where they were used for road work, and may also have come originally or immediately from the Standardbred tracks, where they raced as trotters or pacers pulling light sulkies (personal conversations with owners, 1988-92).

Due to their previous use, they require little additional training but may come into the urban carriage horse industry with preexisting injuries (lameness, arthritis, strained and bowed tendons, laminitis) and illnesses such as chronic obstructive pulmonary disease—COPD (“heaves” in equine terms). These preexisting conditions can have a significant impact on the horse’s well-being, suitability for and longevity in his/her new occupation.

**HANDLING**

Based on my experience interviewing New York carriage drivers between 1988-1994, I found that a distressingly large percentage of drivers were not knowledgeable about horses and certainly had no prior experience as carriage drivers in a hazardous urban environment. Many were recent immigrants given employment through their American connections, becoming drivers with no equine background whatsoever. Thus, it is common to witness New York drivers chatting over their shoulders to their guests rather than keeping their attention strictly on the horse and his/her surroundings ahead. It is also common to see drivers who have no control over the horses’ heads due to their lack of a proper grip (if any) on the reins, and who even stand up in the driver’s box, which is forbidden in expert driving standards and competitions. In fact, expert carriage drivers who breed carriage horses and drive then as a vocation or for the love of their animals are not the ones who are involved in these urban carriage tourist trades. A topnotch breeder/driver would never subject their prized animals to these hostile and hazardous conditions, and such individuals are often most vocal against the urban tourist trade’s abuse.

Aside from the animals’ past injuries and present handling by inexperienced drivers, urban environments have inherent characteristics that make the safe handling and wholesome existence of carriage horses impossible. They are inescapably exposed to the following health hazards.

**RESPIRATORY DISEASE**

Horses working in traffic lanes shared with motorized vehicles are constantly nose-to-tailpipe, whether waiting for their next fare by the curb or moving in the traffic lane. They show corresponding respiratory impairment, as was detailed in an unpublished study conducted by Dr.

Jeffie Roszel (personal communication, 1989). Dr. Roszel's study analyzed New York carriage horses' respiratory health in 1985 when they were still confined to Central Park; it showed that the horses suffered significant lung tissue damage and cellular changes due to their exposure to the noxious emission fumes of the vehicles—and this at a time when the horses were not out on the city streets, as they are now. For a horse with any preexisting respiratory impairment such as the common COPD or “heaves”, the congested atmosphere is a significant stressor to their health.

### LAMENESS

A lack of “soundness” is a major problem for horses who must pound the city streets' unnaturally hard, concussive surfaces for their long shifts. Many are not given adequate farrier care (i.e. hoof trimming and shoeing) and since many horses come into this industry with preexisting injuries or arthritis incurred in their previous uses on race tracks or Amish farms, their lack of soundness may become a growing problem. A horse's hoof is healthiest when left unshod and properly trimmed on a regular basis. The excessive pounding on the paved surfaces makes the use of shoes indispensable, and many horses do not get the frequent maintenance needed to keep their feet sound and healthy, especially if their hygiene in their stalls is inadequate and they develop infections (“thrush”) in addition.

### HEAT PROSTRATION

In the 1980's, death by heat stroke (hyperthermia) was a leading cause of death in the working carriage horse populations of New York, Atlanta, and Boston. Horses in harness on the hot streets, denied sufficient access to water and time in which to cool down, collapsed on the street and in their stables. For this reason, equine experts recommended that horses should be kept off the streets when the **combined temperature-humidity index (THI)**, which is the sum of the temperature in degrees Fahrenheit and the humidity in percentage points, exceeds 140; as the THI increases, so does the horses' risk for heat stress. One expert source states that a THI above 150 represents a serious threat to horses' health, especially if the humidity value is more than half of the combined sum (Mackay-Smith, M. and Cohen, M. 1982. Exercise physiology and diseases of exertion. In Mansmann, McAllister, and Pratt (eds.), *Equine Medicine and Surgery*, 3<sup>rd</sup> edition, Santa Barbara CA, I:125-129).

The issue of safe temperature ranges for the operation of carriage horses is typically the most contentious problem for city councils seeking consensus between their carriage horse industry and those citizens and agencies seeking to protect the animals. In the critical temperature range of 89 to 96 degrees Fahrenheit, a large horse, particularly one of the draft breeds, is greatly challenged in its ability to dissipate its body heat into an increasingly warm environment, especially if high humidity is a factor. A horse can lose 8-10 gallons of fluid with exercise in a hot environment, but if the air is saturated by high humidity, cooling by evaporation cannot occur—the atmosphere is too saturated to absorb more fluid, and the horse's core temperature continues to climb. If the horse becomes dehydrated and cannot produce sweat, anhydrosis (the lack of sweat production) ensues and can be life-threatening, but keeping a horse on an urban street well-hydrated can be a challenge in these modern days with no public horse troughs. The few public troughs that do exist (e.g. in New York) are prone to be polluted by trash and worse.

Since New York City's asphalt surfaces have reached temperatures of 200 degrees Fahrenheit as reported in the *New York Times* (7/9/89), keeping horses sufficiently cool on hot summer days in the humid northeast becomes impossible. To add to the challenge that the horses face, the U.S. Weather Bureau's cited temperature readings are significantly lower than the temperatures that the carriage horses' microenvironment (three to six feet off the pavement) provides. A study conducted by Cornell's Urban Horticultural Institute between 1983 and 1985 revealed that the temperature at street level in New York could be as much as 45 degrees F. higher than that recorded by the U.S. Weather Bureau (Bassuk, N. and Whitlow, T. 1988. Environmental stress in street trees. *Arbocultural Journal* 12:197-200). This makes it critically important that the ambient temperature must be taken at the horse's elbow height to determine when the animals should be returned to their stables, rather than relying on the temperature reported by the media.

Practically speaking, since Philadelphia has many days per annum in which the temperature/humidity is too high for horses' safety, a ban altogether is preferable to a burdensome system attempting to regulate when the horses must be removed from the streets.

### **"SPOOKING"**

As any knowledgeable horse person can tell you, the horse is an animal with a highly developed and highly effective flight drive when startled by an unexpected or threatening stimulus. Spooking can happen to even the best trained and well-mannered horse; their evolution as herbivores (i.e. prey animals) has conditioned them to bolt first and consider the situation later, dictating the need for the driver to be constantly in contact with the horse's head, whether by holding the reins securely from the carriage box or by standing at the horse's head with the reins in hand. The driver must also learn to anticipate potentially threatening stimuli in order to control the horse before it attempts to flee in panic, which is unlikely when the drivers are novices. I have heard carriage owners/drivers in several city council debates claim that their horses are "spook-proof"—there is no such thing.

The inevitable result of a horse being spooked while pulling a carriage in traffic is a tragic collision between the horse and the crossing vehicles at the next intersection that he/she gallops through in panic. People For the Ethical Treatment of Animals (PETA) maintains a data base of horse and carriage accidents available on their website ([www.peta.org](http://www.peta.org)) that are included in Appendix I; some accidents have resulted in both human and equine fatalities, and are much less likely to occur if the horses are restricted to areas with no motor vehicles in operation .

### **STABLING**

The essential provisions for appropriate stables for horses, often of draft breed size, whose daily shifts are spent between the extremely confining shafts of their carriages, are beyond the scope of this discussion. However, for a humane existence for the inhabitants, the stables must include: box stalls (not tie stalls) that are a minimum of ten by ten feet (twelve foot square is much better for the larger breeds); constant access to clean, potable water in each stall; good quality hay and grain secured in rodent- and moisture-proof containers; bedding that is

sufficiently absorbent and deep to provide comfort to the animal when resting; proper ventilation and cooling provided by fans to keep ammonia fumes to a minimum.

In addition, each horse should have—and rarely gets—daily turn-out in which he/she is given a period to relax with a compatible stable buddy in a large enclosure where they can roll, mutually groom one another, lie stretched out, and generally obtain relief from their arduous shifts and the discomfort of tight-fitting harness. In so doing, they satisfy both behavioral and physical needs. I am not aware of the current stabling available in Philadelphia: in 2000, when I inspected the three stables that housed this city's carriage horses, two did provide such space and opportunity, which I have not seen in any other urban stabling situation.

During the several years that I inspected New York's carriage horses on the street and in their stables at the request of the ASPCA and the Carriage Horse Action Committee, I found their housing and routine care to be a far cry from the precepts outlined above. I noted repeated violations of basic humane equine husbandry and care principles, as follows:

- The horses were not given adequate water during their work shifts since no public water was readily available to them, and most were denied the basic presence of water buckets in their stalls.
- Many horses were afforded inadequate hoof care and shoeing, adding to their likelihood of developing or exacerbating lameness.
- The stables were distressingly inadequate, with poor hygiene, temperature control, and ventilation. Also, most horses were confined to tie stalls rather than to box stalls, which meant that their entire lives as carriage horses kept them restricted to narrow spaces—between the carriage shafts while working and between their stall walls when resting, with never a chance to turn around comfortably or roll or scratch their itching hides after the harness was removed. Bedding was nonexistent or grossly inadequate.
- Many showed harness sores that should require them to be removed from work till healed; however, there was never sufficient enforcement of this regulation, and many horses worked with infected and inflamed sores.
- No opportunity for “turn-out” was provided since there was no room for such a space in the stable areas. Therefore, the horses had no opportunity to perform natural movements or experience normal socialization, so necessary for a herd animal, for their entire lives in this industry.

## CONCLUSION

Although carriage horse training and driving can be done with due attention to making the experience both humane and pleasurable for the horse in a proper setting, the tourist trades seen in urban settings cannot provide a safe and healthy environment as long as the horses must work in city streets where they are threatened by motor vehicle traffic and physically injurious environments. I hope that these tourist attractions are phased out in the near future, to be replaced (for example) by a nostalgic ride in a “green”, i.e. electric, antique model car. I ask animal advocates to work with their city councils and tourist boards to phase out this “quaint” form of equine abuse.

**Appendix I**

**From:** Working Animal Advocates [<mailto:workinganimaladvocates@gmail.com>]  
**Sent:** Friday, January 31, 2014 2:03 PM  
**To:** Rebecca Bitter  
**Cc:** Steve Hansen; Leslie Wisniewski  
**Subject:** Effects of Arena Construction & Downtown Development on Horse-Drawn Carriages

Dear Ms. Bitter,

We are writing today to express our concern with how the plans for development in downtown Sacramento, specifically with regard to the construction and use of the proposed Arena, will impact the horses used to pull carriages in and around the City's Old Town Historic District.

The horses are already adversely affected by traffic congestion, pollution and noise in and around Old Sacramento, and so we are concerned with how the anticipated increase in congestion, pollution and noise in the area as a result of the construction and use of the Arena will negatively impact them.

Are there any plans to eliminate some of the longer routes - such as the Capitol route that takes the carriages directly into urban traffic that is not anticipating the presence of horse-drawn carriages - in an effort to mitigate the negative impacts of high traffic volumes around the Arena? Or perhaps plans to prohibit the operation of horse-drawn carriages altogether during times of peak Arena use and activity?

Thank you for any information you can provide. We greatly hope the well-being and safety of the horses are being considered in the City's development plans.

Sincerely,  
Kim Flaherty  
Working Animal Advocates  
<http://www.workinganimal.org/>

06-5  
06-6



**Letter O6**      **Kim Flaherty, Working Animal Advocates**  
**Response**      **January 31, 2014**

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O6-1            The comment notes that horse carriages are offered in Old Sacramento and in some areas of downtown Sacramento and expresses a general concern regarding potential adverse effects on these horses as a result of the Proposed Project. The commenter's specific concerns are addressed below.

O6-2            The comment states that the states that the Draft EIR does not address potential impacts of vehicular, transit, and pedestrian traffic on horse carriages near the Downtown project site as a result of the Proposed Project. It should be noted that under current conditions, vehicular, transit, and pedestrian traffic regularly interface with existing horse-drawn carriage routes in Old Sacramento and in other areas of downtown Sacramento. The development of the Proposed Project could increase the amount of vehicular, transit, and pedestrian traffic around the Downtown project site, which could result in more interaction between carriage horses and vehicles and pedestrians, depending on the routes of carriages that operate out of Old Sacramento. As described in section 4.10, Transportation, in the Draft EIR, the majority of vehicles and pedestrians are expected to arrive at the ESC from the south and east of the Downtown project site, not from Old Sacramento.

Sacramento City Code Chapter 10.64, Horse-Drawn Vehicles, specifically regulates "...the operation of horse-drawn vehicles in the city, in order to insure that horse-drawn vehicles are operated safely, to protect the public health, safety and welfare..." City Code Section 10.64.110 addresses the health of working carriage horses by regulating the number of hours horses can work, the maximum temperature in which horse carriages can operate, and a health log be kept for each horse. In addition, carriages are required to be equipped with two red, highly visible taillights; side marker lights, amber in color, one on each side of the vehicle, visible from the front; and brakes in good working condition.

The comment references an attachment that includes an anecdotal list of incidents involving horses used in carriage operations around the United States and Canada, but does not relate the attachment's relevance to the physical environmental impacts of the Proposed Project. Another attachment is a letter to the City regarding potential violations of Sacramento City Code Section 10.64 by carriage operators in Old Sacramento, but the letter does not address the physical environmental impacts of the Proposed Project. Another attachment provides a veterinarian's research regarding working conditions of carriage horses in general, but does not specifically tie that research back to the physical environmental impacts of the Proposed Project. The comments are general in nature regarding

working conditions of horses. The Proposed Project does not propose to use carriage horses nor would it otherwise have carriage horses on the Downtown project site.

The existing environment in which the Proposed Project would operate is a developed urban setting. Horses, in general, have an unusual sensitivity to noise, light, and other reasonably foreseeable environmental conditions commonly found in an urban environment. However, horses that are exposed to urban environments become somewhat desensitized to the surrounding noise and light environment, although not all horses adapt well to highly urbanized environments. The likelihood and degree of traffic and pedestrian activity to adversely affect horses is impossible to predict with reasonable certainty. Further, any interaction between patrons of the Proposed Project and carriage horses is uncertain. Impacts on domestic animals such as horses are not protected species for purposes of impact analysis under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

O6-3 As described in section 4.2, Air Quality, in the Draft EIR, construction and operation of the Downtown project site would result in increased air emissions. Construction of the ESC is expected to occur over a two-year period. As stated on page 2-67, plans do not currently exist for construction of the mixed use development within the SPD area, although it is possible that some construction of mixed use development in the SPD area could occur concurrently with the construction of the proposed ESC. Impacts 4.2-2, 4.2-4, and 4.2-7 address construction-related air emissions including NO<sub>x</sub>, PM<sub>10</sub>, and TAC. Impacts 4.2-3, 4.2-5, and 4.2-7 address operational air emissions. As described in section 4.8, Noise, in the Draft EIR, construction and operation of the Downtown project site would result in increased noise levels.

The Downtown project site is a developed urban setting. The Proposed Project would replace the Downtown Plaza, a retail, commercial, and office use that accommodates vehicles and pedestrians on a daily basis.

As described in Response to Comment O6-2, horses, in general, have an unusual sensitivity to noise, light, and other reasonably foreseeable environmental conditions commonly found in an urban environment. However, domestic animals such as horses are not protected species under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

O6-4 The comment suggests the Proposed Project should include mitigation eliminating horse carriage operations from the area around the Downtown project site. The Proposed Project does not propose any change to operations of horse-drawn carriages in the city, nor does the project applicant have any authority over how horse carriages operate in the city. Domestic animals such as horses are not

protected species under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

O6-5 Please see Responses to Comments O6-2 and O6-3.

O6-6 Please see Response to Comment O6-4.

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January 31, 2014

**VIA ELECTRONIC AND U.S. MAIL**

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

Re: Sacramento Entertainment and Sports Center  
Region Builders Comments on Draft Environmental Impact Report

Dear Mr. Johnson:

Region Builders has a vision to create a political climate in our region that encourages profitable building through decreased regulation and lower fees; as well as more governmental accountability, transparency and efficiency. To that end, and on behalf of our members, Region Builders is pleased to provide comments on the Draft Environmental Impact Report (“DEIR”) for the City of Sacramento’s proposed Entertainment and Sports Center (“ESC”).

07-1

**INTRODUCTION**

Region Builders strongly supports the ESC and the unprecedented economic benefits that it will generate for the region as a whole – including more than \$11.5 billion dollars in economic activity and more than 11,700 construction related jobs associated with arena construction and ancillary development.

Region Builders has reviewed the DEIR prepared by the City and finds it to be fully compliant with the requirements of the California Environmental Quality Act (“CEQA”) and its corresponding guidelines. As such, the City is free to act on the merits of this project when it is presented for final approval. (See, e.g., *Goleta Union School Dist. v. Regents of University of California* (1995) 27 Cal.App.4th 1025, 1030 [“If the agency proceeds according to CEQA and includes the information on the environment it requires, the agency does not violate CEQA. The final decision on the merits of a project is within the hands of the agency.”].)

07-2

Therefore, the balance of this comment letter is intended to highlight specific areas of the DEIR, including the Project Description, the Global Climate Change Analysis and the



Transportation Analysis, in anticipation of the City’s final review and, we trust, approval of this incredibly valuable project.

↑07-2  
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cont.

**SPECIFIC DEIR COMMENTS**

Project Description

The cornerstone of a legally sufficient EIR is an accurate and stable project description. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 7 13, 727 (quoting *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193). The importance of accurate and complete project description is self-evident – it permits a complete and intelligent evaluation of a project’s potential environmental consequences. (*Id.* at 730.)

As the DEIR clearly states, the proposed project includes the development of the ESC and the surrounding area, as well as the development of ten (10) potential off-site digital billboard locations. More important, however, the DEIR also clearly identifies as part of the project description the anticipated “transfer parcels” located in Natomas and at various locations throughout downtown that are associated with the overall development of the ESQ.

In total the DEIR provides nearly 100-pages of comprehensive information relative to the proposed project under consideration and unquestionably provides ample information for a complete an intelligent evaluation of the projects potential environmental impacts.

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07-3  
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Global Climate Change

CEQA expressly requires the evaluation of the potential adverse impacts of a proposed project on global climate change and mandates that lead agencies, like the City of Sacramento, make a “good-faith effort” to evaluate a projects potential greenhouse gas emissions in conjunction with the preparation of an EIR. (CEQA Guidelines § 15064.4.)

Consistent with this requirement, the City of Sacramento has adopted a Climate Action Plan (“CAP”) and corresponding Checklist to ensure that proposed projects comply with state mandates and meet the City’s overall goal of reducing educing community-wide emissions by 15% below 2005 levels by 2020, 38% below 2005 levels by 2030, and 83% below 2005 levels by 2050. (Sacramento Climate Action Plan, February 14, 2012.)

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07-4  
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The DEIR specifically evaluated the proposed project against the City’s CAP Checklist and concluded that the ESC meets all seven (7) emission reduction strategies outlined in the City’s overall Climate Action Plan. Specifically, the DEIR found that the proposed project would do all of the following:



1. *Meets the City’s 2030 General Plan for land use and urban form, allowable floor area ratio, and density standards,*
2. *Supports less than 15.9 VMT per capita based on its proposed location,*
3. *Will be located within the Central Business District, an area where traffic calming measures are not encouraged,*
4. *Incorporates pedestrian facilities and connections to public transportation consistent with the City’s Pedestrian Master Plan,*
5. *Complies with City’s Bikeway Master Plan and the portions of City’s Zoning Code that apply to bicycles and bike facilities,*
6. *Includes design features and mitigation measures that would reduce total energy demand by more than 15%, and*
7. *Complies with the minimum CALGreen Tier I water efficiency standards.*



07-4  
cont.

(DEIR, Section 4.5 Global Climate Change, Page 16.)

The project’s compliance with these strategies cannot be understated as they evidence a strict adherence to well-established smart growth principles. In addition to the construction and design features that will reduce the project’s overall energy dependence, the ESC location at the heart of the City’s urban core strongly supports multi-model transportation options including pedestrian, bicycle, and transit use

Transportation

Finally, with respect to the DEIR’s analysis of the project’s potential transportation related impacts, we note that the non-automotive transit use associated with the project would actually increase over the project’s life:

*The conclusions of [the Transportation] study are that in the short term, it is estimated that approximately 10% of ESC attendees would travel with non-automotive modes, including 7% of ESC attendees using transit, about 2.5% would walk, and less than 1% would ride bicycles. In the long term, under cumulative conditions, it is anticipated that non-automotive travel would constitute 15% of*



07-5





*travel to and from the ESC, with transit use increasing to approximately 11%, walk increasing to 3% and bicycle use rising to 1%.*

(DEIR, Summary, Page S-13.)

These estimates are likely conservative in nature and will undoubtedly improve as users and transit providers adjust to a new paradigm in regional transportation options.

Ultimately, whatever transit option individuals utilize, this valuable influx of visitors will ensure that the ESC will help activate the downtown core and will provide a catalyst for further revitalization of the City.

**CONCLUSION**

In summary, Region Builders appreciates the opportunity to comment on the City’s DEIR. The Sacramento Entertainment and Sports Center is a once in a lifetime opportunity for this region that will yield positive economic and civic benefits for generations to come.

City staff and its environmental consultants have prepared an environmental document that clearly meets the requirements of CEQA. Therefore, we respectfully and wholeheartedly request that the City certify the EIR and approve this important project.

Sincerely,

Joshua Wood  
Executive Director  
Region Builders, Inc.

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07-5  
cont.

07-6

07-7

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**Letter O7**      **Joshua Wood, Region Builders**  
**Response**      **January 31, 2014**

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- O7-1            The comment provides information about Region Builders and provides support for the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O7-2            The comment provides an opinion regarding the City’s compliance with CEQA and states that the Draft EIR was prepared in full compliance with CEQA’s requirements. The comment does not raise any environmental issue related to the project or its potential environmental effects. Comments offering legal opinions on the Draft EIR have been forwarded to the City Attorney for consideration.
- O7-3            The comment is noted and will be conveyed to the City Council for its consideration. Page 2-69 of the Draft EIR states that the Proposed Project would include the development of up to six (6) digital billboards on City-owned property. While the Draft EIR included evaluation of 10 potential sites, the project proposal is for the development of only six billboards. Chapter 2 of this Final EIR identifies the specific sites proposed for development of digital billboards.
- O7-4            The global climate change discussion in the Draft EIR (including Appendix B) shows and explains that the ESC project would meet the City of Sacramento’s CAP consistency requirements.
- O7-5            The comment states that the transit ridership estimates are likely conservative in nature, and will likely improve over time. The comment is noted and will be conveyed to the City Council for its consideration.
- O7-6            The comment is noted and will be conveyed to the City Council for its consideration.
- O7-7            The comment is noted and will be conveyed to the City Council for its consideration.

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*Friends of the*  
*Sacramento*  
*River Parkway*



Supporting public access and  
recreation along the Sacramento River

January 31, 2014

**VIA E-MAIL ([SRJohnsond@cityofsacramento.org](mailto:SRJohnsond@cityofsacramento.org)) AND U.S. MAIL**

Mr. Scott Johnson  
City of Sacramento Community Services Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

Re: Comments on the Draft Environmental Impact Report for the  
Sacramento Entertainment and Sports Center

Dear Mr. Johnson:

Please accept these comments from Friends of the Sacramento River Parkway (“FSRP”) to the Draft Environmental Impact Report (“DEIR”) for the Sacramento Entertainment and Sports Center (“ESC”).

**FSRP’S INTERESTS**

FSRP is an unincorporated association of individuals devoted to the culmination of the City’s forty-year-old plan for a multi-purpose trail on or along the Sacramento River from the City’s northern boundary in Natomas to its southern boundary near the town of Freeport. Our immediate goal is completion of the on-levee trail through the Pocket and Little Pocket neighborhoods.

Our comments here should not be construed as opposition to or support for the ESC. FSRP takes no position on the ESC. However, the ESC presents opportunities to improve conditions not just for current bicyclists, but to encourage more bicycling in our community, and to gain the significant health and environmental benefits when we can get our residents out of their cars and on bicycles.

08-1

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THE DEIR’S BICYCLE-RELATED DEFICIENCIES

The DEIR both relies on bicycle travel to qualify the DEIR for exemption from stricter environmental laws, then minimizes the need to address improved bicycle access. All the while, the DEIR fails to explore additional means to encourage users to bicycle to events at the ESC.

The DEIR argues that it qualifies for the protections of Senate Bill 743 that streamlines the environmental review process if the project meets certain benchmarks. The DEIR claims that the ESC qualifies because:

[t]he Proposed Project would encourage the use of zero-emission and low-emission vehicles (ER 6.1.14). Due to its location and proximity to other complementary uses, the Proposed Project would encourage pedestrian and bicycle access. In addition, the Proposed Project would include a bicycle valet service for the larger events.

08-2

(Summary at S-5.) The DEIR claims compliance with the 2030 Sacramento General Plan’s goal for “Improved Air Quality”:

**ER 6.1.14 Zero-Emission and Low-Emission Vehicle Use.** The City shall encourage the use of zero-emission vehicles, low-emission vehicles, bicycles and other non-motorized vehicles, and car-sharing programs by requiring sufficient and convenient infrastructure and parking facilities in residential developments and employment centers to accommodate these vehicles.

(Chapter 4, Section 5, Global Climate Change at 4.5-14.) The DEIR’s “proof” of compliance is a statement identical to the statement above found at page 5 of the DEIR’s summary. (See DEIR, Chapter 4, Section 5, Global Climate change at 4.5-15.)

Yet, rather than proposing any significant steps to encourage users to bicycle to events, the DEIR relies on an unrealistic build-it-and-they-will-come theory. The DEIR identifies short-term bicycle parking locations, which it presumably must provide, and a long-term bicycle parking area, primarily or exclusively for employees. Then the DEIR commits only that the ESC “may also” provide bicycle valet parking for “larger events.” (See, e.g., Chapter 4, Section 10, Transportation at 4.10-101.)

08-3

The DEIR recognizes that the American River Parkway bike trail is a logical thruway for bicyclists coming from many areas. The DEIR recognizes that these bicyclists would arrive in Old Sacramento and use the K Street multi-use underpass to access the ESC. (The DEIR incorrectly identifies the bike trail from Discovery Park to Old Sacramento as the “American River Bike Trail.” (See, e.g., Chapter 4, Section 10, Transportation at 4.10-19.) In fact, that trail is the Sacramento River Parkway bike trail. The distinction is significant in that Sacramento County exercises primary jurisdiction over the American River bike trail, and Sacramento City exercises primary jurisdiction over the Sacramento River Parkway bike trail.)

08-4

Mr. Scott Johnson  
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Page 3

As it must, the DEIR implicitly recognizes that bicyclists will not flock to the ESC unless they are provided with safe, secure, attended parking. Providing such parking at no or low cost would further encourage bicycle travel to the ESC. However, the proposal for a “bicycle valet service” is troubling for its lack of detail or commitment. The DEIR does not identify who would provide the bike valet, and does not commit to provide valet parking, though implying it “may” provide valet parking at undefined “larger events.” The proposal even lacks a dedicated space other than offering possibilities for St. Rose of Lima Park or on a closed-to-traffic Sixth Street. The DEIR does not recognize that such a transient facility would be difficult to protect from thefts, and the proposed locations are on the opposite side of the ESC from the multi-use underpass from Old Sacramento.

08-5

Despite its lack of a realistic encouragement to bicycling, the DEIR relies on the reduction of greenhouse gases from users bicycling to the ESC. To the extent that bicycles can be safely and conveniently funneled through K Street in the underpass, bicyclists reduce other significant impacts from events at the ESC. Every bicyclist arriving through Old Sacramento is one less vehicle contributing to the traffic congestion around the ESC. Presumably, few automobiles would access the ESC through Old Sacramento except to the extent they use parking facilities at either end of Old Sacramento, but would be unlikely to drive north or south through Old Sacramento. On the other hand, if valet parking materializes at locations that the DEIR currently proposes, bicyclists will add to congestion as they try to get around the ESC to valet parking.

08-6  
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08-8

THE KINGS AND THE CITY CAN MEANINGFULLY  
ENCOURAGE BICYCLE USAGE

Just as the DEIR recognizes the benefit of the American River Bike Trail (and the misidentified Sacramento River Parkway bike trail from Discovery Park), the ESC would benefit greatly from a completed Sacramento River Parkway bike trail from south of the ESC.

08-9

The trail remains only about half complete because of the need to acquire easements from property owners on the levee. As a result, bicyclists face difficult, risky detours on and across busy city streets (see attached photographs). A completed bike trail would be a natural and preferred route for bicyclists in some parts of Land Park, South Land Park, and all of the Little Pocket, Pocket, Meadowview, and the coming Delta Shores neighborhoods.

08-10

Completing this bike trail would not just encourage present-day bicyclists to ride to the ESC. A frequently cited discussion about bicycling in Portland, Oregon, estimates that just a little more than 7% of the population are “Strong & Fearless” riders or “Enthusied & Confident” riders who are comfortable in automobile traffic. Just 32% of the population will not ride a bicycle under any circumstances. The majority – 60% of the population – are “Interested but Concerned” about bicycling. These are people who do not fear other bicyclists, or pedestrians, or the risk of a bicycle-only crash. But they are averse to riding in automobile traffic. (See, e.g., <http://www.portlandoregon.gov/transportation/article/158497>.) Completing the Sacramento River Parkway bike trail would give this segment of the population the encouragement they need to bicycle to events. Furthermore, those of us who are Enthusied & Confident riders will have a greater incentive to ride to the ESC with a safe, off-rod route to the ESC.

Mr. Scott Johnson  
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The City and the Kings can incorporate true encouragement of bicycle use in the final EIR if the City makes a binding commitment through the EIR process to complete the Sacramento River Parkway in a timely fashion, and if the City and the Kings make a financial commitment to the bike trail's completion.

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08-11  
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Do not hesitate to contact us if we can provide additional information. Please direct any questions to me at [jhaupt@houtlaw.com](mailto:jhaupt@houtlaw.com) or by phone at 916-396-7239. We would also be pleased to participate in mediation under Public Resources Code section 21168.6.6, subsection (e)(5)(A) to further explore the means of encouraging bicycle travel to events at the ESC.

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08-12  
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Yours truly,

/S/

James E. Haupt



Mr. Scott Johnson  
 January 31, 2014  
 Page 5

### GUIDE TO THE ATTACHMENT

The attached photographs illustrate problems for bicyclists created by the existing detours on the Sacramento River Parkway. These descriptions follow the trail from north to south (upriver to downriver).

- Figure 1: The Westin Hotel (formerly, Le Rivage) marks the beginning of an almost one-mile detour on Riverside Boulevard through the Little Pocket neighborhood. To ride legally, bicyclists heading upriver are supposed to cross at the designated bicycle crosswalk. However, because automobile traffic from the north is rounding a blind corner under Interstate 5, and because traffic can be heavy during much of the day, crossing the road legally often results in long delays for bicyclists. As a result, most bicyclists seize opportunities to cross the road dangerously and illegally before this point to avoid the delay, riding the wrong side of the road until they get to the ramp for the bike trail.
- Figure 2: Bicyclists' next major obstacle is a difficult and busy intersection at Riverside Boulevard and Seamas Avenue. This photo shows the view for bicyclists traveling southbound (downriver).
- Figure 3: Bicyclists traveling northbound (upriver) see this view. The sign warns, "TRAFFIC FROM THE RIGHT DOES NOT STOP." Bicyclists encounter two difficulties: cars turning right from Riverside to Seamas that don't give a prior-arriving bicyclist the right of way, and traffic on Seamas that does not stop, making it difficult for a bicyclist to time a crossing of Seamas.
- Figure 4: Complicating the problem for bicyclists, southbound cars exiting I-5 are often driven by local residents who know they don't have a stop sign at Riverside. Seeing a green light, some exit at a high rate of speed heading west on Seamas, creating a dangerous situation for a bicyclist starting to cross Seamas without anticipating the exiting vehicle.
- Figure 5: Traveling southbound from Seamas toward 35<sup>th</sup> Avenue, Riverside is two lanes with little additional room, but a narrow bike lane is often blocked by debris piles, forcing bicyclists to ride in the roadway.
- Figure 6: Near 35<sup>th</sup> Avenue, a short half-mile section of bike trail resumes on the levee. Access to and from the levee here is less than adequate. The incline is too steep for some bicyclists going up to the levee. For bicyclists coming down from the levee, the incline leads directly to the roadway, creating a risk for any bicyclist who is inexperienced or with inadequate brakes.
- Figure 7: At the end of the half-mile section, the bike trail ends at Zacharias Park and bicyclists ride onto Clipper Way.

08-13

Mr. Scott Johnson  
January 31, 2014  
Page 6

- Figure 8: A pedestrian and bicycle overpass on Riverside Boulevard into Seymour Park is the designated detour for the continuation of the bike trail. Because it is not intuitive that the Parkway detour would be perpendicular to the river, bicyclists who are not familiar with Greenhaven-Pocket do not recognize that the overpass constitutes the detour.
- Figure 9: As a result, these bicyclists turn right and ride down Riverside Boulevard to Pocket Road for more than three miles until the bike trail picks up again at Garcia Bend Park. Understandably, recreational riders tend not to ride this route more than once. The sporadic nature of the bike trail makes the Sacramento River Parkway an underutilized resource.
- Figure 10: Even those bicyclists who attempt to use the detour face a number of difficulties. Seymour Park is primarily a park rather than a bikeway. Park users can interfere with bicycling, especially on sidewalks that do not give visual cues that the sidewalks are intended for mixed users.
- Figure 11: The sidewalks in Seymour Park are concrete slab sidewalks. Settling slabs and slabs raised by tree roots create hazards for bicyclists, especially for the narrow tires of a road bike that can experience a pinch flat when hitting a sharp obstacle.
- Figure 12: Both through Seymour Park and in the Pocket Canal Parkway, a multitude of trails make it difficult to remain on the Parkway detour. Even local residents are confused unless they use the detour and other trails often.
- Figure 13: The Pocket Canal Parkway, beginning after a pedestrian and bicycle overcrossing on Florin Road, is more conducive to bicycling. However, the detour requires bicyclists to cross two busy streets.
- Figure 14: Rush River Drive is the primary thoroughfare for residents of the original Greenhaven development to the Promenade Shopping Center, a busy retail facility in the center of the Greenhaven-Pocket neighborhood.
- Figure 15: Riverside Boulevard becomes Pocket Road between Zacharias Park and Garcia Bend Park.
- Figure 16: Riverside/Pocket is a broad, four-lane road with a forty mile per hour speed limit. The wide roadway gives motorists a sense of security that causes many to drive well in excess of the speed limit.
- Figure 17: To rejoin the bike trail, bicyclist ride another quarter mile along Pocket Road before turning into Garcia Bend Park.



08-13  
cont.

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January 31, 2014  
Page 7

Figure 18: The final two-mile section of the Parkway proceeds from Garcia Bend to the Freeport Regional Water Intake. The lack of any facilities at the water intake or any easy means to continue to another location, discourage bicyclists from using the final section of the Parkway. This will be remedied in part when an extension of the bike trail is completed within the next few months into the Bill Conlin Youth Sports Complex, where a drinking fountain and rest rooms are available.

This will also be the route for residents of the coming Delta Shores project to join the bike trail. However, the intermittent detours will discourage many bicyclists from using the Parkway for recreation or commuting until it is a continuous, off-road trail.

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Mr. Scott Johnson  
January 31, 2014  
Attachment



Figure 1.



Figure 2.



Figure 3.



Figure 4.



Figure 5.



Figure 6.

08-13  
cont.



Mr. Scott Johnson  
January 31, 2014  
Attachment



Figure 7.



Figure 8.



Figure 9.



Figure 10.



Figure 11.



Figure 12.

08-13  
cont.



Mr. Scott Johnson  
January 31, 2014  
Attachment



Figure 13.



Figure 14.



Figure 15.



Figure 16.



Figure 17.



Figure 18.



08-13  
cont.

**Letter O8**      **James Houpt, Friends of the Sacramento River Parkway**  
**Response**      **January 31, 2014**

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- O8-1            The comment provides information about Friends of the Sacramento River. The comment is noted and will be conveyed to the City Council for its consideration.
- O8-2            It is incorrect to state that the Draft EIR “relies” on bicycle travel to comply with the requirements of Senate Bill 743. In fact, the detailed analysis that was undertaken and is presented in the Draft EIR incorporated information from SACOG’s SACMET travel demand model. That model includes information on the propensity to use various types of travel associated with different traffic analysis zones throughout the region. The propensity to use bicycle travel is based on existing bicycle access in the Central Business District. Therefore, the bicycle travel estimates are not based on an assumption of improved access. An exploration of additional measures to “encourage users to bicycle to events” is not required to mitigate impacts of the Proposed Project. Please see Response to Comment A3-8 for additional discussion related to bicycle access.
- O8-3            Please see Response to Comment O2-7. As noted in that response, the bike valet parking would be scalable, and would be implemented based on demand that would vary depending on the type of event, season, and weather.
- O8-4            The segment of bike trail between Discovery Park and Old Sacramento is the Sacramento River Parkway bike trail. Page 4.10-19, second full paragraph, the third sentence is revised to read:
- In addition, the ~~American~~ Sacramento River Parkway Bike Trail (Class I path) extends southwesterly from Discovery Park into Old Sacramento.
- O8-5            Please see Response to Comment O2-7 for additional discussion of bike valet services.
- O8-6            The commenter is correct that the GHG estimates included in the Draft EIR account for reductions in motor vehicle trips resulting from bicycling to the ESC. The GHG estimates also account for reductions in motor vehicle trips resulting from pedestrian and transit travel to the ESC. The project location in downtown (as compared to the current Sleep Train Arena location) will enable a substantial number of trips to be taken by bicycle, transit, and by walking. These alternative trips all result in lower GHG emissions compared to existing conditions.
- O8-7            The comment is noted and will be conveyed to the City Council for its consideration.



- O8-8 Please see Response to Comment O2-7 for additional discussion of bike valet services.
- O8-9 The comment discusses interest in completing the Sacramento River Parkway bike trail south of the ESC as a way of encouraging bicycle use. The focus of the EIR is on physical adverse environmental effects of the Proposed Project. Potential actions that could influence travel behavior, including bicycle use, are relevant policy issues, but do not pertain to the adverse physical effects of the Proposed Project or ways to mitigate such effects. The comment is noted and will be conveyed to the City Council for its consideration.
- O8-10 The comment cites a study of bicycle use in Portland, Oregon, documenting information about different types of bicycle riders based on levels of fear and confidence that ultimately affect willingness to bicycle in automobile traffic. The comment is noted and will be conveyed to the City Council for its consideration.
- O8-11 The comment requests the City and project applicant to make a financial contribution to completion of the Sacramento River Parkway. Completion of the Sacramento River Parkway is not a part of the Proposed Project and does not pertain to the Proposed Project's effects on the existing environment or ways to mitigate such effects nor would the Proposed Project impede implementation of the Sacramento River Parkway project. Please also see Responses to Comments O8-9 and O8-10. The comment is noted and will be conveyed to the City Council for its consideration.
- O8-12 The comment requested mediation with the City under Public Resources Code 21168.6.6. Friends of the Sacramento River Parkway separately requested mediation with the City on the issue of mitigation funding for the Sacramento River Parkway in a letter dated February 7, 2014. Friends of the Sacramento River Parkway participated in mediation with the City on February 13, 2014. The Mediator's Report of SB 743 Mediation is posted on the City's website at <http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports>. The comment is noted and will be conveyed to the City Council for its consideration.
- O8-13 The comment attaches photographs of the existing Sacramento River Parkway and a description of existing conditions along the trail. The comment is noted and will be conveyed to the City Council for its consideration.



Scott Johnson, Associate Planner  
City of Sacramento Community Development Department  
Environmental Planning Services  
300 Richards Blvd. Third Floor  
Sacramento, Ca 95811

RE: RESPONSE TO ENTERTAINMENT & SPORTS CENTER E.I.R,

Dear Mr. Johnson:

Old Sacramento business and property owners are strong supporters of a Downtown Entertainment and Sports Center (ESC). We have helped with fundraising, bought season tickets, provided letters of support, testified at City Council and have been cheerleaders for this long awaited Downtown project. We applaud the efforts of the City and the Kings owners in overcoming seemingly insurmountable hurdles so far.

09-1

The following are formal comments by the Old Sacramento Business Association (OSBA) regarding the Draft Environmental Impact Report (EIR). They are submitted in the spirit that raising and respectfully discussing concerns will make for a more successful arena project and a stronger and more vibrant Old Sacramento. OSBA represents over 120 shops, restaurants, museums and other attractions in addition to another 100 business office tenants. These comments were prepared and reviewed by concerned OSBA members and approved by the OSBA Executive Committee.

As with any project of this magnitude, there will be impacts on surrounding neighborhoods and businesses related to the construction and operation of the ESC as well as effective mitigation that will offset negative impacts. Through both formal and informal review, the Old Sacramento business community has previously identified significant negative impacts on the historic business district and recommended Old Sacramento-specific mitigation. Nevertheless, we note that the draft EIR, as presented, does not yet reflect sufficient and substantive mitigation recommendations. We realize that some elements of our comments may be deemed outside the legal scope of the EIR, but are nonetheless significant environmental impacts that require discussion and intervention as a result of the ESC project, and cannot be isolated from one another.

09-2

COMMERCIAL AND CULTURAL IMPACTS

The EIR states on page 5.22 that the business owners in Old Sacramento should do their own mitigation – through significant alteration of their business plans – and if not then businesses risk closure, to be replaced by a business more complementary to the ESC. As a National Historic Landmark, the district should remain independently viable both commercially and as a visitor attraction. A drastic turnover of retail tenancy or a shift toward the district primarily serving as arena-oriented concessions would compromise Old Sacramento’s cultural character and viability. Over 95 percent of the shopping and dining businesses in Old Sacramento are locally owned, family-operated small businesses. The EIR incorrectly and unfairly shifts the responsibility for negative impacts to Old Sacramento from a nearly half-billion-dollar construction project to small family owned businesses.

09-3

The impact to Old Sacramento business and property owners is complicated by the fact that tenancy in the district is not managed like a shopping center but instead by over a dozen independent property owners. A sudden and wholesale turnover of retail tenants during construction (or in the first year of ESC operation), whether ultimately resulting in an upgrade or not, will have undue negative impact on property owners that will compromise the district as a cultural asset and undermine existing private and public investment.

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cont.

PARKING AND TRAFFIC

Old Sacramento has very real existing transportation, parking and connectivity issues which the construction and operation of the ESC will amplify and will have direct and immediate negative impacts in Old Sacramento. In some cases, it will undo the incremental progress made over the last ten years with regard to parking and traffic.

The three garages currently serving Old Sacramento (including the Downtown Plaza West Garage at 3rd and L) should have sufficient capacity for most Old Sacramento usages. Yet, almost every public survey or market analysis has concluded that parking and the ability to navigate to parking are serious inhibitors to people coming to Old Sacramento. The public perception – whether correct or not – is more serious than the reality. A 2013 study performed by MeringCarson and funded by OSBA found that the two greatest challenges to attracting visitors to Old Sacramento were traffic and parking. The assessment was further supported by a 2013 survey by the Sacramento Metro Chamber of Commerce. Demolition and construction of the ESC will add to confusion and negative perception of both parking and traffic, and uncertainty for drivers headed to Old Sacramento is sure to continue after the arena opens. The EIR downplays the impact of traffic and parking on Old Sacramento and takes little account of public perception as a factor in attracting visitors.

09-4

The Old Sacramento and Tower Bridge parking garages hold approximately 1,300 cars and the ESC projects utilizing 500 (or 38%) of those spots. This severe reduction in capacity combined with increased ingress and egress challenges to the City garages will only compound the already difficult parking situation for the district. Further, garages don't typically operate efficiently at 100 percent capacity, especially when continuous in and outs are necessary (as it would be for Old Sacramento to continue to welcome visitors during major events at the ESC). The draft traffic plan and parking scenarios in the EIR do not sufficiently take this into account.

The EIR suggests that businesses in Old Sacramento should change their hours of operation to lessen the impacts of ESC parking on Old Sacramento (Page 5-21). Its conclusions are based on false assumptions that businesses like Laughs Unlimited don't start until 8:00 p.m. and therefore will not be impacted by traffic and parking from the ESC. However, Laughs' customers arrive early for dinner, drinks or sight seeing before the show. Additionally, Laughs' second show starts at 10:30 p.m., when the draft traffic plan suggests vehicles be routed away from Old Sacramento parking. The road closures plus congestion will make it nearly impossible for their customers – as well as patrons of the active bar and nightclub scene and guests of the Delta King Hotel – to enter Old Sacramento between 10 and 11 p.m., a fact not addressed in the EIR.

09-5

Consideration should also be given that the Old Sacramento Garage is used by train commuters as well, some of which return to Sacramento late in the evening and could amplify the potential for conflicts and congestion when peak periods overlap.

09-5  
cont

RESTAURANTS AND DINING

Over 65 percent of the revenue in Old Sacramento is generated by restaurants and most restaurants derive more than 70 percent of that revenue from dinner. The overwhelming majority of diners arrive by 7:00 p.m. The EIR suggests that there won't be an impact by ESC events if only the restaurants adjust their hours. Restaurants cannot influence when people want to eat, and they rely on several seatings in an evening to cover staffing costs. Additionally, gains from larger crowds on weeknights (when Old Sacramento is quieter) will not fully offset losses on Fridays and Saturdays when arena traffic will negatively impact late seatings. The EIR does not account for the complexities of operating dining establishments. In some forums, it has been suggested that the Kings games and other events should be begin at 7:30 p.m. to encourage people dine in Downtown restaurants before the game. We support this, however, this measure has not been included in the EIR.

09-6

09-7

Where the EIR discusses competition, it does not address the fact that the ESC will add (net over what now exists in the Downtown Plaza) \$16.8 million in revenue from restaurants and drinking establishments (page 5.15). This is dismissed by saying it is only 2.1 percent of the total sales by restaurants and drinking establishments in Sacramento and West Sacramento. It is unclear what the rationale is for spreading the comparison over two cities, except perhaps to mask the significance of the impact on businesses in Old Sacramento as well as the central city. In any case, the new restaurants and drinking establishments, while adding to a healthy Downtown economy, will also represent significant competition for existing businesses and should have an impact on traffic and pedestrian flows, not just during arena events, but every day of the year.

09-8

DISCOUNT PARKING PROGRAMS

Over the years the OSBA and the City have worked diligently to reduce the real and perceived problems related to parking. Three programs (parking validations, discount employee parking and valet parking) have been successful. The reduction of parking accessibility during construction and operation of the ESC will significantly diminish the availability of these programs unless mitigation measures are implemented.

09-9

The parking validation program that was jointly developed by the Old Sacramento businesses and City of Sacramento includes providing validation cards to customers. It is a broadly used program. But, during prepaid parking events – at present there are about a half dozen events per year – validation cannot be used. Old Sacramento businesses have had complaints from patrons when parking validation is not honored. The addition of 150 event days with prepaid parking for the ESC would reduce the effectiveness of the validation system, and OSBA would lose a major marketing cornerstone.

09-9

There are presently four businesses that provide valet parking in Old Sacramento in both public and private lots surrounding the district. It is reasonable to assume that the presently available spaces for valet parking will be significantly reduced when there are events at the ESC due to an increase in market demand. The result will be insufficient readily accessible parking for valets at the same time as demand for valet will be increasing due to high self-parking demand.

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If availability of parking during peak times is reduced, there will be pressure to increase rates, which could compromise the discounted parking program for employees and could impact the ability to hire.

In assessing existing parking needs in Old Sacramento and the impacts of the ESC on availability for existing use, consideration should be given to the 74 residents (ref. 2010 census) of the historic district (many of whom are of low income) who rely off-street parking facilities.

CONNECTIVITY

Perhaps more critical than parking or competition will be the basic ability (or inability) of people trying to access Old Sacramento. The report says there would be no significant problems at the primary entrance to the district at 3rd and I Streets. Yet, it acknowledges tripling the wait times to 15 minutes to get off the freeway at Interstate 5 and J Street (page 4.10.71). This is the main off ramp from I-5 into Downtown Sacramento and thus the primary off ramp to Old Sacramento. It does not logically follow that there can be a tripling of volume at 3rd and J and an increase in cars using the 800-space Old Sacramento garage for arena events, but no impact on traffic to 3rd and I – or that there is not a substantial deterrent to non-ESC customers coming to Old Sacramento through that intersection.

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Missing from the traffic study apparently is discussion of special events in Old Sacramento, which already tax the City's parking and traffic management systems. As the top event destination in the Sacramento area with some events drawing tens of thousands, this analysis should clearly be part of the EIR.

09-11

With all of the statements minimizing traffic impacts, the EIR still concludes there will be significant and unavoidable impacts at the J Street off ramp and 3rd and J Streets (Page 4.10-96) without any substantive mitigation recommendations.

09-12

Transportation impacts will begin during construction when street closures at 5th will impact access to the Sacramento Valley Station. The proposed solution of modifying one-way sections of 3rd to two way will significantly compound vehicular transit to Old Sacramento. (Page 4.10 – 104 and 105).

09-13

Pedestrian and bicycle connections to Old Sacramento will be interrupted when K Street is blocked by construction from 7th to 5th (the Mall) and the sidewalks on J (south side) and L (north side) streets will be blocked. If this is correct how will pedestrians be able to go from Old Sacramento to 7th Street?

09-14

SUMMARY

The EIR does not provide sufficient mitigation measures regarding Old Sacramento as an existing successful retail district as well as a National Historic Landmark. We respectfully suggest that the City, project developers and Kings owners give serious consideration to our comments and develop substantive mitigation.

09-15

Questions:

- How will the City and project developers provide meaningful remediation to businesses and property owners in Old Sacramento who will be negatively impacted during construction and operation of the ESC?
- How will the City and project developers ensure that the cultural and historic character of the district will be maintained despite significant impacts on traffic flow, parking and competition?
- How will the City ensure that those who want to visit Old Sacramento immediately prior, during or after major ESC events will be able to do so without undue confusion, frustration and delay, and have available parking at existing reasonable market rates?
- How will the City ensure that market forces on parking do not eliminate discount parking programs for employees, Old Sacramento validation, or valet access, or availability of reasonable parking for residents?
- How will the City and arena operators counteract negative public perception regarding downtown traffic and parking that is presumed by the public to become worse after the arena opens?
- How will circulation, parking and traffic be managed by the City to ensure that Old Sacramento is active during major events at the ESC and not just for the hour before and the hour after?
- How will the City account for demands on parking and traffic when there are simultaneous major events in Old Sacramento, the arena, and perhaps other venues like Memorial Auditorium, the Community Center Theater or Raley Field?
- How will the City and project developers mitigate the significant disruption of pedestrian traffic during construction and the operation of the arena from the Convention Center through K Street to Old Sacramento?

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The following are some mitigation measures we have developed that the City, the Kings and the project developers should give consideration to:

1. The City should develop and promote alternative dedicated entrances (and exits) to Old Sacramento, such as coming down 2nd Street behind the Crocker and going across the freeway on O Street (will require a commitment to not block the streets) and expediting construction of the 2nd Street and Capitol Mall intersection. These alternatives will be operational prior to operation of the ESC, and the city and project developers to fund signage and communication plans.
2. The City should create a valet entrance to the Old Sacramento Parking lot at 2nd and Oak Alley (between J and K) for Old Sacramento valet vehicles only. This should include setting aside 300 spaces close to the new entrance for Valet Parking. The spaces should be apportioned to all approved Old Sacramento valet operations. In addition the city should provide appropriate

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accommodation for discount employee parking and validation, perhaps providing specific garages or entrances for Old Sacramento-only users.

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- 3. To improve pedestrian traffic between Old Sacramento and the ESC and to offset increased vehicular traffic congestion, the City and project developers should significantly improve the primary pedestrian access to Old Sacramento: K Street/I-5 underpass by substantially improving the lighting and safety.
- 4. The Kings and ESC staff should include in customer communication and arena messaging information on accessing Old Sacramento, including signage, electronic and interactive media.
- 5. The Kings and the City should fund a significant ongoing marketing and public relations campaign to attract people to Old Sacramento by presenting a positive image to offset negative impacts of traffic and parking. The marketing and public relations program should be executed cooperative with the City, OSBA and Downtown Sacramento Partnership (DSP).
- 6. The City should return to previous staffing and funding levels for Old Sacramento management, including a designated City staff person in charge reporting at a high level within the City. This staff should be authorized to work with the businesses in Old Sacramento and present issues to the City Manager both for ESC-related issues, as well as ongoing operations.
- 7. The Kings should start most games and events at 7:30 p.m. to encourage attendees to patronize Downtown restaurants.
- 8. The City should establish an official communication channel between the City, project developers, the Kings and DSP/OSBA such that problems during construction and operation can be addressed quickly.

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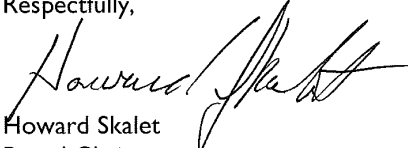
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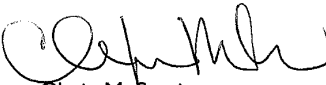
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The Old Sacramento business community seeks to continue as a positive element in the overall Downtown experience including the ESC. At the same time, the district will be in a vulnerable position regarding traffic, parking, other physical limitations and its status as a National Historic Landmark District. As the region's number one tourist destination, Old Sacramento's greatest need is for the City, project developers and the Kings to provide cooperative consideration of our issues and to do what is necessary so that the construction and operation of the ESC does not compromise Old Sacramento's status as a critical cultural and commercial asset for the Sacramento region in particular and the nation as a whole.

Respectfully,

  
 Howard Skalet  
 Board Chairperson

  
 Chris McSwain  
 Executive Director

cc: Mayor  
 City Council Members  
 City Manager  
 Sacramento Kings Owners



**Letter O9      Howard Skalet, Old Sacramento Business Association**  
**Response      January 31, 2014**

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O9-1            The comment provides information about the Old Sacramento Business Association (OSBA) and states that Old Sacramento business owners and property owners are strong supporters of the ESC. The comment is noted and will be conveyed to the City Council for its consideration.

O9-2            The comment states generally that the Draft EIR does not provide mitigation that reflects OSBA's comments made on previous reviews of project-related documents. The comment is unclear as to what documents were reviewed and what mitigation measures are not included in the Draft EIR. As mentioned in the comment, some of OSBA's recommendations may be outside the appropriate scope of an EIR. State CEQA Guidelines section 15143 specifies that an EIR shall focus on the significant effects on the environment. State CEQA Guidelines section 15131(a) says that economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes. The commenter's specific concerns, as they relate to subject matter within the scope of the EIR, are addressed below.

O9-3            The Draft EIR includes an evaluation of the potential that the Proposed Project could result in urban decay as a result of increased competitiveness of the proposed retail space. That analysis concluded there would be sufficient demand in the retail market area to avoid the creation of long-term vacancies that could be expected to cause urban decay. In response to comments from the Old Sacramento Business Association on the Notice of Preparation, the Draft EIR further examined the potential for economic effects on Old Sacramento businesses associated with potential increased use of parking lots and garages that are used by Old Sacramento patrons or as a result of increased congestion at intersections that provide access to Old Sacramento.

Based on the analysis contained in section 4.10, the Draft EIR concludes that increased congestion at intersections that serve as entries to Old Sacramento would not adversely affect access to or from Old Sacramento. The analysis of parking effects suggests that increased competition for parking spaces could adversely affect businesses that conduct time sensitive operations, such as the Laughs Unlimited comedy club or the mystery theater at the Delta King. The

analysis also reflects that many businesses in Old Sacramento may also benefit from the additional people coming to and walking through Old Sacramento. Recognizing that some Old Sacramento businesses currently close by 6:00 PM, especially on weekdays, the Draft EIR states that “[i]n order to take full advantage of increased activity associated with the ESC, Old Sacramento businesses may need to take actions, including extending or altering business hours.” It should be noted that this statement does not suggest that these actions would necessarily mitigate effects, but rather that businesses may choose to take advantage of additional potential customers who may be ESC event attendees, and that since those events would often occur later in the evening than the current business hours, businesses may choose to extend their hours to maximize the opportunity for positive effects of ESC event attendees.

The statement in the comment that the EIR predicts “a sudden and wholesale turnover of retail tenants” in Old Sacramento is incorrect. As noted above, the Draft EIR reflects that “[w]hile some businesses may suffer from increased competition for parking, other businesses could find that business losses due to lack of parking for non-ESC patrons are recouped through gains in patronage from ESC attendees.” It goes on to state that “[i]t is not possible to determine with any precision the exact mix of lost sales versus gained sales, but it is reasonable to conclude that some portion of sales losses would be counterbalanced in this manner. In fact, it is possible that some businesses would experience a net gain in business, through a different mix of customers and timing of client patronage.” While the comment suggests that the cultural character of Old Sacramento could be compromised or undermined, the economic analysis conducted for the EIR concluded that “Old Sacramento’s status as an historic area and major tourist destination, plus the added visibility and exposure from proximity to the ESC, is anticipated to support real estate market conditions leading to reuse of existing structures without any potential for urban decay or deterioration to occur between occupancies.” Furthermore, the cultural and historic character of Old Sacramento is based on various elements including its relationship to the river, its architecture, boardwalks and paving elements, and events. Please also see Response to Comment O9-17.

O9-4 The comment states that the EIR downplays the impact of traffic and parking on Old Sacramento. The Draft EIR analyzed the effects of the project at all intersections that provide access to Old Sacramento including I Street/3<sup>rd</sup> Street, J Street/3<sup>rd</sup> Street, L Street/3<sup>rd</sup> Street, and Capitol Mall/Neasham Circle. With the exception of the J Street/3<sup>rd</sup> Street intersection, these intersections would continue to operate at LOS C or better with the addition of project traffic. Please see Response to Comment O19-27 regarding the J Street/3<sup>rd</sup> Street intersection.

Based on the surveys summarized in the Draft EIR (Figures 4.10-8 and 4.10-10), 135 of the 451 total spaces (30 percent) at the Tower Bridge parking garage were

occupied during a weekday evening field observation in 2013. At the Old Sacramento garage, 579 of 878 spaces were occupied (66 percent). Since these garages are available for public use, it is anticipated that some event attendees would park in these garages. Both garages are owned and operated by the City of Sacramento. As such, the City has the ability to control payment terms, access, and hours of operations.

Considerations related to the potential effect of increased use of Old Sacramento parking garages and increased congestion on the operations of businesses in Old Sacramento area addressed in Chapter 5, Section 5.4, Urban Decay, and in Appendix H which contains the full urban decay analysis prepared for the Draft EIR. Please also see Response to Comment O9-3.

O9-5 As is discussed in Response to Comment O9-2, the analysis presented in Chapter 5 of the EIR does not conclude that Old Sacramento businesses “should change their hours of operation to lessen the impacts of ESC parking in Old Sacramento.” Rather, the EIR recognizes that some businesses that do not currently stay open during evening hours when ESC event attendees would be arriving or departing events at the ESC “could” choose to change or extend their operating hours to be open and more able to take advantage of the economic benefits that could come from additional patronage by ESC event attendees as they pass through Old Sacramento.

The assessment of potential effects of increased competition for parking spaces in Old Sacramento assumed a 7:00 PM start for the majority of large evening events at the ESC and noted the current 8:00 PM start of events at Laughs Unlimited. The analysis presumed that if ESC attendees arrived prior to attendees at Laughs Unlimited or other event-oriented businesses in Old Sacramento, then parking spaces could be filled prior to arrival for events at Old Sacramento businesses. The commenter notes that attendees at Old Sacramento events, such as Laughs Unlimited, arrive early to eat at a restaurant or sight-see. To the extent that Old Sacramento patrons arrive earlier, there is less likelihood that ESC event attendees would have already filled available parking spaces in nearby parking garages and lots.

During post-event traffic management controls, the Draft Event Transportation Management Plan identifies the potential for several street closures that would affect L, 7<sup>th</sup>, 5<sup>th</sup> and 3<sup>rd</sup> Streets. The entrances to Old Sacramento from Capitol Mall (at Neasham Court/Tower Bridge and at the new 2<sup>nd</sup> Street entrance that will be constructed by the City prior to the opening of the ESC in 2016) would be unaffected by these street closures. The Draft Event TMP explained that the Sacramento Police Department had preliminarily indicated that one traffic management measure could involve the reversal of traffic on I Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets to facilitate vehicles departing the Old Sacramento parking garage

(under the I-5 freeway between I and K Streets). Based on further consideration of the Sacramento Police Department, the reversal of traffic on I Street between 3<sup>rd</sup> and 4<sup>th</sup> Street has been eliminated from the Revised Draft Event TMP that is included in Chapter 2 of this Final EIR.

The pedestrian connections between Old Sacramento and the Sacramento Valley Station (SVS) would be uninterrupted before, during, or after ESC events. Pedestrians traveling between the Sacramento SVS parking lot or transit stations follow sidewalks and pedestrian paths that pass under I-5, directly from the north end of 2<sup>nd</sup> Street into the SVS parking area. The pedestrian connection between Old Sacramento and the SVS would be unaffected by traffic management controls, or the level of congestion on other streets in the vicinity. There are no aspects of the proposed ESC operations or the Revised Draft Event TMP that would create conflicts or otherwise interrupt or hinder pedestrian connections between Old Sacramento and the SVS parking lot or transit stations.

As is stated in the Revised Draft Event TMP, “[t]he TMP is a working document that will be adapted and refined by the ESC operator, the City of Sacramento, and other agencies responsible for carrying it out. An active monitoring process will occur during the first year of operation to make necessary adjustments. Periodic monitoring and refinements, if required to achieve the identified performance standards contained herein, will be undertaken in subsequent years by the ESC operator, subject to the review and approval of the City of Sacramento. It is also anticipated that subsequent adaptations or refinements will be made to respond to changing event types and schedules, new transportation access and parking opportunities, and planned transportation improvements that are implemented in the ESC vicinity.” The Revised Draft Event TMP is intended to be a flexible, working document, and the City anticipates working with the ESC operator, other agencies, and businesses in the western end of downtown in the project vicinity to optimize the circulation system to the maximum benefit for all businesses.

- O9-6 As is presented in Response to Comment O4-17, under CEQA an EIR is focused on the identification and disclosure of physical environmental effects of a proposed project. Social and economic effects are not physical environmental effects, and are relevant in an EIR only insofar as they may connect an action to a physical environmental effect or they may be used in the determination of significance of a physical environmental effect. The analysis of economic effects in Old Sacramento and elsewhere in the region, as discussed in Chapter 5 and Appendix H of the Draft EIR, is focused on the potential of the Proposed Project to cause urban decay. In this analysis, the economic effects of the project are evaluated as part of a chain of cause and effect, to see if the project as proposed can be reasonably connected to urban decay elsewhere. Similarly, the examination of economic effects in Old Sacramento, caused by parking or

congestion, is examined as a way to understand the potential for urban decay to adversely affect the historic buildings or district present in Old Sacramento. The conclusion of the analysis is that while there may be some limited effects to some businesses in Old Sacramento that are particularly sensitive to the time of events at the ESC, other businesses may benefit from the additional patrons attracted by the proposed ESC, and that there is no evidence to suggest that these changes would result in urban decay in Old Sacramento.

The comment addresses economic effects at restaurants and specific businesses in Old Sacramento, which are not properly addressed in an EIR. Further, if the majority of restaurant patrons arrive by 7:00 PM as is noted in the comment, then, they would be arriving at the same time as ESC event attendees and would be as likely to find a parking spot in parking garages and lots in and near Old Sacramento as ESC event attendees. Please also see Response to Comment O9-5.

O9-7 Please see Response to Comment A11-3 for a discussion of the suggestion for 7:30 PM start times for NBA basketball games at the proposed ESC. The comment is noted and will be conveyed to the City Council for its consideration.

O9-8 As is described in Chapter 5 and Appendix H of the Draft EIR, the analysis of potential urban decay associated with implementation of the Proposed Project is based on a comprehensive assessment of the market supply of, and demand for, retail/commercial space included in the Proposed Project. The analysis involved the following steps:

- Identified the Proposed Project's market area, i.e., the area from which the majority of the ESC retail shopping center consumers are anticipated to originate;
- Identified the net change in commercial retail between the existing Downtown Plaza and the Proposed Project;
- Developed a prototypical retail program for the Proposed Project;
- Estimated the Proposed Project's retail sales;
- Conducted fieldwork to review the Proposed Project's development site and evaluate existing market conditions;
- Conducted retail sales leakage analyses for the cities of Sacramento and West Sacramento;
- Estimated existing and forecasted market area demand;
- Estimated the Proposed Project's impacts on the existing retail base;
- Identified planned future retail projects;

- Assessed the cumulative impacts of planned future retail projects;
- Assessed other economic considerations associated with development of the Proposed Project; and
- Assessed the extent to which operations of the Proposed Project and the cumulative projects may or may not contribute to urban decay.

The comment suggests that an assessment of the market effects of the retail/commercial space in the Proposed Project should be focused on a smaller geographic area. In establishing the market area within which to evaluate the Proposed Project retail/commercial competitiveness (described above as the area from which the majority of the ESC retail shopping center consumers are anticipated to originate), the professional economists conducting the analysis assessed the overall market in the Sacramento region, identified the physical location of competitive retail centers, and determined that the geographic area from which the Proposed Project would draw demand would include the western side of Sacramento (west of Arden Fair Mall) and West Sacramento.

The conclusion of the analysis was that sufficient demand exists in the primary market area to absorb the increased retail activity at the Proposed Project without causing an increase in retail vacancies. Under cumulative conditions, including other reasonably foreseeable retail/commercial development through 2017, the analysis concludes that there could be up to 310,000 square feet of additional retail vacancies in the market area, but that even with these increased vacancies, retail occupancy would remain at levels that are considered healthy for the retail market and would not result in urban decay.

The increased level of restaurants, retail and commercial activity in the Proposed Project is part of the overall project that is evaluated in Chapter 4.10 of the Draft EIR, Transportation. The effects that are described related to traffic, pedestrian flow, and other modes of transportation all include the full development and operation of all space allowed for in the Proposed Project, including up to 350,000 square feet of retail space. It should be noted that the Proposed Project would result in a net decrease in retail space at the project site. To be conservative, the EIR urban decay analysis compares the fully utilized future space against an estimate of the current level of economic activity at the current space. Further, the analysis includes an assumption that the existing Macy's undergoes a material increase in retail activity. Thus, the effects considered include the combined effect of optimal retail activity at all allowed retail space along with a reinvigorated level of retail activity at Macy's.

As described above, the Draft EIR undertook a reasonable and conservative analysis of urban decay and other physical environmental effects.

- O9-9 This comment relates to potential financial or economic effects resulting from the inability to offer validated parking at the Tower Bridge and Old Sacramento garages during special events. Similarly, potential effects of greater garage occupancy on valet parking opportunities for certain businesses are also mentioned. As is discussed in Response to Comment O9-4, studies conducted for the Draft EIR conclude that there is adequate parking available to meet demand. The City has not yet determined whether or not the Old Sacramento parking garages would be operated as prepaid parking for ESC events. These are operational decisions that would be made by the City in light of input from multiple sources, including Old Sacramento businesses. The comment is noted and will be conveyed to the City Council for its consideration.
- O9-10 During the pre-event peak hour, the addition of project traffic at the 3<sup>rd</sup> Street/J Street intersection would cause LOS F operations with queuing that extends onto northbound and southbound I-5. The 3<sup>rd</sup> Street/I Street intersection is reported to operate at LOS A during this peak hour. This occurs because there is limited conflicting traffic at this intersection, and it is situated downstream of the more heavily used intersection at 3<sup>rd</sup> Street/J Street. Once vehicles pass through the 3<sup>rd</sup> Street/J Street intersection, they would have little difficulty turning left onto 5<sup>th</sup> Street and left onto I Street to enter Old Sacramento. The Old Sacramento garage was 33 percent occupied during recent weekday evening parking surveys, and could accommodate more than 500 additional vehicles. If over time ESC attendees see that this lot fills quickly, they would be expected to choose to park in other garages with greater availability, particularly if they arrive closer to the event start time. It should further be noted that a new entrance to Old Sacramento at Capitol Mall and 2<sup>nd</sup> Street will be constructed by the City prior to the opening of the ESC in 2016. The presence of this new intersection will substantially increase the capacity for ingress/egress to Old Sacramento. Please also see Responses to Comments O9-5 and O9-24.
- O9-11 Pages 4.10-2 and 4.10-3 describe the potential for overlapping activities at the ESC and other venues such as Old Sacramento, Raley Field, the Convention Center, and major hotels. Given the infrequency of such overlapping events, a quantitative analysis of their effects was not necessary. Please also note that the Revised Draft Event TMP also considers the potential for multiple concurrent special events. See Section 8.5, page 50 of the Revised Draft Event TMP.
- O9-12 The Draft EIR concluded the Proposed Project would cause significant impacts at the I-5 Off-Ramps/J Street/3<sup>rd</sup> Street intersection during the AM and pre-event peak hours due to vehicle queuing that spills back from the off-ramps onto the freeway. The City evaluated a series of potential mitigation measures ranging from signal timing modifications to street closures, and even physical capacity improvements. Based on the City's consultation with Caltrans, however, it was determined that there are no feasible physical improvements to the intersection that



would mitigate the impacts. The Draft EIR therefore identifies a range of operational improvements and Revised Draft Event TMP measures to reduce the level of congestion and queuing on I-5 to the extent feasible. Please also see Response to Comment O19-27.

- O9-13           The comment expresses concern regarding the effect on Old Sacramento traffic due to changes in travel directions on 3<sup>rd</sup> Street. The conversion of 3<sup>rd</sup> Street to two-way operations between L Street and Capitol Mall could benefit egress from Old Sacramento, particularly after the new 2<sup>nd</sup> Street/Capitol Mall intersection is open. Motorists could turn left from this intersection onto eastbound Capitol Mall, turn left onto 3<sup>rd</sup> Street, and then access northbound I-5 at its L Street on-ramp. Without the 3<sup>rd</sup> Street conversion this intuitive, a direct travel route is not possible.
- O9-14           During project construction, pedestrians would be required to use portions of either L Street or J Street to travel between 7<sup>th</sup> Street and Old Sacramento. The initial ESC construction would extend from 7<sup>th</sup> Street westerly to 5<sup>th</sup> Street, meaning a two-block diversion for pedestrians is required. A temporary, two-block diversion is not considered a significant impact on pedestrians.
- O9-15           The Downtown project site is not within the Old Sacramento State Historic Park, and the substantive analyses in the Draft EIR conclude that the Proposed Project would not adversely affect the physical environment in Old Sacramento or its character as a historic landmark. Please also see Response to Comment O9-17. CEQA Guidelines Section 15131(a) provides that economic or social effects of a project shall not be treated as significant effects on the environment. The comment is noted and will be conveyed to the City Council for its consideration.
- O9-16           As is addressed in Response to Comment O4-17, the focus of the EIR is the significant physical environmental effects of the Proposed Project. Appropriately under CEQA, social and economic impacts are not considered physical environmental effects. Where significant impacts are identified, potentially feasible mitigation measures are described. To the extent that those mitigation measures reduce or eliminate effects that may have implications on other businesses or property owners in the vicinity of the project site, those parties would benefit. The Draft EIR found there would not be a substantial adverse economic effect on Old Sacramento, and that minor economic adjustments that could occur would not result in urban decay or blight. However, because social and economic impacts are not appropriately addressed in an EIR, no further measures are identified to address perceived effects of the ESC on area businesses or property owners.
- O9-17           The cultural and historic character of Old Sacramento is based on various elements including its relationship to the river, its architecture, boardwalks and paving elements, and events. Automobiles on the streets and periodic congestion

are existing features of Old Sacramento, particularly during festivals and events. As discussed on pages 5-20 of the Draft EIR, Old Sacramento is in close proximity to but separated from the Downtown project site by I-5. The Old Sacramento parking garages are located between one-quarter and one-half mile from the ESC site, so they are expected to be used by ESC patrons only during the most heavily attended events, most of which are expected to take place on evenings and weekends (see page 5-21 of the Draft EIR). The Draft EIR acknowledges that some businesses, such as Laughs Unlimited which has a later starting time than typical for ESC events, could lose clientele if those patrons could not find parking due to an ESC event (see page 5-22 of the Draft EIR). Nonetheless, even if some businesses were to lose revenue and/or close, it is expected that real estate market conditions would lead to reuse of existing structures, so there would not be a potential for urban decay or deterioration. A change in the status of individual businesses would not in and of itself alter the status of Old Sacramento as a historic district, because its historic significance is not based on the types of businesses that are present.

- O9-18 Please see Response to Comment O9-16
- O9-19 Please see Response to Comment O9-16.
- O9-20 The comment provides an opinion that public perception of traffic and parking around the Downtown project site will become worse. Traffic impacts are fully described in section 4.10, Transportation, in the Draft EIR.
- O9-21 Please see Responses to Comments O9-4, O9-5, O9-10, and O9-11.
- O9-22 Please see Response to Comment O9-11.
- O9-23 Please see Response to Comment O9-14.
- O9-24 The City plans to construct a new signalized intersection on Capitol Mall at 2<sup>nd</sup> Street, which is planned to open to traffic in 2015, before the targeted opening of the proposed ESC. This new entry would provide direct ingress to and egress from Old Sacramento. In addition, the City is initiating a Downtown Transportation Study in 2014, which includes a systematic review of circulation for all travel modes in the downtown area including key destinations such as Old Sacramento. As discussed in Responses to Comments O9-3, O9-5, and O9-10, the Draft EIR did not conclude that access to Old Sacramento would be impeded by the Proposed Project. Therefore, additional improvements to Old Sacramento are not required to mitigate project-related impacts.
- O9-25 Please see Response to Comment O9-5.
- O9-26 Please see Response to Comment O9-3.

O9-27 The measure suggested in the comment would address issues that are economic and/or social in nature. Please see Response to Comment O4-17 for further discussion of the role of economic and social effects under CEQA.

It is currently anticipated that the ESC would be owned by the City of Sacramento and operated by an entity established by Sacramento Basketball Holdings, LLC, the business enterprise that also owns the Sacramento Kings. It is reasonable to assume that the operations of the ESC would involve an array of communications options, including ticketing, ESC signage, offsite signage, smartphone applications, and television and radio advertising. Based on experience at Sleep Train Arena, it is reasonable to presume that the ESC communications may be used to inform the public about events at the ESC as well as about the ESC sponsors, business partners, and civic and community events. Depending on the nature of the long-term relationships that are developed between the ESC and Old Sacramento, it is possible that events and/or businesses in Old Sacramento could be included in ESC communications. The details of the operating agreement related to the ESC, including signage and communications, have not yet been finalized.

O9-28 As is discussed in Responses to Comments O9-3, O9-5, and O9-6, the proposed ESC is not anticipated to result in significant adversely physical effects related to congestion or parking in and around Old Sacramento. The measure suggested in the comment would address issues that are economic and/or social in nature. Please see Response to Comment O4-17 for further discussion of the role of economic and social effects under CEQA. As is presented in Response to Comment O9-27, the potential exists for Old Sacramento businesses and/or events to take advantage of communication opportunities in cooperation with the ESC.

The City's Old Sacramento Historic District Office is part of the City Department of Convention, Culture and Leisure (CC&L), which also provides oversight and support for the Sacramento Convention Center and other such diverse community assets as the Sacramento Zoo, Fairytale Town, the Center for Sacramento History, the Sacramento Metropolitan Arts Commission, and the Discovery Museum Science & Space Center. The future levels of funding and/or staffing that are allocated for Old Sacramento management will be determined by the City Council in the context of establishing the overall City budget and the budget for the CC&L Department.

O9-29 Please see Response to Comment A11-3 for a discussion of the factors related to the start time for NBA games and other events at the ESC. Please see Response to Comment O9-3 for a discussion of the timing of games and restaurants in Old Sacramento. The comment is noted and will be conveyed to the City Council for its consideration.

- O9-30           As described in Response to Comment A16-9, the project applicant is forming a transportation advisory committee that will consist of key transportation providers to update everyone during the design and construction process on key progress points and to address future transportation-related issues. The comment is noted and will be conveyed to the City Council for its consideration.
- O9-31           The comment provides a summary of the OSBA's comment letter and reiterates OSBA's desire to protect the integrity of Old Sacramento as a National Historic Landmark. The comment is noted and will be conveyed to the City Council for its consideration

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January 31, 2014

Mr. Scott Johnson, City of Sacramento, Community Development Department

Subject: Comments on DEIR, Sacramento Entertainment and Sports Center

Dear Mr. Johnson:

Below are the critiques our organization, Eye on Sacramento, have identified, after reviewing Chapter 4, Environmental Impacts, Setting and Mitigation Measures, specifically subsection 4.10, Transportation. Our comments and recommendations are noted by subsection title and page number as follows:

**Page 4.10-41** of the Draft EIR **Trip Origin/Destination Adjustments for Relocation of Arena to Downtown** states: *"The proportion of all season ticketholders who have Central City purchase zip codes increased by 30 percent for the 2013/2014 season compared to the previous three seasons. Cell phone data show that 10 percent of Kings pre-game trips originate from the Central City and 5 percent of Kings post-game trips return to the Central City."* This report assumes that the increase in ticket sales will result from the ESC downtown location. It assumes 5 percent of the arena patrons will be future downtown residents. It fails to identify how many new Natomas season-ticket holders there are now. But this was also a strategy by ESC proponents to encourage fans to buy season tickets to demonstrate to the Kings, the NBA, and the public that they will support the team. It was a marketing strategy only.

However, some city core residents within walking distance of the ESC may think that they can better afford tickets if they do not have the expense of driving and parking that they now have with the arena in Natomas. Still, this could be a one-time commitment. Many may not buy future season tickets depending on several personal factors, such as affordability, poor team performance, complexity of getting to and from the ESC, and personal financial changes. Macro-economic factors, such as future recessions, may also negatively impact season ticket renewals.

Current Natomas residents who attend ESC events will have to drive downtown. Many of those "Central City" residents may still drive as opposed to walking or riding transit. Weather conditions will likely play a role in that decision. Some ESC patrons may be driven there and picked up later, thus contributing to the traffic congestion around the arena. And some of those "return" trip cell-phone pings that the authors of this Draft EIR used to support their case may not occur because the phone owners live in the central city but because they have a passenger who lives there or they went there for a post-game celebration. Cell-phone tracking is not a consistent, dependable statistical tool. Based on some cell phone pings, several assumptions have been made about where people live and traffic patterns in the city. Cell phone ping statistical analysis is a much too simplistic tool to accurately predict future traffic patterns involving ESC events. This DEIR, consequently, fails to adequately identify, with statistical accuracy, the traffic comparative traffic patterns associated with the changed venue location.

The population for the zip code 95814 (the zip code in which the arena will reside) is only 9,922 (2010 census). These folks are within walking distance of the ESC. But the next three closest zip codes to the new arena, partially within walking distance of the ESC, have a population of 42,985. When combined with zip code 95814, they total 52,907. This is about half of the population of Natomas. It is difficult to imagine that the downtown ESC residents will outnumber the number of Natomas event attendees, and who will now have to drive to get to the new ESC.

010-1



**Peak-Hour Overlap.** A noted key reason downtown ESC proponents have supported the city core location is to get people to shop, conduct other commerce, and eat downtown before arena events. That economic infusion is essential to make this project work. However, in order to do that, and still get to games/shows on time, event attendees will have to arrive at least two hours before, thus putting them into the thick of the “rush-hour” (5-6 pm) traffic. Just to find a place to park, walk to a place to eat, wait to get seated (at popular restaurants there may be a waiting backlog), order, wait for the meal to be prepared, eat, pay for it, then walk the rest of the way to get to an event on time will force them to come at least two hours before games or performances. Otherwise, they will just eat inside the ESC and the supposed economic benefit of this arena will not be realized.

010-2

In order to make this project economically successful, the city, the Kings and surrounding businesses will have to put on additional events to bring more people to the locales around the arena to spend money. It will be with parking fees and ticket surcharges that the city will get the income necessary to make the bond payments on this facility. But those additional occasions will mean more downtown traffic. This DEIR fails to address these overlapping of traffic patterns precipitated by early-arriving ESC patrons.

**Significant and Unavoidable Impact**

Unfortunately, this DEIR accepts many of the traffic problems that will be created by this project as acceptable even though they may cause harm to the city. In several places, in regards to conditions that will degrade the traffic flow, this report states: “...this impact is considered *significant and unavoidable*.” This troubling response appears several times under various impact categories:

**Page 4.10-93: “Impact 4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.” “Impact Significance after Mitigation:** Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered *significant and unavoidable*.”

**Page 4.10-94: “Impact 4.10-3: The Proposed Project would worsen queuing on the J Street freeway off ramps from I-5.” “Impact Significance after Mitigation:** The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or “no project” levels. This mitigation measure is required as part of the ESC construction and/or operation. Therefore, this impact would remain *significant and unavoidable*.”

010-3

**Page 4.10-99: “Impact 4.10-6: Access to light rail transit would be inadequate.”** “During the post-event peak hour, approximately 920 riders would be expected to board LRT trains. The majority of boardings would occur at the 7th/I, 7th/K (St. Rose of Lima Park), 7th/Capitol, 8th/Capitol, or 9th/K stations.” **“Impact Significance after Mitigation:** While some of these strategies and programs would be within the City and applicant’s control, others require approval by and implementation from Regional Transit. This mitigation measure would be required as part of the ESC construction and/or operation. Since the City cannot guarantee that all needed improvements would be implemented in a reasonable period of time, this impact therefore is considered *significant and unavoidable* despite a number of these mitigations being feasible and within the control of the City and the project applicant.”

**Page 4.10-107: “Impact 4.10-12: The Proposed Project would contribute to cumulatively unacceptable intersection operations in the City of West Sacramento.” “Impact Significance after Mitigation:** This impact is considered *significant and unavoidable*.”

**Page 4.10-108: “Impact 4.10-13: The Proposed Project would contribute to cumulatively unacceptable operations on freeway facilities maintained by Caltrans.”** “Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered *significant and unavoidable*.”



**Page 4.10-110: “Impact 4.10-17: Access to light rail transit would be inadequate under cumulative conditions.”**  
**“Impact Significance after Mitigation:** While some of these strategies and programs in Mitigation Measure 4.10-6 are within the City and applicant’s control, others require approval by and implementation from Regional Transit. Since the City cannot guarantee that all needed improvements would be implemented in a reasonable period of time, this impact therefore is considered *significant and unavoidable*.”

010-3  
cont.

**In summary, of the numerous “significant and unavoidable” impacts, noted above, this DEIR fails to provide concrete and achievable mitigation measures to provide adequate reduction and/or elimination of these deleterious impacts.**

**Other Significant Traffic Problems**

On **Page 4.10-16** of this DEIR under the heading *Freeways* is this comment: *“Traffic data for the I-5 mainline was collected from the Caltrans’ PeMS database. AM and PM peak hour data was collected in May 2013. The pre-event peak hour data was chosen so as to include a Kings game at Sleep Train Arena (i.e., data were pulled for the 6-7 PM peak hour on November 12, 2012 when the Kings played a home game with reported attendance of 16,000). As described later in this section, it was necessary to include trips associated with this activity for the purposes of the ‘plus project’ analysis.”*

010-4

Thus, unbelievably, important decisions about traffic during Kings games were gleaned from one day’s study. Obviously, to the statistically engaged person, more than one day’s worth of data would be necessary to make major decisions about a project of this size and scope.

On **Page 4.10-92** under the heading **Impacts and Mitigation Measure**, subheading **Impact 4.10-1: The Proposed Project would worsen conditions at intersections in the City of Sacramento**; we are told that the levels of service (LOS) would degrade to an F at several intersections within the area. But we are also told that would be satisfactory, per the City’s General Plan (Policy M 1.2.2(a)), *“...provided that the project improves other parts of the citywide transportation system within the vicinity of the project site. The Proposed Project would include the following generalized travel benefits and specific multimodal improvements. . .”* The benefits would include some pedestrian enhancements. We are also told that by moving the arena downtown from Natomas, thus reducing the VMT by nearly 20%, and making some improvements on other parts of the transit system, this LOS F grade at major intersections feeding routes to the ESC is acceptable, even though many of the improvements that supposedly compensate for it may not be at or near the ESC or these intersections.

010-5

We are further told: *“These measures meet the intent of Policy M 1.2.2(a) of the City’s General Plan in that they provide long-term improvements to the City’s local and regional transportation system. However, the street system in the vicinity of the project could experience substantial congestion immediately before, during, and after events unless circulation is managed effectively. The project has proposed to implement an Event Transportation Management Plan (TMP) that would be intended to manage vehicular circulation near the project site, and to optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC (see Appendix L).”*

Also revealed: *“. . . because the TMP has not yet been finalized and approved by the City, it cannot yet be determined that the project would adequately ‘improve other parts of the citywide transportation system in the vicinity of the project site. Accordingly, project impacts to intersections in the City of Sacramento are considered significant.”*

**This DEIR fails to provide a detailed Traffic Management Plan to address the complex vehicular circulation patterns that will occur when the ESC is fully operational.**

Per **Page 4.10-10** the following four intersections *“currently operate at LOS D, E, or F: J Street/3rd Street/I-5 Off-ramps – LOS F during the AM peak hour and LOS E during the PM peak hour; L Street/3rd Street – LOS D during the PM peak hour; Tower Bridge Gateway/5th Street – LOS D during the PM peak hour; Richards Boulevard/16th Street – LOS E during the AM peak hour. The two intersections that operate at LOS E or F are key “gateway” intersections into Downtown Sacramento.”* These intersections are J Street/3<sup>rd</sup> Street/I-5 Off-Ramps Intersection; Richards Boulevard/16<sup>th</sup> Street/SR 160 Intersection.

010-6

However, in Table 4.10-31 (Page 4.10-89) INTERSECTION OPERATIONS – CUMULATIVE CONDITIONS 13 downtown intersections will have a LOS of F: I St/6<sup>th</sup> St.; I St/7<sup>th</sup> St.; I St./8<sup>th</sup> St.; J St./3<sup>rd</sup> St./I-5 Off-Ramps; J St./5<sup>th</sup> St.; J St./6<sup>th</sup> St.; J St./7<sup>th</sup> St.; J St./8<sup>th</sup> St.; K St./7<sup>th</sup> St.; L St./3<sup>rd</sup> St.; L St./5<sup>th</sup> St.; L St./6<sup>th</sup> St.; L St./7<sup>th</sup> St. Several other intersections degrade to LOS of D or E.

010-6  
cont.

**Page 4.10-90:** *“This congestion [shown in Table 4.10-31] would be due to overall increases in traffic into downtown as well as the extension of 5<sup>th</sup> and 6<sup>th</sup> Streets in the Rail yards Specific Plan area. These facilities would substantially increase north/south traffic in the downtown core.”*

**Page 4.10-93: “Impact 4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.”** *“The addition of project trips would cause the following significant impacts to Caltrans freeway facilities: □ Existing LOS F operations during the AM peak hour on the northbound I-5 weave section between P Street and J Street would be worsened to a significant degree (based on the amount of project traffic added). □ The I-5 northbound weave section between I Street and Richards Boulevard would worsen from LOS E to F during the PM peak hour. □ Existing LOS F operations during the PM peak hour on the northbound I-5 weave sections between Richards Boulevard and West El Camino Avenue would be worsened to a significant degree (based on the amount of project traffic added).”*

*“The degraded operation of these segments is considered a significant impact.”*

We are informed that a *“fair-share contribution to fund planned transportation improvements”* will be made for each building permit for the project that is issued, and that *“the City is participating in a multi-agency effort to identify freeway, roadway, and transit improvements, included in the MTP [Metropolitan transportation Plan].”* We are then informed: *“Impact Significance After Mitigation: Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered significant and unavoidable.”*

010-7

**This DEIR fails to identify the sources of funding for the “fair-share contribution” to the needed transportation improvements. Without funding, such improvements will not take place, thereby contributing to chronic traffic congestion that, ultimately, will discourage ESC attendance and jeopardize the economic viability of the project.**

**Page 4.10-94** *“Impact 4.10-3: The Proposed Project would worsen queuing on the J Street freeway off ramps from I-5.”* *“The addition of project trips would cause vehicle queues on the southbound I-5 off-ramp at J Street to spill back beyond the gore point onto the freeway mainline during the AM and pre-event peak hours. The project would also cause vehicle queues on the northbound I-5 off-ramp at J Street to spill back beyond the gore point onto the freeway mainline during the AM peak hour. This degradation is considered significant.”*

Although the Mitigation Measure did identify some approaches to reduce this queuing, such as increasing the green signal times for the off-ramps, implementing TMP management strategies, and coordinating message signs with Caltrans, the outcome of this mitigation still remains *“significant and unavoidable.”*

010-8

The DEIR also states: *“Impact Significance after Mitigation: The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or “no project” levels. This mitigation measure is required as part of the ESC construction and/or operation. Therefore, this impact would remain significant and unavoidable.”*

**This DEIR Transportation Section has revealed a massive amount of references to “significant and unavoidable” traffic congestion on our portion of Interstate-5 caused by this project. The obvious conclusion to even the casual reader of this document is that the ESC location is an ill-suited and dangerous choice. This DEIR has failed to focus greater resources and analysis on exploring less impacting and dangerous alternate ESC sites. This document is layered with traffic congestion red flags that wave frantically for alternate site considerations.**

**Bridges, Freeway, Street and Transit Improvements May Not Come for Many Years**

010-9

Page 4.10-77 of the Draft EIR gives: “. . . anticipated travel conditions under cumulative (2035) conditions for the roadway, transit, and bicycle/pedestrian systems. The most recent version of the SACMET regional travel demand model was used to forecast cumulative traffic volumes within the study area.”

These cumulative assumptions include several roadway improvements: “I Street Bridge Replacement over the Sacramento River to new location slightly to the north; South Market Crossing Bridge (south of Pioneer Bridge) over the Sacramento River; Truxel Road Bridge over the American River; Carpool high occupancy vehicle (HOV) lanes on I-5 from the US 50/Capital City Freeway to I-80; 3rd Street Conversion Project - converts 3rd Street to two-way operations between Capitol Mall and L Street; I-5 Riverfront Reconnection Project (consisting of removal of the slip ramp from L Street/3rd Street to westbound Capitol Mall/Tower Bridge, and a new at-grade signalized intersection on Capitol Mall at Front Street/2nd Street); Extensions of 5th Street and 6th Street, Rail yards Boulevard, and Bercut Drive into the Rail yards Specific Plan area; and Sutter’s Land Parkway interchange on the Capital City Freeway, including its extension to SR 160/Richards Boulevard/16th Street.”

010-9  
cont.

While it is known that some work has been done on the extensions of streets through the Rail yards project, it was not stated in this section whether or not this work is funded for completion. However, nowhere could be found a timeframe for when this or other listed work will be completed. Also missing was (1) how much it will cost, (2) if it has been funded, (3) if funded, where will the money come from, (4) if not funded where and when can possible funding be expected. Whether or not the funding aspects of this project may ordinarily be part of an EIR, funding is necessary for these transportation projects and these projects are necessary for the transportation well-being of the region.

Not mentioned as a project to be completed anytime soon is the light rail line extending to Natomas and the airport in order to serve those areas and connect to the transit hub in order to make it a true intermodal terminal. When will this be funded and completed? This project alone would take many vehicles off city streets.

**Future Growth from Proximity Projects Not Included in Traffic Analysis**

In addition to ESC traffic, future residential and business growth in the area will increase both I-5 and surface street congestion. SACOG has estimated that nearly 1 million new residents will be added to the Sacramento region in the next 25 years. Some of them will live in downtown Sacramento. But many will likely work there and live elsewhere. And many will drive to their employment, thus significantly increasing traffic and pollution. It is highly unlikely that Regional Transit will have the funding to extend transit service, particularly light rail, to meet all these needs.

We already know that the Rail yards and Township 9 projects together have planned 30,000-40,000 future residents. Although light rail will pass through these developments, one can reasonably expect that most of these households will have at least one vehicle. There will be other central city residential projects also. While some of the residents may work downtown, that does not mean that all will be employed in the city core. Non-downtown employees will likely have vehicles to transport them to their jobs.

010-10

While the Kings organization plans to construct several mix-used buildings around the ESC, this development is not guaranteed. Meanwhile, the mall will be demolished and the shopping that exists now may never be replaced there. This lack of downtown shopping opportunities for downtown residents and businesses will force them to travel to other downtown locations and beyond to purchase items they may have previously been able to find at the existing mall.

**This DEIR fails to consider increased traffic generated by nearby projects in their final stages of development. This DEIR should add analysis of those projects, such as in the Rail Yards and even in West Sacramento, that will add to the traffic flow in the vicinity of the ESC project.**

**Transit Also Creates Traffic Congestion**

What this Draft EIR also fails to consider is that transit also creates traffic and pollution. The more transit the city utilizes to reduce personal vehicular traffic, there is a certain offset to that reduction. In the future, the intermodal hub will be home to Amtrak, light rail, Greyhound buses, RT buses, shuttles, taxis, vehicles dropping off and picking up

010-11

travelers, and possibly high-speed rail. There will be bicycle and pedestrian traffic trying to reach the hub. It is estimated that this hub eventually could have as many as 15 million travelers passing through each year. While this transit hub is necessary to the city's future smart growth, to take a large amount of vehicles off the roads, it will also add to traffic congestion around the ESC. These various travel modes will jockey for space in order to pick up and drop off passengers and interfere with automobile traffic on its way to its destination. The intermodal hub will only be a few blocks from the ESC and close to some of the busy intersections on I Street. Public transit may take some vehicles off the road, but it will add long light rail trains, which will slow or stop traffic, and have buses stopping, starting, clogging intersections and generally interfering with other street vehicles.

↑  
010-11  
cont.

**This DEIR needs to address in greater detail the traffic congestion created by non-vehicle transportation alternatives, such as light rail trains, bicyclists, and pedestrians.**

Hereby submitted,

Dennis Neufeld

Eye on Sacramento

Director of Research

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**Letter O10     Dennis Neufeld, Eye on Sacramento**  
**Response        January 31, 2014**

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O10-1            The comment questions the analysis regarding trip origins and destinations. Page 4.10-41 of the Draft EIR describes the analysis that was performed to determine whether an adjustment should be made for ESC attendee trip origins and destinations to reflect the relocation of the arena from Natomas to Downtown, and if so, how much would be a proper adjustment. Page 4.10-40 describes the cell phone data collection process in detail, and its validity as a tool to estimate trip origins and destinations for ESC events.

The cell phone data, which was based on a sample of over 1,500 cell phone records from seven different NBA games, showed that 10 percent of pre-event trips to Sleep Train Arena currently originate from the Central City. In order to assess potential changes in Central City trip origin that would occur, a review of Sacramento Kings season ticketholder information was conducted to determine if any patterns in ticket purchases have developed that could be related to anticipation of the opening of the proposed ESC in downtown and the announcement of new ownership. The Kings provided the following data regarding season ticketholder purchases in the Sacramento Central City zip codes of 95811, 95814, 95816, and 95818:

- 2010/2011 season: 5,600 season tickets, with 5.9% purchased from Central City zip codes.
- 2011/2012 season: 5,650 season tickets, with 6.3% purchased from Central City zip codes.
- 2012/2013 season: 5,760 season tickets, with 5.4% purchased from Central City zip codes.
- 2013/2014 season (data as of 9/12/2013): 7,940 season tickets, with 7.7% purchased from Central City zip codes.

The 2010/2011, 2011/2012, and 2012/2013 three-year season ticket holder percentage averaged 5.9 percent for the Sacramento Central City zip codes. For the 2013/2014 season (as of September 12, 2013), 45 percent of the Sleep Train Arena's seating capacity was reserved for season ticket holders. And 7.7 percent of all season ticket holder purchases for this year came from the Sacramento Central City zip codes. This represents a 30 percent increase over the previous three-year percentage average.



Comment Letter A14 indicates SACOG's endorsement of the use of cell phone data and the trip origin adjustment process.<sup>8</sup> SACOG's specific comments on this topic included:

- “Because the daytime population in the ESC area is very high due to the number of workers near the site, the potential to capture ESC patrons already in the Downtown Sacramento area is another asset of the site.”
- “The analysis of the project in the EIR, though conservative, shows the results of the good fit between the project and the site.”
- “The VMT estimation approach was innovative and sound.”
- “The adjustments to these data which were made to estimate VMT to an arena at the proposed ESC site were very conservative and reasonable. In particular, a very modest assumption was made regarding the “shift” of patron origins and destinations observed at the current site to origins and destinations in the Downtown Sacramento: only 3 in 100 patrons were assumed to make this shift.”
- “With effective marketing and planning, the actual shift of patron origins and destinations could be larger than 3 in 100, in which case the actual VMT savings would be greater than the estimated 22 percent reported in the DEIR.”

In summary, the data demonstrates that it is reasonable to assume that trip origins would change somewhat in response to a new ESC being built in downtown. An independent review of the analysis by SACOG staff confirms the reasonableness of the approach.

Please see Response to Comment I14-1 regarding the specificity of how the VMT estimates were developed including how the methodology considered the shift in pre-game trip origins.

O10-2 Please see Draft EIR pages 4.10-40, 4.10-43, and 4.10-44 for a detailed discussion regarding trip arrival patterns. As described, the expected arrival patterns are derived from counts conducted at a Sacramento Kings game in 2012, and data provided by the ICON Venue Group at other NBA locations.

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<sup>8</sup> The Sacramento Area Council of Governments (SACOG) is an association of local governments in the six-county Sacramento Region. Its members include the counties of El Dorado, Placer, Sacramento, Sutter, Yolo and Yuba as well as 22 cities. SACOG provides transportation planning and funding for the region, and serves as a forum for the study and resolution of regional issues. In addition to preparing the region's long-range transportation plan, SACOG approves the distribution of affordable housing in the region and assists in planning for transit, bicycle networks, clean air and airport land uses.

The assumption expressed in the comment that earlier arrivals would “overlap” with the PM peak hour commute and contribute to worse congestion than predicted in the Draft EIR is incorrect. In examining this issue, it is important to recognize that during the weekday PM peak hour (4:45 to 5:45 PM), the primary direction of the traffic flow is out of downtown, largely on one-way streets. So, as an example, streets that carry vehicles out of downtown (such as L, I, and P Streets going west; N, Q, and J Streets going east; 15<sup>th</sup> and 19<sup>th</sup> Streets going south, and 16<sup>th</sup> Street going north) would not be materially affected by inbound traffic.

In fact, if a greater proportion of pre-game traffic were to arrive during the 5 PM to 6 PM peak hour (as suggested by the comment), this would actually be beneficial to the pre-event peak hour, which shows LOS F conditions (with an estimated delay of 15 minutes per vehicle) and queuing impacts at the 3<sup>rd</sup> Street/J Street intersection. During the weekday PM peak hour, this intersection is expected to operate at LOS E with a delay of one minute per vehicle. So, it would be beneficial to traffic operations for pre-event traffic arrivals to be ‘spread out’ across the 5 to 7 PM pre-event peak period. However, since it is not possible to assure that this would occur, the Draft EIR applied the more conservative approach, which is to assume that 67 percent of pre-event traffic arrives during the pre-event peak hour consistent with observations at a Kings game from the Sleep Train Arena and data at other NBA venues.

O10-3 This comment is a restatement of Impacts 4.10-2, 4.10-3, 4.10-6, 4.10-12, 4.10-13, and 4.10-17, which reach conclusions that impacts are significant and unavoidable. The end of the comment states the Draft EIR must provide concrete and achievable mitigation measures to provide adequate reduction and/or elimination of these impacts. The State CEQA Guidelines specify that mitigation measures proposed for significant impacts must be “feasible”,<sup>9</sup> with feasibility defined as: “being able to be accomplished in a successful manner within a reasonable period of time, taking into account, economic, environmental, legal, social and technological factors”.<sup>10</sup>

There are a variety of reasons why the identified impacts are considered significant and unavoidable. The conclusion that an impact is significant and unavoidable does not eliminate the need for the mitigation measures to be imposed. Rather, it acknowledges to reviewers and decision makers that the impact would remain significant even after all feasible mitigation is imposed, either because there is no feasible mitigation available, or the mitigation does not reduce the magnitude of the impact to a less-than-significant level. Following is some context regarding the conclusion that the above-cited impacts are significant and unavoidable:

<sup>9</sup> State CEQA Guidelines section 15126.4(a)(1): “An EIR shall describe feasible measures which could minimize significant adverse impacts,…”

<sup>10</sup> State CEQA Guidelines section 15364.



Impact 4.10-2: The project's fair share payment toward improvements on I-5 (see page 4.10-94) does not assure that the needed improvements would be implemented in a reasonable period of time because the remaining fair share payment sources have not been identified. Nevertheless, the Caltrans comment letter (Comment Letter A4) expresses that agency's support for this mitigation approach.

Impact 4.10-3: Pages 4.10-95 and 4.10-96 describe why the queuing impact at the J Street off-ramp remains significant and unavoidable despite the identified mitigation measures. The precise modifications to the 3<sup>rd</sup> Street/J Street intersection (as part of the Revised Draft Event TMP and as part of the project mitigation) and the effectiveness of using changeable message signs on I-5 are currently unknown.

Impact 4.10-6: A number of mitigation measures are recommended to improve access to light rail transit. As described on page 4.10-101, the City cannot ensure that all of these mitigation measures would be implemented because some of the measures must be implemented by Regional Transit (RT), an agency separate from the City. Since release of the Draft EIR, the City, its consultants, and RT staff have met on a number of occasions to discuss these mitigation measures. Please see Comment Letter A7 and specifically Comment A7-2, which indicates RT's concurrence with Impact 4.10-6 and the associated mitigation measures.

Impact 4.10-12: Cumulative impacts were identified at two intersections in West Sacramento, and the project contribution would be cumulatively considerable. The impacts were determined to be significant and unavoidable because both intersections are already built to their ultimate configuration. The intersections are projected to operate unacceptably under cumulative conditions (according to the City of West Sacramento's LOS policies), and the Proposed Project's traffic contribution to them was identified as considerable. There were no feasible mitigation measures available to lessen the significance of this impact.

Impact 4.10-13: T impact would be significant and unavoidable for reasons similar to those explained above for Impact 4.10-2.

Impact 4.10-17: This impact would be significant and unavoidable for reasons similar to those explained above for Impact 4.10-6.

O10-4

The May 2013 traffic volumes obtained for I-5 were supplemented for the pre-event peak hour by adding traffic associated with a sold-out Kings game at Sleep Train Arena. Data was collected from the Caltrans PEMS count database on I-5 from 6-7 PM for a Kings game played on November 12, 2012, which had an attendance of approximately 16,000 persons. The volumes, particularly on northbound I-5 were then compared against various other weekday 6-7 PM conditions that did not have a Kings game. This enabled the isolation of added trips associated with this Kings game. The trip totals were reviewed for

reasonableness (e.g., does the volume/direction of travel make sense based on the attendance and cell phone trip origins?), and found to be valid for use in this study. This volume was proportionately increased to account for a sold-out event at Sleep Train Arena (see page 4.10-73).

There were two primary reasons why it was not necessary or advisable to choose multiple Kings games played at Sleep Train Arena for this adjustment process, as suggested in the comment. First, the November 12, 2013 data represents the independent travel behavior choices of over 7,000 drivers heading to the event. Second, the attendance at the November 12, 2013 game was among the highest attendance games of the 2012-2013 season (while also occurring during a time period in which PEMS data was available). Had a second game with 12,000 attendees been used, the factoring process to scale traffic volumes on I-5 to represent a sold-out event would have introduced more variability (e.g., do departure times change if the event is expected to be only half full versus nearly sold out?) than using a single event. City of Sacramento Department of Public Works and Caltrans staff reviewed the transportation analysis and identified no concerns with this methodology (see Caltrans' comments in Comment Letter A4).

- O10-5 A Draft Event TMP was provided in Appendix L to the Draft EIR. The Draft Event TMP calls for a variety of physical and operational improvements to improve travel by all transportation modes. A Revised Draft Event TMP is included in Chapter 2 of this Final EIR.
- O10-6 This comment reiterates information contained in the Draft EIR, but does not contain any specific questions or comments. The comment is noted.
- O10-7 Page 4.10-93 of the Draft EIR describes the significant impact that results in the need for Mitigation Measure 4.10-2, calling for the project to make a fair share contribution to improvements to I-5. The impact is considered significant and unavoidable because the remaining funding has not been identified. As such, payment of the fair share would not ensure that the project's impacts to I-5 would be mitigated. As noted above, the Caltrans comment letter (A4) expresses that agency's support for this mitigation approach.
- O10-8 Please see Response to Comment O10-3 for explanation of the approach to certain impacts that were concluded to be significant and unavoidable. Chapter 6 of the Draft EIR addresses a range of alternatives to the Proposed Project, including alternatives to construct the Proposed Project at locations different than the Downtown project site. In addition, subsection 6.3 describes alternatives that were considered by the City but eventually eliminated from further evaluation in the Draft EIR.
- O10-9 The roadway improvements within the Railyards Specific Plan are necessary to support its development, which was assumed in place in the cumulative model.

The vast majority of the roadway improvements listed on page 4.10-78 are included in the SACOG 2035 MTP/SCS<sup>11</sup> as Tier 1 projects, meaning they have programmed funding sources and are assumed in place by 2035 for air quality conformity analysis and transportation modeling. The MTP/SCS shows the expected cost of these improvements and the anticipated open-to-traffic date.

Page 4.10-78 of the Draft EIR notes the extension of the Regional Transit Green line through Natomas to Sacramento International Airport. The MTP/SCS describes its expected cost and anticipated schedule.

O10-10 The Draft EIR addressed the effects generated by reasonably foreseeable land use developments in the cumulative conditions analysis. The cumulative analysis is based on projections developed by SACOG to anticipate growth throughout the Sacramento region, including the project vicinity. The Railyards Specific Plan and Township 9 are two well-known projects in the vicinity that are specifically mentioned (on page 4.10-78) as examples of the many projects that were assumed to be in place by 2035. Page 4.10-90 includes a discussion of the effects that various planned land developments would have on increased congestion within the study area.

O10-11 The analysis of traffic operations under cumulative conditions considers the effects of projected land use and population growth through 2035, as well as reasonably foreseeable road and highway capacity increases, new bridges, transit facility and service expansions, and increased bicycle/pedestrian traffic. As presented in Table 4.10-21, the vast majority of study intersections would operate at LOS D or better under existing plus project conditions. However, as shown in Table 4.10-31, a number of intersections degrade to LOS E or F under cumulative plus project conditions. The primary cause of worsening congestion under cumulative conditions is increased vehicular traffic as a result of growth throughout the region. Because transit vehicles share the roadway with passenger vehicles, the contribution of additional buses and light rail trains to cumulative congestion within the study area is much less consequential than the contribution of additional passenger vehicles.

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<sup>11</sup> Sacramento Area Council of Governments, 2012. Metropolitan Transportation Plan/Sustainable Communities Strategy 2035. Approved April 19, 2012. See <http://www.sacog.org/2035/mtpscs/>.



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January 31, 2014

Scott Johnson, Associate Planner City of Sacramento,  
Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

Dear Mr. Johnson:

These comments are submitted on behalf of the Environmental Council of Sacramento (ECOS) on the DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT PROJECT (P13-065) (SCH#: 2013042031). ECOS is a coalition of environmental and civic organizations with a combined membership of more than 12,000 citizens throughout the Sacramento Region. Our mission is to achieve regional and community sustainability and a healthy environment for existing and future residents.

ECOS recognizes that this DEIR is specific to the SESC. It must be considered, however, that it is also the first of a cascade of future development projects in the downtown and the Railyards. At the very least, the future development of the 7 parcels being transferred to Basketball Holdings, LLC by the City as a part of the city's participation in the development of the SESC should be regarded conceptually as extensions to this project for the purposes of planning and assuring the maximum benefit to the city and its taxpayers.

The development of Downtown Plaza, especially viewed in concert with development of the other 7 parcels and the Railyards, presents a once-in-a-century opportunity to create a vibrant, 24-hour downtown for Sacramento, and for the region. All the great cities of the world provide a wide range of opportunities for people of all incomes and backgrounds to work, shop and live. It is of great concern to ECOS and many others that this opportunity not be squandered.

Provisions have recently been made to shield the project from certain potential actions under the California Environmental Quality Act (CEQA). Without commenting on the wisdom of these provisions, ECOS, by these comments, wishes to state its fundamental support for the highest quality project possible. This high quality should include, among other things, state-of-the-art energy, water and other resource management as well as the most comprehensive assessment of the project's environmental consequences.

Of equal, if not greater, importance is the inclusion of an extraordinary complement of housing for people of all incomes, many of whom will obtain jobs in the downtown, and perhaps even be

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011-2

involved in future construction itself. To be effective, this housing stock must not be a footnote to the rest of these projects, but rather the vanguard. Anything less threatens the contribution this project will make towards the goals desired by the City, as expressed in the General Plan. Our concern is heightened yet further by three recent examples of missed opportunity by the City in planning for the future of new housing in the City.

First was the design of the Sutter Park development. The opportunity to obtain much higher, transit-supporting density, consistent with the previous development of that parcel, was completely missed, producing a net loss of transit orientation. Second is the anticipated design of the McKinley Village development. Again, an opportunity for transit-oriented density is absent from the plan currently being proposed by the developer. Most recently, the new owner of the Railyards property was quoted in the Sacramento Bee as saying that the previous estimates of around 12,000 housing units to be developed should be considered as grossly inflated, and that he would be surprised if half that number were actually built. The DEIR for the SESC reminds us of the housing growth projected by 2030 in the General Plan - close to 100,000 units!

Therefore, it is imperative that the development of the SESC be seen as establishing the trajectory, and its design establishing the atmosphere, in which the amount of housing needed to support the commercial success of the new downtown businesses associated with the SESC can come about. Virtually all analysts, including the Mayor, are saying that, considered alone, the SESC cannot be the only stimulus of the commercial future of downtown. Rather, it is the associated residential and commercial development that will, together, revitalize it. Those businesses will not survive without enough local residents to sustain them to complement revenues from those attending events at the SESC. And without those businesses, the success of the SESC cannot be assumed. If the SESC cannot be designed and built so as to pave the way for an expansive array of housing, it must be re-conceptualized, since its ultimate contribution to the success of downtown is dwarfed by the contributions of future housing.

We are all aware of the tight deadlines being imposed by the NBA on the new arena construction. We are also aware of the expeditious efforts being made to accelerate and assure this construction. In no way should the need for quality be diminished because of the need for speed. We will not have the opportunity for a do-over.

Specifically, the following are our comments regarding the DEIR.

**Land Use, Population and Housing**

**EFFECT ON EXISTING AND FUTURE HOUSING**

The project must not cause decay in the housing stock as people leave existing housing for the proposed new units. More analysis is needed on how Basketball Holdings, LLC's proposal will affect housing affordability for local residents in the downtown Sacramento. In addition, the Draft EIR also needs more analysis of how this proposal will adversely affect existing small businesses in the project area, impacting jobs and small, minority-owned firms. Not all TOD and infill development results in equitable development.



011-2  
cont.

More attention must be paid to the avoidance of gentrification. The immediate vicinity of the SESC includes a mixture of housing types including Single Room Occupancy. Urban redevelopment projects of this type sometimes stimulate the real estate market to the point that people who might, say, have minimum-wage jobs at the SESC could no longer afford to maintain their households. If this occurred, a preventable increase in transportation costs, greenhouse gas emissions and unemployment could easily result for these individuals.

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The DEIR fails to properly analyze the Proposed Project’s inconsistency with other goals of the 2013-2021 Housing Element, including:

H-1.2.5 Neighborhood Input on Development. The City shall continue to work with neighborhood associations and residents through the planning and delivery of residential development to ensure that neighborhoods are safe, decent, and pleasant places to live and work.

H-1.3.1 Social Equity. The City shall encourage economic and racial integration, fair housing opportunity, and the elimination of discrimination.

H-1.3.2 Economic Integration. The City shall consider the economic integration of neighborhoods when financing new multifamily affordable housing projects.

H-1.3.4 A Range of Housing Opportunities. The City shall encourage a range of housing opportunities for all segments of the community.

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There is nothing equitable or integrated about adding a large number of market rate housing units all together in one place, and it is inconsistent with the City’s newly adopted Housing Element within the General Plan.

H-3.1.1 Promote Extremely Low Income Housing. The City shall promote the citing, production, rehabilitation, and preservation of housing for ELI households, including nontraditional housing types. Example: Unregulated SRO and other units in the surrounding area will be priced out.

While smart growth can transform neighborhoods, it fails to help the long term underemployed and unemployed who cannot access newly created jobs or afford the new amenities or even basic goods and services.

**A COMMUNITY BENEFITS AGREEMENT IS NEEDED**

Given the potential significant impacts on housing, ECOS recommends the following mitigation measure:

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Basketball Holdings, LLC shall enter into a partnership with local community groups to provide local hiring, union jobs, train local residents, assist local small business and preserve and create affordable

housing for community residents. Such agreements have been highly effective on other major projects throughout the state and can serve as models for this proposal. This type of agreement can serve to mitigate the negative impacts of the development on the local community by dealing with some of the urban decay and housing affordability issues that are expected to arise.

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cont.

THE SPECIAL PLANNING DISTRICT

The proposed Special Planning District modifies the site plan and design review planning process established in City Planning and Development Code Section 17.808.130 by subjecting review to the planning director rather than the Commission level. We strongly believe that a project as large and important as the ESC should have the public involvement that commission level review would provide.

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THE PLANNED UNIT DEVELOPMENT

1. The PUD Plan Overview (page 6-21) states that potential development phasing is described in the chapter but there is no information included.

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2. PUD Fig. 7: Building Footprint Diagram (page 6-30)

a. The east-west public access easement starting at 4th Street ends at the west side of 5th Street. Why doesn't the easement continue to the east side of 5th Street? This is in conflict with Fig. 6: Sustainable Land Use Map (page 6-25) which shows the easement extending over 5th Street.

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b. The main building envelope for the structure bounded by J Street, 5th Street, K Street alignment, and 4th Street is shown extending over 5th Street for approximately the central third of the distance between J Street and L Street. This would cover the sidewalk over 5th Street and interrupt the view corridor along 5th Street. The pedestrian experience might be better if the crossing matched the areas on either side of 5th Street and was open to the sky.

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c. The main building envelope for the structure at the southwest corner of J Street and 7th Street provides a pedestrian access point to the ESC building site that is over 200 feet wide. The tentative maps and the site plan indicate a much narrower access of 80 to 90 feet. Although the wider access would handle peak pedestrian flows better and provide a better connection between the arena plaza and St. Rose of Lima Park, a width somewhat larger than 100 feet would help differentiate the three spaces and allow room for furniture and amenities.

3. PUD Small Public Spaces (page 6-31) refers to Planning and Development Code Section 17.600.135 for standards and definitions. That language should be included in the PUD and customized to apply to public space. The section should also clarify that PUD common and private open space is exclusive of the ESC Building open space.

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4. PUD Sidewalk and Building Interface Area Guideline DG1.5. allows for sidewalks as narrow as 10 feet with a minimum clear zone of 6 feet for pedestrians. The Central City Urban Design Guidelines states that "Whereas sixteen (16) feet is the typical sidewalk width in the CBD, high activity areas should have sidewalk widths of 20 feet or more. Sidewalk widths in the CBD should not be less than 14 feet." The ESC-PUD site should be a high activity area, so the PUD guidelines should be at least as strong as the Central City Urban Design Guidelines. The Sacramento Area Bicycle Advocates (SABA) has suggested that adding a new guideline to provide separate pedestrian and bicycle

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ECOS comments (cont'd)

pathways on the 5th Street sidewalks using paint or paving materials. We think such a treatment could make the sidewalk safer for both pedestrians and bicyclists.

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cont.

5. PUD Street Furnishings and Amenities Guideline DG1.7. refers to the whole block, but shouldn't it be the ESC-PUD site?

6. PUD Street Furnishings and Amenities Guideline DG1.9. should state that bus pullout areas should be integrated into the public amenity zone, not the pedestrian zone.

011-11

7. PUD Landscaping Guideline DG1.12. refers to the whole block, but shouldn't it be the ESC-PUD site?

8. PUD Public Spaces Guideline DG1.14.

a. Paragraph a. should identify the "common open space" as "public space." The Planning and Development Code definition of common open space reserves the use to adjacent tenants or property owners and includes landscaping and other outdoor use features.

b. Limiting street furniture and amenities as described in paragraph b. might make it difficult to create "an interesting and dynamic pedestrian experience" as in paragraph d.

c. Paragraph d. has good intent, but how will it work with loading access in paragraph a?

011-12

9. Add to PUD Siting and Orientation Guideline DG2.3. that building residents should also utilize the subterranean level for vehicle access and use only the existing ramp on J Street between 5th and 6th. This is needed to minimize vehicle travel across the sidewalks.

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ADDITIONAL COMMENTS

By extension, this principle should also be considered when additional housing is proposed, either for the SESC parcel itself, some or all of the 7 parcels being contributed by the City to Basketball Holdings, LLC, or nearby at the Railyards or elsewhere downtown. The absence of nearby housing for prospective employees at the SESC also constitutes a preventable lost opportunity for a group of downtown workers to live within walking distance of their jobs.

011-14

**Environmental Impacts, Setting, and Mitigation Measures**

**Aesthetics, Light and Glare**

DIGITAL BILLBOARDS

It is truly unfortunate that the City, whenever it is seeking a new funding source, resorts to digital billboards. ECOS is unequivocally opposed to this added aspect of the project. ECOS believes that this portion of the project should be eliminated. We do not believe this search for additional funding is justification for imposing additional visual blight on our neighborhoods and on the community as a whole.

011-

Potentially Significant Effects on Aesthetics

There is adequate evidence that digital billboards are a visual intrusion into the aesthetic environment. Cumulative and long term impacts of digital billboards within the city limits of Sacramento have the potential to significantly impact aesthetics, green house gases, transportation and traffic, as well as biological resources. Other impacts which were not adequately addressed in the DEIR include: impacts on traffic safety, impacts on surrounding land values, energy impacts, impacts on the foraging habits of terrestrial mammals, disruption of the biological clocks of avian species. There is no plus side to digital billboards except for the additional dollars they provide the City. Is it worth it?

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The Aesthetics section of the DEIR states that no significant impacts on aesthetics will occur due to the digital billboard components of the project, yet evidence exists which would lead one to conclude otherwise.

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Potentially Significant Effects on Transportation and Circulation

The impacts on traffic safety are well documented. Recent research findings do validate existing concerns about the relationship between electronic billboards and higher crash risks. A lawsuit, filed on behalf of Scenic America and its members by Georgetown Law Center's Institute for Public Representation, asserts that FHWA's 2007 guidance violates the lighting standards established under the customary use provisions of Lady Bird Johnson's Highway Beautification Act. This lawsuit is still pending and it would appear inadvisable to move forward with any additional digital billboards until the issue is resolved ( <http://www.scenic.org/storage/PDFs/FHWA/scenic%20america%20complaint.pdf> ) .

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Potentially Significant Effects on Land Use and Planning

The Land Use and Planning section of the DEIR states that no significant impacts will occur due to the digital billboard component of the project. A recent paper provides an approach and findings in an attempt to quantify the effects of billboards on real estate values in Philadelphia, and multiple measures of prosperity in 20 cities across the United States. Across these multiple measures, billboards were found to have negative financial and economic impacts. In Philadelphia, there is a statistically significant correlation between real estate value (as measured by sales price) and proximity to billboards. Properties located within 500 ft. of a billboard have a decreased real estate value of \$30,826. Additionally, homes located further than 500 ft. but within a census tract/ community where billboards are present experience a decrease of \$947 for every billboard in that census tract. Income for strict sign control cities is higher than that for not-strict cities. Furthermore, the home vacancy and poverty rates for strict control cities are lower. Having strict sign controls does not negatively impact the economic prosperity of a city. This study was based upon standard billboards and one would anticipate that the impact of digital billboards would be significantly greater.

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A study ( [http://www.scenic.org/billboards/digital\\_signage\\_energy\\_report](http://www.scenic.org/billboards/digital_signage_energy_report) ) conducted by Gregory Young, a Philadelphia based urban planner, states that in a year a digital billboard can consume up to 30 times the energy that an average American household uses. Compared in terms of CO<sub>2</sub> emissions, digital billboards emit over 100 tons of CO<sub>2</sub> a year compared to 10-15 tons of CO<sub>2</sub> generated by an

011-21

average household according to Mr. Young’s study. These proposed digital billboards are not consistent with General Plan energy policies or with the City’s Climate Action Plan.

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cont.

Potentially Significant Effects on Biological Resources

The Biological Resources section of the DEIR reflects that no significant impacts will occur to the digital billboard components of the project. A variety of nocturnal mammals avoid open areas in moonlit conditions. The avoidance restricts foraging activity and movements, reduces total duration of activity, or concentrates foraging and longer movements during the darkest periods of night. Herbivores therefore eat less during moonlight to avoid predators. A bright artificially glowing sky at night may make every night seem as if lit by a full moon, perhaps resulting in animals being continually underfed.

While artificial night lighting may in the short term seem beneficial for the predators, it is not natural; it is not beneficial for the prey species and may not even benefit the predator species in the long term. Bats seem to concentrate around streetlights, looking for an easy meal among the ( <http://physics.fau.edu/observatory/lightpol-Insects.html> ) insects captured around the lights. Such concentrations could lead to faster disease transmission among predator species not to mention the faster depletion of their food source. Digital billboards therefore have a negative impact on terrestrial mammals.

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Anthropogenic light, including digital billboards, has modified differences between day and night, and may thereby interfere with circadian clocks. Urbanized species, such as birds, are known to advance their activity to early morning and night hours. This study highlights that brightly lit urban environments can significantly modify biologically important rhythms in wild organisms.

The above impacts of digital billboards have not been adequately analyzed in the DEIR. We believe the potentially significant cumulative and indirect impacts outlined above should be fully addressed in an adequate environmental document. ECOS strongly advises that the digital billboards be dropped from the project. We believe that digital billboards are not worth the environmental cost.

RECYCLING

Being certified LEED Gold or better is a great start toward the ultimate goal of zero net resource consumption. There are examples of similar facilities that have made exemplary progress toward such a goal by emphasizing recycling. For example, in Rosemont, Illinois, near Chicago, Allstate Arena has diverted over 250 tons of cardboard, aluminum, glass, plastic & paper from waste since 2010. This facility is the home of the Chicago Rush of the Arena Football League, DePaul University's men's basketball team, the Chicago Wolves of the AHL, and the Chicago Sky of the WNBA . In addition, a ground-breaking cup recycling program was launched in July, 2010. Every clear cup and bottle placed in a green recycling bin at Allstate Arena is staying out of a landfill. Well over 400,000 cups have been recycled already.

011-23

**Transportation**

Project objectives and general plan policy

The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with important General Plan policies.

011-24

FAILURE TO ADEQUATELY PROVIDE FOR ACCESS BY BICYCLE

The Proposed Project fails to adequately provide for access by bicycle and therefore would cause significant adverse impacts. These adverse impacts on bicycle access would result from: 1) inadequate bicycle parking, 2) inadequate access to bicycle parking, and 3) inadequate bicycle access to and from the ESC site.

011-25

Inadequacy of the Event Transportation Management Plan

Mitigation Measures 4.10-1, 4.10-6, 4.10-8, 4.10-11, 4.10-17, and 4.10-19 all require the project applicant to prepare and implement an Event Transportation Management Plan (ETMP). These mitigation measures are flawed, however, and do not comply with CEQA. The ETMP itself is flawed and does not include infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access.

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Below is a more detailed explanation of these inadequacies and our recommendations for resolving them.

Project objectives and general plan policy

We wholeheartedly support the City’s objectives for the Proposed Project as adopted by City Council on October 29, 2013. Particularly crucial for bicycle transportation are these City objectives for the ESC:

- Sustainable Project: “encourages public transit as well as pedestrian and bicycle transportation”
- Connect Downtown: “connects with and enhances downtown from the waterfront to the Convention Center and from the Capitol to the Railyards and intermodal facilities”
- Multimodal Place: is “an entertainment and sports center that complements a variety of transportation modes including walking and bicycling”.

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Many policies in the City of Sacramento’s 2030 General Plan require that the Proposed Project ensure excellent access for bicycling. DEIR pages 4.10-36 and -37 cite policies from the General Plan’s Mobility Element including:

“M5.1.4. The Proposed Project shall not result in conflicts between bicyclists and motor vehicles on streets, and bicyclists and pedestrians on multi-use trails and sidewalks.”

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However, neither DEIR Table 3-1 nor Chapter 4.10 on transportation impacts and mitigation measures discusses how the Proposed Project is consistent with Mobility Policy M5.1.4.

The Sacramento General Plan also states key urban form characteristics to be achieved by development within the Central Business District (Land Use and Urban Design section) including #12 that specifies that street design shall integrate

“pedestrian, bicycle, transit, and vehicular use” and shall incorporate “traffic-calming features . . . “.

Also, as discussed in DEIR Table 3-1, General Plan Policy LU2.6.1 Sustainable Development Patterns states that the City shall promote development patterns that

“facilitate walking, bicycling, and transit use.”

General Plan Policy LU5.6.2 Family-Friendly Downtown states that the City shall promote the Central Business District as

“a family-friendly area . . .”.

The DEIR must explain how the ESC’s provision of walking and bicycling facilities will qualify as family friendly. The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with the General Plan policies stated above.

For example, page 2-3 of the DEIR states the project applicant’s objectives for the Proposed Project. Unfortunately, the 8th and 9th objectives among the applicant’s objectives are not consistent with the City’s objectives for the project and are not consistent with General Plan policies. To be consistent, the 8th objective should be amended to read

“Ensure that adequate vehicle and bicycle parking for ESC patrons and employees is available and accessible for use during events (underline and italicizes added for emphasis).”

Similarly, the 9th objective should be amended to read

“Ensure that adequate vehicle and bicycle parking is available and sufficient and accessible to support patrons and employees of the mixed use development and other adjacent uses.”

Failure to adequately provide for access by bicycle

The DEIR findings of less than significant impacts on bicycle access are not supported by substantial evidence(Transportation Impacts 4.10-7 and 4.10-18, DEIR page 4.10-101 and -111). A more detailed explanation of these inadequacies and our recommendations for resolving the inadequacies is provided below.

1. Inadequate Bicycle Parking

The Proposed Project fails to adequately provide for access by bicycle as it does not include sufficient quantity of bicycle parking or specificity of a bicycle parking plan. The DEIR acknowledges that the

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Proposed Project must comply with the City’s bicycle parking requirements (Planning and Development Code Chapter 17.608 and Table 17.608.030C) as stated on DEIR page 2-54.

The project description, however, presents only a very conceptual Bicycle (parking) Plan for ESC operations depicted in Figure 2-24 (DEIR page 2-55): Long-term bike parking for employees would be provided in the underground parking garage; some undefined amount of short-term bike parking would be provided along the north edge of the ESC plaza whereas short-term bike parking for events with sufficient demand would be provided in temporary bike-valet operations. The project description fails to describe how decisions will be made to provide bike-valet operations and how and where they will be implemented.

Using the City’s bicycle-parking requirements in Planning and Development Code Chapter 17.608, we have calculated required amounts of long- and short-term bicycle parking for the mixed uses proposed for the ESC SPD/PUD based on sizes of the uses stated in DEIR Table 2-2 and for ESC events based on employment (DEIR page 2-17) and event scenarios (DEIR Appendix L ETMP page 8). The DEIR should include information about required bicycle parking spaces in the Project Description section on bicycles at DEIR page 2-54. For example, the ESC must provide one long-term bicycle-parking space per 13 employees and short-term bicycle-parking spaces for 5% of attendees at events. Using this formula, a sold-out NBA game with 17,500 attendees and 1,200 employees would require 875 short-term spaces and 92 long-term spaces.

The DEIR does not describe how the required amounts of bicycle parking will be provided for ESC operations, either for employees or for event attendees. The bicycle parking plan must describe how it will provide long-term parking consisting of at least 20 spaces for permanent employees plus 92 spaces for temporary employees that staff events. The DEIR currently only mentions providing “approximately 20 long-term” spaces for employees in the underground parking (page 2-54).

The DEIR estimates a mode share of 0.5% for bicycling by attendees to typical NBA events, meaning only about 90 attendees will arrive on bicycles for NBA games (ETMP page 27). This low estimate may be appropriate for the initial season or two of NBA events at the ESC and for games in wintertime inclement conditions. However, Sacramento is a very favorable area for bicycling and bicycling to NBA events at the ESC will be much more attractive in spring and fall months when evening bicycling in Sacramento can be quite pleasant. Bicycling to other ESC events will also be more frequent for daytime events (e.g., matinee events attractive to families). The summer Concert in the Park series at Cesar Chavez Park, for example, regularly draws several hundred bicyclists to bike-valet parking for an attendance of several thousand persons.

The DEIR fails to account for the likely growth of bicycling mode share over the timeframe of the cumulative impact analysis to 2035. Currently, although bicycle access to downtown Sacramento can be difficult because of an incomplete network of low-traffic-stress bikeways, bicycles are an increasingly popular mode of transportation for commuters and for simply moving around downtown and midtown. As Sacramento’s bikeway network becomes more comfortable and continuous, the bicycling mode share to downtown Sacramento will quickly grow. Tables 3-2 and 3-3 in the ETMP show that approximately 40% of NBA event attendees will come from or go home to neighborhoods within a 20- to 30-minute bicycle ride of the ESC (about 3-5 miles); these neighborhoods include Downtown Sacramento, Midtown, East Sacramento, Land Park, Curtis Park, Oak Park, North



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Sacramento, West Sacramento, and South Natomas. So, as Sacramento’s bikeway network improves, the bicycling mode share to the ESC can also be expected to steadily grow. The DEIR must relate likely bicycling mode share to the projections for 2035 in the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan. The project description for the Proposed Project therefore must specify short-term parking for ESC events that is readily scalable (i.e., able to adaptively grow in capacity with more favorable bicycling conditions) and adequately secure. Security must not only protect against theft of entire bicycles but against theft or vandalism of important bicycle equipment such as wheels, seats, seats and speedometers. Bicycle racks that are not guarded or otherwise protected during events will not suffice for attendee bicycle parking.

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For the required bicycle parking in future SPD/PUD uses, we recommend that the Proposed Project adopt a strategy of bicycle-parking facilities that are integrated into the mixed-use structures. For example, several high volume parking facilities like the Folsom Pedal Stop, which has a capacity of 60 bicycles, located at two or more points around the SPD/PUD buildings could fulfill much of the long-term bicycle parking requirement for employees, tenants and residents, and also make short-term bicycle parking convenient for customers and visitors.

In conclusion, the DEIR must present a bicycle-parking plan that fully complies with City requirements for bicycle parking capacity and that is specific about how short-term bicycle parking will be provided for ESC events. Short-term event parking must be provided sufficiently near the ESC that it not be a deterrent to bicycling use (e.g., in the ESC plaza or immediately adjacent). Such parking must be fully secured to protect bicycles and their auxiliary equipment, and must be scalable for handling the expected amounts of bicycle use for the different kinds and conditions of ESC events.

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2. Inadequate access to bicycle parking

The Proposed Project fails to provide access to the bicycle parking depicted in Figure 2-24 of the DEIR. This figure shows that some amount of short-term bicycle parking for small events would be located along the north side of the ESC entry plaza near future SPD/PUD developments for a hotel and retail/commercial uses. The retail/commercial uses would largely be “oriented to have front doors mainly onto the entry plaza and the K St. alignment” (DEIR page 2-40).

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Short-term parking for customers of the retail/commercial uses should be in this location as required by the City’s bicycle-parking ordinance: “Required short-term bicycle parking facilities shall be located in an area visible from and within 200 ft of the primary entrance of the building served” (Section 17.608.040 N.2.a). Figure 2-24 of the DEIR also shows that long-term bicycle parking for employees would be provided within the parking garage at this location.

The DEIR fails to describe access routes for bicycles to these locations for short-term and long-term bicycle parking. So that people traveling by bike can actually use this parking, the Proposed Project must establish routes for bicycles to access these parking locations from each of the access points shown on ETMP Figure 10 Bicycle Access Routes and Facilities. Key bicycle routes to the ESC under current conditions will approach from K St. to the east, 5th St. from the south, the K St. pedestrian/bicycle connection from the west and Old Sacramento, and J St. and the Intermodal Station to the north. Figure 6 of the PUD Guidelines (page 6-25) shows an access and open space

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easement providing pedestrian, bicycle, and vehicular access along the K St. alignment between 4th St. and the ESC plaza across 5th St. To mitigate this significant impact, the Proposed Project must delineate bicycle access paths across the ESC entry plaza from these access points to the bicycle parking that are separate from pedestrian areas, using pavement surface treatments and wayfinding signage. The access paths for bicycles to the short-term parking can also serve to direct bicycle travel across the entry plaza during non-event periods (e.g., for customers of the retail/commercial uses at the north side of the entry plaza).

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Table 3-1 (DEIR page 3-13) states that “the public ownership of K St. would be vacated through the ESC project site . . . “. The DEIR must fully explain this statement, reveal the existing status of public ownership of K St., and disclose whether this action would significantly and adversely impact bicycle access to and through the project site in the transportation impact analysis.

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3. Inadequate bicycle access to and from the ESC site

The DEIR fails to disclose that the Proposed Project would adversely affect bicycle access to and from the ESC site from within the surrounding Central Business District. DEIR Figure 4.10-4 shows the existing bicycle network in the vicinity of the ESC site, including striped bicycle lanes along 5th St., J St., I St., and Capitol Mall. K St. has a combination of Class 1 bicycle path and Class 3 bicycle route approaching the ESC site from the east. As stated in the ETMP (page 26), “the recent addition of striping to provide on-street bicycle lanes on Capitol Mall, 5th St., and J St. make[s] them ideal routes for bicyclists to access the ESC.”

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The DEIR must disclose that event vehicle-traffic operations will adversely affect most of these facilities, as shown by Figure 2-22 (entrances/exits to/from VIP parking and loading/delivery/service bays, zones of auto drop-off) and Figure 2-25 (temporary street closures and traffic control stations to manage vehicle and pedestrian flows for NBA games). Likewise, ETMP Figures 13 and 14 (Pre- and Post-Event Vehicle Routes) show which street segments and intersections will be heavily affected by vehicle traffic to and from parking facilities for NBA games. Figure 4.10-15 (Pre-Event Peak Hour Pedestrian Flows) and Table 4.10-24 (Pedestrian Volumes – Existing plus Project Conditions) show that numerous intersections will be subject to spillover of pedestrians from cross-walks because of excessive pedestrian flow rates before typical NBA events. Those adverse effects must be mitigated.

The DEIR fails to disclose that the concentrated vehicle and pedestrian flows for NBA-type events will cause conflicts between vehicles and bicyclists and between pedestrians and bicyclists, as prohibited by General Plan Mobility Policy 5.1.4. For example, closure of 7th St. between J and L streets would appear to adversely affect bicycle access to the Class 1 bicycle path on K St. These significant impacts on bicycling in the vicinity of the ESC will also occur although to a lesser extent for smaller events. ETMP Table 2-1 estimates 50 NBA events and large concerts (28%), 53 events of 5,000-10,000 attendees (30%), and 74 events of 5,000 attendees or less (42%) each year. These conflicts will adversely affect both bicyclists attending events and those simply passing by between other parts of the SPD/PUD, Old Sacramento, and the Central Business District.

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To avoid these conflicts and thus mitigate the significant impacts, the Proposed Project must result in improvements to bicycling infrastructure to and from the ESC site. Bicycling infrastructure improvements will be needed on 5th St. for access from north (e.g., Sacramento Valley Station) and

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south (e.g., Capitol Mall), on J St. for access from the east, and on L St. for access from the east. These improvements should consist of dedicated bikeways separated from pedestrian paths (e.g., to and from key transit stations), vehicle access routes (e.g., into and out of ESC underground parking), and truck access routes to the ESC. Because vehicular traffic into and out of large ESC events, especially NBA games, will be very high volume and high speed, these bikeways must offer low traffic-stress conditions.

Appropriate protected bikeways would be two-way cycle tracks (<http://streetswiki.wikispaces.com/Two-Way+Cycle+Tracks>) installed on the north side of J St. (opposite ESC parking entrance/exits and drop-off zones), the south side of L St. (opposite ESC parking entrance/exits and drop-off zones), and the west side of 5th St. (opposite the ESC truck exit ramp and the double northbound right turn lanes at J St.). These sides of these blocks have few driveways, thus minimizing turning conflicts with cars, and making these blocks optimal for cycle-track installations. A two-way bikeway along the 5th St. alignment could also be placed across the entry-plaza bridge over 5th St.

The Proposed Project should partner with the City of Sacramento’s Department of Public Works to make these bicycle infrastructure improvements and thereby mitigate the significant impacts to bicycle access to and from the ESC site.

Inadequacy of the Event Transportation Management Plan (ETMP)

The DEIR has proposed Mitigation Measure 4.10-1 to mitigate the significant worsening of intersection conditions in the vicinity of ESC (DEIR page 4.10-93). This measure would require the preparation and implementation of the ETMP, subject to the review and approval of the Sacramento Traffic Engineer in consultation with affected agencies such as Caltrans and Regional Transit.

The ETMP would “manage vehicular circulation near the project site” and “optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC” (DEIR page 4.10-92). The DEIR also proposes the ETMP as mitigation for Transportation Impacts 4.10-6 (access to light rail) and 4.10-8 (pedestrian access) and for mitigation of impacts to intersections, light rail, and pedestrian facilities under cumulative conditions projected for 2035.

Mitigation Measures 4.10-1, 4.10-6, and 4.10-8 do not comply with CEQA guidelines and fail to mitigate the significant impacts in 2 ways:

1. The ETMP has not been finalized and approved by the City so that it cannot be determined that the project would adequately reduce the significant impacts, as stated on DEIR page 4.10-93.
2. CEQA Guidelines Section 15126.4(a) requires that “mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” Mitigation Measures 4.10-1, 4.10-6, and 4.10-8 do not identify the minimum required contents of the ETMP. To be enforceable, the ETMP must have performance standards for what it will achieve, how its efficacy will be measured during ESC operations, how success of the ETMP will be demonstrated, and what corrective actions will be taken and by when if its efficacy is inadequate.

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The ETMP must be reworked by the Project Applicant and the City to include enforceable performance standards about what it will achieve. The ETMP should encompass not only traffic-operations measures but also infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access. More than half of ESC events are expected to have more than 5,000 attendees (ETMP Table 2-1). Therefore, the ETMP should also include measures for these events in addition to “sold-out NBA games” with 17,500 attendees. Such smaller events also can be expected to adversely affect travel operations in the ESC vicinity.

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Because the ETMP would be intended not only “to manage vehicular circulation near the project site” but also “to optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC” (DEIR page 4.10-92), its final approval should rest with the City of Sacramento Director of Public Works whose responsibilities encompass all types of transportation services. Finalizing the ETMP must include Caltrans and Regional Transit and also other entities responsible for managing Sacramento transportation (e.g., Sacramento Transportation Management Association) and representatives of non-auto travel modes.

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The Environmental Council of Sacramento also urges that funding for adequate transit service be provided to accommodate event demands and workers.

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The Bicycle Element of the ETMP should be greatly expanded to serve as mitigation for significant impacts to bicycle access as follows:

Adequate bicycle parking for ESC Events

This section should establish a performance standard to provide all long- and short-term bicycle parking required by Sacramento Planning & Development Code including a bicycle valet parking program that is readily scalable for 5% of expected event attendees, is adequately secure from bicycle theft and vandalism, is located in or immediately adjacent to the ESC, and that has clearly described implementation responsibilities. Adequate access to bicycle parking: This section should detail how routes across the ESC plaza will be provided to direct bicyclists to parking locations at the ESC, whether short- or long-term. These routes must be provided for bicyclists arriving at the ESC from north (Sacramento Valley Station and Natomas), south (Land Park), east (Midtown, East Sacramento, Curtis Park), or west (Old Sacramento, Sacramento River Parkway Bicycle Path, West Sacramento). These routes must be delineated with pavement treatments and wayfinding signage.

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Adequate access to and from the ESC site: This section should have a performance standard that specifies that the Proposed Project will join in partnership with the City of Sacramento Department of Public Works to install low-traffic-stress bikeways connecting the ESC site in all 4 cardinal directions.

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These bikeways would serve the several blocks in each direction affected by vehicular and pedestrian conflicts before, during, and after ESC events. This section must also address bicycle travel through the streets proposed for temporary closure after ESC events. These bikeways would have the

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auxiliary benefit of allowing bicyclists of all ages and abilities to ride to the ESC plaza and the SPD/PUD during non-event periods.

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One of the objectives of the ETMP is “to facilitate and maximize bicycle use by ESC event attendees and employees” (ETMP page 1). The ETMP’s plan for monitoring and refinement aims to “ensure that a high proportion of project employees and visitors . . . are traveling to and from the site via transit, bicycle, and walk modes” (ETMP page 49). Therefore, the monitoring part of the ETMP must be enhanced to fully encompass all modes of transportation to the ESC, such as its effectiveness in accommodating pedestrians and bicyclists.

The ETMP must describe how the monitoring results will be documented in annual reports, available for public review, and how the results will be used to modify ETMP operations and infrastructure in the ESC vicinity.

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Modifications and improvements to the ETMP should be done in consultation with the same entities and representatives of all travel modes as help finalize the ETMP in its initial year and subject to approval by the City of Sacramento Director of Public Works. Monitoring and refinement of the ETMP should continue through the life of the ESC in response to improvements in multi-modal transportation opportunities and further build-out of the Central Business District (e.g., the ESC SPD/PUD).

The mitigation measure adopted by City Council in the EIR will guide preparation of the ETMP and must specify necessary details regarding ETMP content, success criteria, responsibilities for approval and implementation, and enforceability.

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**BUILDING SITE PLAN**

The ESC building site plan, with the bowl “dialed left” and having a smaller footprint, has better pedestrian circulation and access. The mixed-use or retail store fronts on L Street at the base of the arena will better activate the street and provide more “eyes on the street” compared to the wall in the previous version. Steps on the slope along 5th Street between L Street and the entry plaza can provide a social gathering place independent of the arena activity.

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The success of the plazas and public open spaces will depend on details in the landscaping plan which we look forward to reviewing when they are made available.

**TRAFFIC**

Given the identified significant traffic impacts, ECOS recommends the following mitigation measure:

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Regional Transit shall be reimbursed for all capital and operating costs associated with increased transit service necessary to provide adequate service for all ESC events. In addition, all event tickets shall serve as a round trip transit pass.

**MITIGATION ANALYSIS**

ECOS comments (cont'd)

CalTrans has submitted comments on downtown development calling for funding for freeway capacity on I-5 as mitigation for additional trip generation. CEQA requires evaluation of the adverse impacts of mitigation measures. If expansion of freeway capacity is proposed, the adverse impact of that expansion, including induced demand for freeway use, with the increase in air pollution and greenhouse gas emissions that entails, must be evaluated. If it is not evaluated, the project cannot include funding of increased freeway capacity as a mitigation measure.

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In either case, the mitigation for trip generation at the arena should include funding for transit, and incentives for transit use such as making arrangements for RT and YoloBus accept arena event tickets as one-day transit passes.

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ADDITIONAL COMMENTS

Others will comment on more specific transportation issues. Our emphasis is placed on the valuable opportunity to create a mutually beneficial relationship with Regional Transit and AMTRAK for the benefit of event attendees and downtown business patrons alike who live beyond walking and cycling distance from the SESC. Current schedules and headways do not come close to being convenient, especially for use in the late evening and nighttime hours. It is our belief that every event ticket of any kind for the SESC should be applicable to transit fares both inbound and outbound. In the same way that the City waives parking fees downtown during the Christmas shopping season to stimulate business, the SESC and the surrounding commercial establishments would greatly benefit from the increased foot traffic, and customers would benefit from extended opportunities to shop, eat and otherwise patronize downtown businesses if they did not have to drive and park to do so.

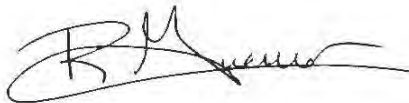
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Conclusion

We've all heard the expression "There's never time to do it right, but there's always time to do it over." This time, that may not be true. If downtown revitalization is the city's highest priority, then we cannot afford to be controlled by the conditions imposed by the NBA if that compliance comes at the expense of the next 50 years of downtown development, especially its housing. According to the General Plan, the City anticipates almost 100,000 units of new housing by 2030. Unless this project tees up that extraordinary residential development envisioned by the General Plan, it is difficult to see how those units would materialize, thus threatening not only the viability of the SESC but also any hope for a 24-hour downtown. If a choice must be made between an arena by 2017 or a robust housing environment, we have no doubt that the city would be overwhelmingly more revitalized by housing than by the SESC.

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Respectfully Submitted,



Richard Guerrero, President  
Board of Directors

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Tania Dukic, Christer Ahlstrom, Christopher Patten, Carmen Kettwich, Katja Kircher. **Effects of electronic billboards on driver distraction**. *Traffic Injury Prevention*, 2012;

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**Letter O11 Response**     **Richard Guerrero, Environmental Council of Sacramento (ECOS)**  
January 31, 2014

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O11-1            The comments regarding the makeup of the Environmental Council of Sacramento and the opportunities presented by the Proposed Project are noted. They will be conveyed to the City Council for its consideration.

In several ways the analysis contained in the Draft EIR reflects the City's understanding of the cumulative context for the Proposed Project, and recognizes the role that the project could play in stimulating additional development. The cumulative impact analyses include reasonable assumptions about additional growth in the project vicinity and the region. Some of that assumed growth would occur within the nearby Railyards Specific Plan Area, additional growth would occur elsewhere in the Central Business District and Central City, still other cumulative growth would occur in other parts of the City of Sacramento, Sacramento County, nearby in West Sacramento, and other parts of the SACOG region. This regional growth has been incorporated, as appropriate, into the analyses of cumulative transportation, air quality, noise, public services, utilities and infrastructure, and other relevant environmental issues addressed in Chapter 4 of the Draft EIR.

Section 5.4 of the Draft EIR addresses growth-inducing effects of the Proposed Project, including the potential for the Proposed Project to eliminate obstacles to growth or to stimulate indirect or induced employment growth through the multiplier effect. Appendix H, Sacramento Entertainment and Sports Center & Related Development Urban Decay Analysis, provided examples of other similar situations where a sports and entertainment facility has been added to a downtown area resulting in stimulus of development on surrounding properties. As stated on page 55 of Appendix H, "K Street and surrounding areas may reap strong economic development benefits from development of the ESC." Appendix H went on to state that "K Street and other surrounding Downtown streets are expected to experience a surge in private investment improving real estate conditions and expanding the commercial base in order to reap returns from enhanced visibility, pedestrian traffic, and population density that will result from development of the ESC and its companion residential and commercial development." The analysis in the Draft EIR concluded that "while the Proposed Project would contribute to direct, indirect, and induced growth in the region, it would develop a new entertainment and sports center along with residential, office, hotel, and retail/commercial land uses in a manner that is located in the center of the Sacramento region, is efficient, and utilizes existing and planned urban resources."

Since publication of the Draft EIR, information about ideas for four projects has emerged, either through comment letters on the Draft EIR or local newspaper articles. These projects, if formally proposed and approved, would involve reconfiguration of the 630 K Street Building (see Comment Letter I21), renovation of the California Fruit Building (see Comment Letter I23), redevelopment of the 555 Capitol Mall parcel (see Comment Letter I29), or reuse of the Hotel Marshall.<sup>12</sup> No specific information about these proposals, such as numbers of hotel rooms, square footages of development, building size or configuration, and proposed uses have been provided. Thus, it is not possible to provide additional detailed evaluation of the effects of these projects. Further, the lack of current proposals before the City means that the projects could continue to evolve prior to the submission of applications, or not materialize for a variety of factors. Under these circumstances, they do not yet represent reasonably foreseeable cumulative projects. Nevertheless, the Draft EIR includes consideration of additional development around the project site in the Central Business District. As noted above, the evaluation of growth-related and urban decay effects recognized the economic stimulus effects of the Proposed Project. On page 5-9, the Draft EIR states:

“...growth induced directly and indirectly by the Proposed Project could also affect the greater Sacramento region. Potential effects caused by induced growth in the region could include: increased traffic congestion; increased air pollutant emissions; loss of agricultural land and open space; loss of habitat and associated flora and fauna; increased demand on public utilities and services, such as fire and police protection, water, recycled water, wastewater, solid waste, energy, and natural gas; and increased demand for housing.

“Specifically, an increase in housing demand in the greater Sacramento region could cause significant environmental effects as new residential development would require governmental services, such as schools, libraries, and parks. Indirect and induced employment and population growth would further contribute to the loss of open space because it would encourage conversion to urban uses for housing, commercial space, and infrastructure.”

In addition, the cumulative analyses in the EIR accounted for additional growth in the CBD. As an example, the analysis of cumulative transportation, air quality, and transportation-related noise effects is based on modeling using SACOG’s SACMET model that accounts for planned land use growth within the City of Sacramento according to the City’s General Plan. As noted on page 4.10-77 of the Draft EIR, “[t]he version of the model used to develop the forecasts was

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<sup>12</sup> Sacramento Bee, *Boutique Hotel Plan Emerges For Marshall Hotel – One Block From Arena Site*, February 28, 2014.

modified to include the most recent planned land uses and transportation projects within the City of Sacramento.” As a further example, the evaluation of cumulative aesthetics impacts recognizes the potential for other cumulative projects in the immediate vicinity of the Downtown project site and states that “[t]he addition of the ESC project and mixed-use development, in conjunction with the redevelopment projects on K Street, potential future high-rise developments on Capitol Mall, and the development of the Railyards, would intensify the existing visual character of the west end of Sacramento’s CBD. The addition of cumulative development, including the Proposed Project, would not degrade visual character of the project site and surrounding area.” While the information about potential projects in the immediate vicinity of the proposed ESC remains very preliminary, the Draft EIR addressed the potential environmental effects related to cumulative changes to the project area.

The economic analysis presented in Section 5.5 of the Draft EIR considered the potential for the retail and commercial space in the Proposed Project to inhibit or otherwise interfere with the planned development in the Railyards. In addressing the Railyards, the analysis stated that “[a]s the Railyards project has not yet started construction, its development will substantially lag development of the ESC retail, which is estimated for the purpose of this study to be fully operational by 2017. Based upon this potential timeframe and representative project phasing, the retail space included in the Proposed Project is likely to be fully developed and stabilized before new retail space is developed at the Railyards. The Project’s net addition of \$78.2 million in retail sales would be unlikely to inhibit development of the retail space included in the Railyards project. Considering the likely development timeframe and more expansive trade area, the Proposed Project retail is therefore unlikely to be an impediment to the development of the Railyards retail component.”

As is demonstrated above, the Draft EIR recognized the nature of cumulative projects and cumulative growth in a variety of ways, and addressed the potential for the Proposed Project, on the one hand, to contribute to cumulative adverse impacts, and on the other hand, to inhibit or adversely affect the success of nearby cumulative projects like the Railyards.

O11-2 The comments regarding aspirations for the Proposed Project are noted and will be conveyed to the City Council for its consideration.

The comments regarding effects on housing affordability, jobs, small minority-owned businesses, gentrification, transportation costs, unemployment and the like are issues that are economic in nature. As further addressed in Response to Comment O4-17, an EIR is required to focus on physical environmental effects. Social and economic impacts are not considered to be physical environmental effects under CEQA, and are only relevant insofar as they could connect the

Proposed Project to physical environmental impacts or are used to measure the significance of a physical environmental impact.

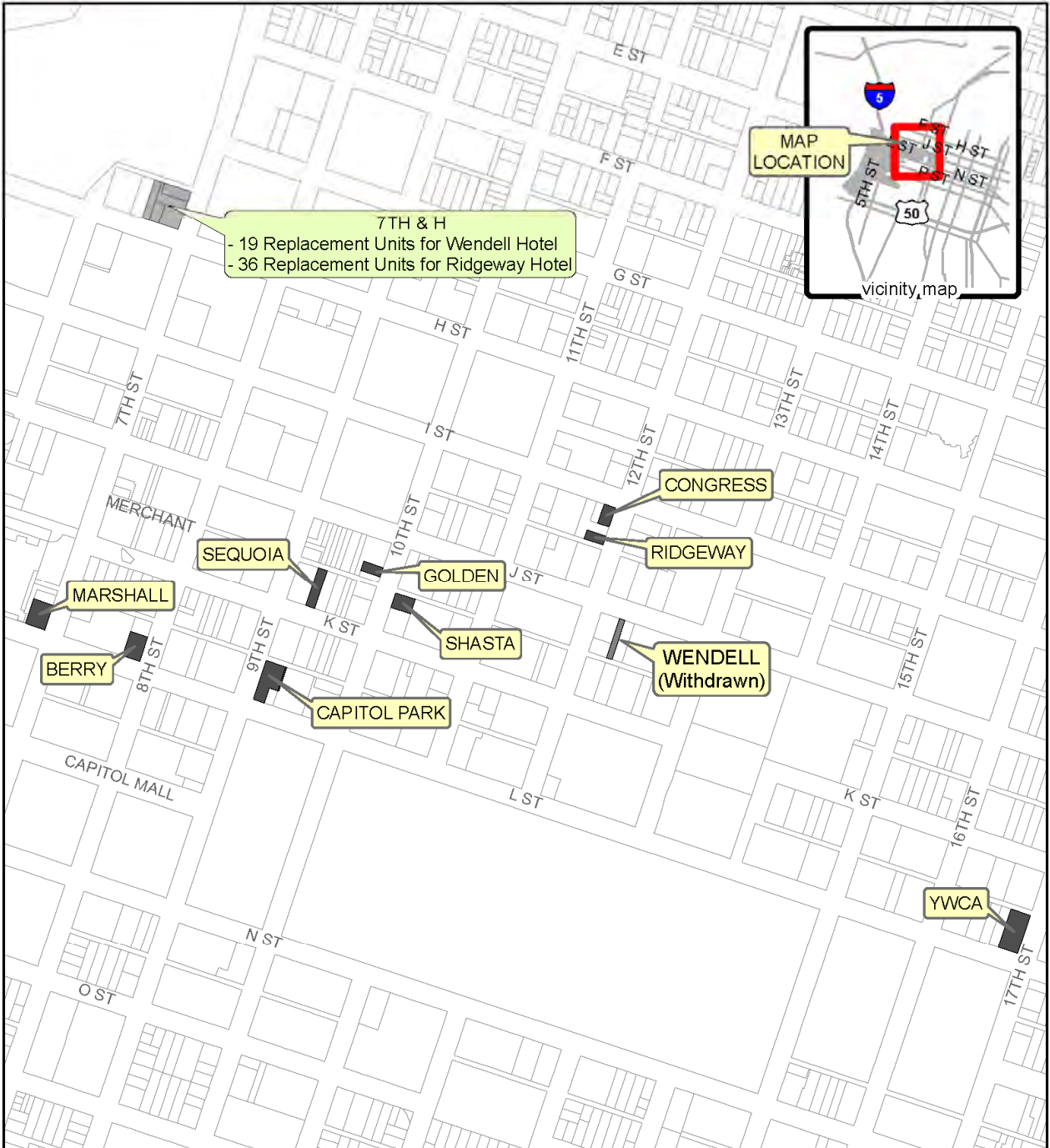
Regarding the potential secondary effects of increased land values or other economic stimuli on the presence of single room occupancy housing near the Downtown project site, including the Marshall Hotel, it is important to recognize that Title 18, Chapter 18.20 of the City Code establishes protections for certain downtown single room occupancy residences and their residents. In particular, in section 18.20.160, the Code states that “[t]he city shall maintain or cause to be maintained an inventory of not less than seven hundred twelve (712) residential hotel or comparable units; and to this end shall replace or cause to be replaced the residential hotel units subject to this chapter that are to be withdrawn, converted or demolished.” The Code establishes a process that must be implemented prior to the conversion of the single room occupancy units, including the provision of relocation benefits to the residents of the units and, under certain circumstances, to recent past occupants of converted units (see section 18.20.060 of the City Code). Section 18.20.160 provides that if a conversion plan is approved by the City Council that would reduce the number of protected SRO units below the required 712 units, within 90 days the City must bring forward a plan to provide replacement units within 3 years.

There are six residential hotels subject to the City Code including:

- 22 unit Ridgeway Hotel,
- 150 unit 7<sup>th</sup> & H Street Housing Community (constructed in 2012),
- 105 unit Studios at Hotel Berry (renovated in 2012),
- 32 unit YWCA (renovated in 2010),
- 80 unit Shasta Hotel (renovated in 1994), and
- 90 unit Sequoia Hotel (renovated in 1985).

There are also four non-regulated residential hotels subject to the Code including the 180-unit Capitol Park Hotel, the 27-unit Congress Hotel, the 26-unit Golden Hotel, and the 95-unit Hotel Marshall. In total, the hotels containing units protected by the City Code include a total of 807 SRO units, 95 units greater than the minimum of 712 units established in the City Code. The residential hotels containing single room occupancy units protected by the City Code are shown below in the graphic, “Residential Hotels Identified in City Code Chapter 18.20 Subject To, Withdrawn and/or Replacement Units.” The protections provided in Chapter 18.20 of the City Code are considered adequate to ensure the long-term availability of affordable SRO units in downtown Sacramento into the future.

**Residential Hotels Identified in City Code Chapter 18.20  
Subject To, Withdrawn and /or Replacement Units**



Withdrawn Unit	Replacement Housing Site	0 350 700 Feet		SHRA GIS April 3, 2013
Residential Hotel Included In Ordinance				

On February 28, 2014, an article in the Sacramento Bee reported that the owner of the Hotel Marshall intends to rehabilitate the Hotel Marshall building and convert the use from a single resident occupancy hotel serving low-income tenants to a market-rate boutique hotel. The City has not received any applications for the conversion of the Hotel Marshall and the construction of a new market-rate hotel. The City has indicated that in the event that this project moves forward, the residents of the Hotel Marshall would be entitled to relocation assistance pursuant to Chapter 18.20 of the City Code. The City has also indicated that the conversion of the 95 SRO units in the Hotel Marshall would reduce the number of units in downtown Sacramento, but not below the statutorily-required 712 units.

O11-3 The Draft EIR was published on December 16, 2013. On December 17, 2013, the City of Sacramento adopted a new Housing Element.<sup>13</sup> In order to ensure consistency with the current adopted Housing Element, the text on pages 3-42 and 3-34 is revised as shown below.

### **Housing Element**

The Housing Element is part of the City's General Plan and sets forth the policies and programs to address the housing needs of all households in Sacramento. State law (Government Code Sections 65580-65589.8) requires that every city and county in California adopt a Housing Element, subject to State approval, as part of its General Plan. The City adopted the ~~201308-202113~~ Housing Element on ~~November 18, 2008~~ December 17, 2013. ~~A new Housing Element must be adopted by February 2014, therefore, the current Housing Element is currently undergoing an update.~~

The 2013-2021 Housing Element is expected to be ~~adopted by the City Council in January 2014, with certification~~ certified by the State ~~expected in~~ early 2014. The following goals and policies from the ~~currently~~ adopted 2013-2021 Housing Element relate to new development and are applicable to the Proposed Project:

#### **Goal H-2.2 Assist in creating housing to meet current and future needs.**

Development. Assist in creating housing to meet current and future needs.

#### **Policies**

- **H-2.2.1 Quality Infill Development.** The City shall promote quality residential infill development ~~through the creation/adoption of by~~ maintaining and implementing flexible development standards ~~and with~~ funding resources.

<sup>13</sup> City of Sacramento, 2013-2021 Housing Element, December 17, 2013.

- **H-2.2.2 Financial Tools to Diversify Residential Infill Development.** To the extent resources are available, ~~r~~The City shall use financial tools to diversify market developments with affordable units, especially in infill areas.
- **H-2.2.3 Offsetting Development Costs for Affordable Housing.** The City shall ~~use~~ defer fees to Certificate of Occupancy (COO) waivers and reductions to help offset development costs for affordable housing and will offer other financial incentives including, but not limited to, the use of water development fee waivers, and sewer credits and other financial incentives.
- ~~H-2.2.4~~ The City shall adopt policies, programs and procedures to help meet its regional fair share allocation of housing for all income groups in the City.
- **H-2.2.45 Funding for Affordable Housing.** The City shall pursue and maximize the use of all appropriate state, federal, local, and private funding for the development, preservation, and rehabilitation of housing affordable for extremely low-, very low-, low-, and moderate-income households, while maintaining economic competitiveness in the region.
- ~~H-2.2.6~~ To the extent feasible, the City shall continue to fund and administer the Affordable Housing Fee Reduction Program.
- **H-2.2.57 Review and Reduce Fees for Affordable Housing.** The City shall work with affordable housing developers as well as other agencies and districts to review and reduce applicable processing and development impact fees for very low- and low-income housing units.
- **H-2.2.6 Update the Mixed Income Housing Ordinance.** The City shall revise its Mixed-Income Housing Ordinance to promote affordable housing citywide and to require developers to contribute to the production of housing affordable to lower- and moderate income households.
- **H-2.2.7 Suburban Infill and Secondary Units.** The City shall continue to support efforts to provide more varied housing opportunities in existing suburban neighborhoods through infill and intensification on existing available sites, by allowing secondary units on single-family lots, and allowing for additional development on excessively large lots.

The goals and policies included in the Housing Element seek to aid in the development, improvement, and maintenance of housing in the City of Sacramento. The City views housing policies as part of the City's overall mission to strengthen neighborhoods, improve livability and conditions for all residents, and maintain the economic well-being of the City and all its residents. The Proposed Project includes new housing opportunities in downtown Sacramento and will pay City of Sacramento Housing Trust Fund fees, as appropriate, that helps to achieve the goals and policies listed above.



The comment requests assessment of the consistency of the Proposed Project with a number of other goals and policies of the 2013-2021 Housing Element, including policies H-1.2.5, H-1.3.1, H-1.3.2, H-1.3.4, and H-3.1.1. The policies cited in the comment address future actions of the City related to such issues as the process of receiving neighborhood input on development, encouraging social equity and elimination of discrimination, economic integration of neighborhoods, providing housing opportunity for all segments of the community, and promotion of extremely low income housing. These policies address social and economic issues, and the comment does not describe any relationship of these policies to physical environmental effects, which are the focus of evaluation in an EIR. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA, and Response to Comment O11-2 regarding the potential indirect effects of the Proposed Project on single room occupancy housing in the downtown area.

O11-4 The comment suggests addition of a mitigation measure that would address training and hiring of local employees and create affordable housing for community residents. The comment does not identify a specific impact of the Proposed Project that this language would mitigate, but instead refers generally to urban decay and housing affordability issues.

The Draft EIR specifically addresses urban decay in Chapter 5, Other CEQA Required Considerations on pages 5-9 through 5-24. A full analysis of potential urban decay effects of the Proposed Project is contained in Appendix H of the Draft EIR. As stated on page 5-18 of the Draft EIR, the analysis concludes that the Proposed Project combined with cumulative retail projects would not cause or contribute to urban decay.

Housing affordability is not an effect of the Proposed Project on the existing physical environment. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA.

O11-5 The comment is noted and will be conveyed to the City Council for its consideration.

O11-6 This is a comment on the PUD application that was submitted to the City on November 20, 2013. As is presented in Chapter 2 of this Final EIR, and discussed elsewhere in response to comments, the applicant has decided to withdraw the application for a PUD. Because the PUD application has been withdrawn and is no longer part of the Proposed Project, no further response is required.

O11-7 Please see Response to Comment O11-6.

O11-8 Please see Response to Comment O11-6.

- O11-9 Please see Response to Comment O11-6.
- O11-10 Please see Responses to Comments O11-6 and O2-34.
- O11-11 Please see Responses to Comments O11-6 and O2-34.
- O11-12 Please see Responses to Comments O11-6 and O2-34.
- O11-13 Please see Responses to Comments O11-6 and O2-34.
- O11-14 The Proposed Project includes development of up to 550 multi-family residential units, which could provide an opportunity for ESC employees to live within walking distance to their jobs. In addition, the Downtown project site is within an urbanized area of Sacramento with residential neighborhoods nearby including the Alkali and Mansion Flats neighborhoods, midtown Sacramento, and other residential buildings in downtown Sacramento. These areas are within walking or biking distance to the Downtown project site.
- O11-15 The comment objects to the inclusion of digital billboards as part of the Proposed Project. The comment does not pertain to the Draft EIR. It is noted and will be conveyed to the City Council for its consideration.
- O11-16 The project-specific and cumulative environmental impacts of the proposed digital billboards are described in each technical section of the Draft EIR. See, for example, Impacts 4.1-2 and 4.1-3 on pages 4.1-69 through 4.1-78 for a discussion of lighting effects on traffic safety, Impacts 4.3-1 and 4.3-2 (pages 4.3-49 through 4.3-58) regarding impacts of the digital billboards on wildlife, and Impact 4.11-11 on page 4.11-53 for a discussion of energy use by digital billboards.
- O11-17 Section 4.1, Aesthetics, Light, and Glare discusses the visual impacts of the proposed digital billboards on surrounding areas. The comment implies that operation of digital billboards would cause a significant aesthetic impact on the environment, but does not provide any evidence to support that claim. The comment goes on to say the Draft EIR concluded that no significant impacts on aesthetics would occur due to the digital billboards component of the Proposed Project. That statement is incorrect.
- Impact 4.1-1 discussed the potential for the Proposed Project to degrade the existing visual character or quality of the site and its surroundings, including each of the proposed digital billboard sites. Even with implementation of Mitigation Measures 4.1-1(a) and 4.1-1(b), the Draft EIR concluded that significant and unavoidable impacts would occur at the I-5 at Water Tank, I-5 at San Juan Road, and Business 80 at Sutter's Regional Park/American River billboard sites because the digital billboard faces may still be visible from sensitive visual receptors.

Impact 4.1-2 discusses the potential for the Proposed Project, including the proposed digital billboards, to create new sources of light. Mitigation Measure 4.1-2(h) specifically requires that the maximum output of light from digital billboards be two foot-candles at the closest residential property line from the billboard at the I-5 at Water Tank and I-5 at San Juan Road sites. Adherence with Mitigation Measure 4.1-2(h) would reduce light impacts from the proposed digital billboards to a less-than-significant level.

- O11-18 Please see Response to Comment O19-9.
- O11-19 The comment refers to a pending lawsuit regarding national lighting standards for highways. The comment is noted and will be conveyed to the City Council for its consideration.
- O11-20 Chapter 3, Land Use, Population, and Housing discusses the digital billboards' compatibility with existing and planned adjacent land uses and consistency with adopted plans, policies, and zoning. It does not make an impact significance conclusion. The comment mentions a study regarding real estate values in Philadelphia, but does not provide the name of that study nor the correlation between that study and its applicability to the Proposed Project. Effects on real estate values outside of the context of the urban decay analysis would be considered social and economic effects, which are not considered physical environmental effects requiring analysis in an EIR.
- O11-21 The commenter is correct that digital billboards require large amounts of electricity to operate. The electricity used to power the digital billboards will be supplied by the Sacramento Municipal Utility District (SMUD). The California Renewables Portfolio Standard (RPS) requires that all California electric service providers, including SMUD, adopt the RPS goals of 20 percent renewable electricity generation by the end of 2013, 25 percent by the end of 2016, and 33 percent renewables by the end of 2020. By 2020, one-third of SMUD's electricity generation will be from renewables, effectively limiting the GHG's that would be generated by digital billboard operations. In addition, the California Air Resources Board's Cap and Trade Program sets a ceiling on the amount of GHGs that utilities, including SMUD, can emit and, over time, gradually lowers that ceiling. Although the digital billboards will consume electricity, this does not necessarily translate into an increase in CO2 emissions since SMUD's GHG emissions will be capped. The Project, which includes the digital billboards, was found to be consistent with the City of Sacramento's Climate Action Plan. This consistency determination was conducted using the City's CAP consistency checklist.
- O11-22 As discussed in Impact 4.3-2, some animals are extremely sensitive to light cues, which influence their physiology and behaviors. Six of the proposed billboard sites are located within or adjacent to foraging and nesting habitat for migratory

and special-status birds and bat species, as described on page 4.3-55. As discussed on page 4.3-56, the proposed digital billboards would not adversely affect migratory birds and special-status bats because the billboard faces would be designed to emit light such that the billboard is visible from direct view and less visible as the viewing position is shifted to a 35° angle from center. At a sufficient angle, the LED lights would not be visible. Consequently, the viewing angle will be narrow enough to preclude attracting migratory birds when birds are flying more than 35° above center of the sign's beam angle. Additionally, the billboard light would be no more than 0.3 lumens at 250 feet from the billboard face. Thus, lighting from the billboard would not create a significant point source (as viewed from above) that would attract birds migrating at night.

The proposed digital billboards would be located adjacent to a major highway (Business 80, I-5, I-80, or US 99), urban areas, or near structures that are lighted during the night (e.g., the water tank at the I-5 at Water Tank site). Thus, operation of the proposed digital billboards would not significantly increase ambient lighting at the proposed digital billboard sites. Additionally, birds and bats that typically nest or roost in urban environments are not likely to be deterred by the introduction of night lighting.

O11-23 As is noted in the Draft EIR, the Proposed ESC would be designed to meet the requirements for LEED Gold certification by the U.S. Green Building Council. Table 2-6, page 2-38 of the Draft EIR, identifies targets for the use of recycled material in the proposed ESC as well as minimum percentages for recycling of construction waste. The comment is noted and will be conveyed to the City Council for its consideration.

O11-24 The comment states that the EIR “fails to acknowledge that the Proposed Project is not consistent with important General Plan policies.” While this comment is generally located under the header, “Transportation,” it does not articulate which policies are in question.

The Draft EIR contains a discussion of the relationship of the project to relevant policies of the 2030 General Plan. In determining those policies that are addressed in the EIR, the City is cognizant of the fact that the focus of an EIR is physical environmental effects. Further, Appendix G of the State CEQA Guidelines poses the question of whether a project would “[c]onflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?” Those policies that were adopted for the purposes of avoiding or mitigating an environmental effect were addressed in the Draft EIR. As an example, on page 4.1-64 and 4.1-65 of the Draft EIR, the analysis of impacts related to visual character notes that a potential digital

billboard at the Business 80 at Sutter's Landing Regional Park/American River site would be inconsistent with the American River Parkway Plan Policy 7.24, and potentially inconsistent with Policies ER 7.1.1 and 7.1.2 of the 2030 General Plan. Any inconsistencies of the Proposed Project with plan policies that do not relate to physical environmental effects would be social or economic effects and general policy considerations, which are not physical environmental effects under CEQA. Please see Response to Comment O4-17 for further discussion of the consideration of social and economic effects under CEQA.

On pages 4.10-34 through 4.10-37, the Draft EIR identifies policies of the Mobility Element of the 2030 General Plan that would be relevant to the Proposed Project. In particular, substantial discussion is provided regarding the project's consistency with Policy M 1.2.2, which establishes level of service (LOS) standards for intersections throughout the City. On pages 4.10-92 and 4.10-93, there is a substantive discussion of the application of Policy M 1.2.2 to the Proposed Project. The discussion concludes that while the characteristics of the Proposed Project in conjunction with the Event Transportation Management Plan would meet the intent of Policy M 1.2.2, "[b]ecause the TMP has not yet been finalized and approved by the City Council, it cannot yet be determined that the project would adequately 'improve other parts of the citywide transportation system in the vicinity of the project site.'" As such, the impact is determined to be significant, and Mitigation Measure 4.10-1 is identified to reduce the impact to a less-than-significant level.

Additional analysis of issues related to relevant Mobility policies is included in the Transportation section, the Global Climate Change section and Appendix B. In order to consolidate this assessment, the following is added to page 4.10-36, after the second full bullet:

The Proposed Project would conform to the requirements of Policy M 1.2.2 by improving the citywide transportation system in the vicinity of the project site. Improvements to the system would include: (1) improved pedestrian environment with wider crosswalks, enhanced pedestrian signal crossing equipment, ADA improvements, and other pedestrian amenities; (2) improvements to accommodate bicycle travel, including expanded designated bicycle parking at the site, accommodation of bike share facilities, and provision of scalable bike valet parking; (3) expanded use of non-automobile modes of travel as a result of relocation of the facility from Natomas to downtown, reducing per attendee VMT by nearly 20 percent over existing conditions, including increased ridership on RT and other regional transit routes; and (4) implementation of an Event Transportation Management Plan that would manage vehicular and other multi-modal transportation near the project site.

Policies M 4.1.5, M 4.3.1, and M 5.1.7 were inadvertently included in the Draft EIR. They pertain to City actions regarding new bridges, streets in residential

neighborhoods, or design of new arterial and collector streets. These policies would not apply to the Proposed Project and are deleted from the EIR. Pages 4.10-36 to 4.10-37, the list of relevant Mobility Element policies is revised to read as follows:

*Policies:*

- **M 1.3.1. Grid Network.** The City shall require all new residential, commercial, or mixed-use development that proposes or is required to construct or extend streets to develop a transportation network that provides for a well-connected, walkable community, preferably in a grid or modified grid.
- **M 1.3.2. Private Complete Streets.** The City shall require large private developments to provide internal complete streets that connect to the existing roadway system.
- **M 1.3.4. Barrier Removal for Accessibility.** The City shall remove barriers, where feasible, to allow people of all abilities to have access within and among infrastructure serving the community.
- **M 1.3.5. Connections to Transit Stations.** The City shall provide connections to transit stations by identifying roadway, bikeway, and pedestrianway improvements to be constructed within ½ mile of major transit stations. Transportation improvements in the vicinity of major transit stations shall emphasize development of complete streets.
- **M 1.4.3. Transportation Management Associations.** The City shall encourage commercial, retail, and residential developments to participate in or create Transportation Management Associations.
- **M 1.4.4. Off-Peak Deliveries.** The City shall encourage business owners to schedule deliveries at off-peak traffic periods.
- **M 2.1.1. Pedestrian Master Plan.** The City shall maintain and implement a Pedestrian Master Plan that carries out the goals and policies of the General Plan and defines: the type and location of pedestrian-oriented streets and pathways; standards for sidewalk width, improvements, amenities, and street crossings; the schedule for public improvements; and developer responsibilities. All new development shall be consistent with the applicable provisions of the Pedestrian Master Plan.
- **M 2.1.2. Sidewalk Design.** The City shall require that sidewalks wherever possible be developed at sufficient width to accommodate pedestrians including the disabled; a buffer separating pedestrians from the street and curbside parking; and allow for outdoor uses such as cafes.
- **M 2.1.5. Continuous Network.** The City shall provide a continuous pedestrian network in existing and new neighborhoods that facilitates convenient pedestrian travel free of major impediments and obstacles.

- **M 2.1.6. Building Design.** The City shall ensure that new buildings are designed to engage the street and encourage walking through design features such as placing the building with entrances facing the street and providing connections to sidewalks.
- **M 2.1.8. Housing and Destination Connections.** The City shall require new subdivisions and large-scale developments to include safe pedestrian walkways that provide direct links between streets and major destinations such as transit stops and stations, schools, parks, and shopping centers.
- **M 2.1.10. Safe Pedestrian Crossings.** The City shall improve pedestrian safety at intersections and mid-block locations by providing safe, well-marked pedestrian crossings, bulb-outs, or median refuges that reduce crossing widths and/or audio sound warnings.
- **M 2.1.12. Safe Sidewalks.** The City shall develop safe and convenient pedestrianways that are universally accessible, adequately illuminated, and properly designed to reduce conflicts between motor vehicles and pedestrians.
- **M 3.1.1.** The City shall support a well-designed transit system that meets the transportation needs of Sacramento residents and visitors including seniors, the disabled, and transit-dependent persons. The City shall enhance bicycle and pedestrian access to stations.
- **M 3.1.2. Maintain Service.** The City shall work with transit providers to maintain services within the city that are timely, cost-effective, and responsive to growth patterns and enhance transit service where feasible.
- **M 3.1.8. Transit Service.** The City shall support the enhancement and improvement of transit service.
- **M 3.1.9. Demand-Responsive Service.** The City shall support the provision of demand-responsive service (e.g., paratransit) and other transportation services for those unable to use conventional transit.
- **M 3.1.10. New Facilities.** The City shall work with transit providers to incorporate transit facilities into new private development and City project designs including incorporation of transit infrastructure (i.e., electricity, fiber-optic cable, etc.), alignments for transit route extensions, and new station locations.
- **M 3.1.12. Direct Access to Stations.** The City shall ensure that projects located in the Central City and within ½ mile of existing and planned transit stations provide direct pedestrian and bicycle access to the station area, to the extent feasible.
- **M 3.1.14. Streetcar Facilities.** The City shall support the development of streetcar lines in the Central City and other multi-modal districts.
- **M 3.1.16. Developer Contributions.** The City shall require developer contributions for bus facilities and improvements.



- ~~M 4.1.5.~~ The City shall continue to work with adjacent jurisdictions to establish the appropriate responsibilities to fund, evaluate, plan, design, construct, and maintain new river crossings.
- ~~M 4.3.1.~~ The City shall continue wherever possible to design streets and improve development applications in such a manner as to reduce high traffic flows and parking problems within residential neighborhoods.
- **M 5.1.1. Bikeway Master Plan.** The City shall maintain and implement a Bikeway Master Plan that carries out the goals and policies of the General Plan. All proposed bikeway facilities new development shall be consistent with the applicable provisions of the Bikeway Master Plan.
- **M 5.1.2. Appropriate Bikeway Facilities.** ~~All proposed~~ The City shall provide bikeway facilities that are appropriate to the street classifications and types, traffic volume, and speed on ~~applicable~~ all rights-of-ways.
- **M 5.1.4. Motorists, Bicyclists, and Pedestrian Conflicts.** The City ~~Proposed Project~~ shall develop safe and convenient bikeways that reduce not result in conflicts between bicyclists and motor vehicles on streets, and bicyclists and pedestrians on multi-use trails and sidewalks.
- **M 5.1.6. Connections between New Development and Bicycle Facilities.** The City shall require that new development provides connections to and does not interfere with existing and proposed bicycle facilities.
- ~~M 5.1.7.~~ The Proposed Project shall include Class II bike lanes on all new arterial and collector streets.
- **M5.1.12. Bike Facilities in New Developments.** The City shall require that larger new development projects (e.g., park-and-ride facilities, employment centers, educational institutions, recreational and retail destinations, and commercial centers) provide bicycle paring (i.e., short-term bicycle parking for visitors and long-term bicycle parking for residents and employees), personal lockers, showers, and other bicycle-support facilities.
- **M 6.1.1. Appropriate Parking.** The City shall ensure that appropriate parking is provided considering access to existing and funded transit, shared parking opportunities for mixed-use development, and implementation of Transportation Demand Management plans.
- **M 6.1.2. Reduce Minimum Parking Standards.** The City shall reduce minimum parking standards over time to promote walkable neighborhoods and districts and to increase the use of transit and bicycles.
- **M 6.1.4. Reduction of Parking Areas.** The City shall strive to reduce the amount of land devoted to parking through such measures as development of parking structures, the application of shared parking for mixed-use developments, and the implementation of Transportation Demand Management plans to reduce parking needs.

- **M 6.1.7 Disincentives for Single-Occupant Vehicle Trips.** The City shall discourage single-occupant vehicle trips through parking supply and pricing controls in areas where supply is limited and alternative transportation modes are available.
- **M 9.1.1. New Development Fees.** The City shall assess fees on all new development for all transportation modes to ensure that new development bears its fair share of costs for new and expanded facilities.

Page 4.10-37, the following is added after the sixth bullet:

The Proposed Project at the Downtown project site would be consistent with the General Plan Mobility Element policies listed above. The Proposed Project would respond positively to policies M 1.3.1, M 1.3.2, M 1.3.4, M 1.3.5, and M 2.1.8 by improving connectivity through the Downtown project site compared to existing conditions. As an example, a major ADA-compliant pedestrian connection parallel to 5<sup>th</sup> Street is being integrated into the project site plan with a width of 60 to 80 feet. In addition, requirements for the provision of wayfinding in the project vicinity would improve connectivity to nearby transit facilities. Because the project site is located in the Central Business District, material improvements to City streets are not considered appropriate, but the Event Transportation Management Plan (TMP) that would be adopted with the Proposed Project would achieve consistency with policies M 1.3.1 and M 5.1.4.

Consistent with policy M 1.4.3, Mitigation Measure 4.2-3 would require the Proposed Project to join and maintain membership in the Sacramento Transportation Management Association. Regarding policy M 1.4.4, the project applicant has indicated that the majority of delivery and service truck activity at the proposed ESC would occur in hours outside of the peak hours.

As is described in Section 4.5 and Appendix B of the Draft EIR, the project would be consistent with the City's Bicycle Master Plan and Pedestrian Master Plan, and thus would be consistent with policies M 2.1.1, M 2.1.2, M 2.1.5, M 2.1.12, and M 5.1.1. Consistent with the direction of policy M 2.1.6, the design of the proposed ESC would materially increase the level of pedestrian-oriented uses on L Street compared to existing conditions, and it is further expected that similar pedestrian oriented frontages would be constructed in the SPD area along J Street. Consistent with policy M 2.1.10, pedestrian management strategies of the Event TMP would call for pedestrian wayfinding, widened crosswalks and modified traffic signal timing, as well as post-game street closures, to enhance pedestrian travel to and from the proposed ESC.

The pedestrian flow improvements provided in the project design would also contribute to an enhanced access to transit, as encouraged in policies M 3.1.1, M 3.1.10, and M 3.1.12. In addition, consistent with policies M 3.1.1 and M 3.1.8, the Event TMP would require the applicant to collaborate with RT to facilitate the sale of transit passes through such measures as on-site transit pass sales, smart phone applications, and/or special transit pass ticket provisions. Consistent with policy M 3.1.9, special provision for Paratransit dropoff and loading would be provided on L Street. Consistent with policy M

3.1.2, the proposed ESC would provide additional riders to support RT and other transit provider services, particularly during hours and in directions that are not currently highly used. By providing additional ridership on existing lines and routes, the project would enhance the ability of transit agencies to provide transit service. As required in Mitigation Measure 4.10-5, the Proposed Project would be required to construct a new replacement bus stop, consistent with policy M 3.1.10.

As noted in Mitigation Measure 4.10-2, the Proposed Project would contribute to the improvement of circulation in the I-5 corridor by paying into a voluntary subregional fee that is expected to contribute to the development of the proposed downtown Streetcar system, or other similar improvements. As a result, the project would be consistent with policies M 3.1.1, M 3.1.14, and M 9.1.1. Through implementation of Mitigation Measure 4.10-5, the project would be consistent with policy 3.1.16.

The proposed ESC would provide short- and long-term bicycle parking within the Downtown project site. In addition, the project would provide space for bike share docking stations if such a program is implemented in Sacramento. Further, for ESC events where demand would exceed the capacity of the fixed bicycle parking supply, the applicant would provide scalable bicycle valet parking in a location (or locations) that would be within convenient walking distance to the proposed ESC and to the City's bikeway system. Locations that have been preliminarily discussed include a closed lane on 6<sup>th</sup> Street between Capitol Mall and L Street, St. Rose of Lima Park, or the median within Capitol Mall. These features would ensure that the Proposed Project would respond positively to policies M 5.1.1, M 5.1.2, M 5.1.4, M 5.1.6, and M 5.1.12.

As is reflected on page 4.10-28 of the Draft EIR, more than adequate off-street parking is available within existing parking lots and structures within walking distance to the Downtown project site. The use of existing parking resources would respond positively and be consistent with the intent of policies M 6.1.1, M 6.1.2, and M 6.1.4. Further, as is explained in detail under Analysis Methods, the relocation of the entertainment and sports facility from Natomas to the Downtown project site is expected to result in about 10% non-automotive use for attendees in the short-term, with an expected increase to about 15% non-automotive use in the longer-term. These estimates reflect the Proposed Project's approach to use of existing parking resources, proximity to alternative modes of transportation, and are consistent with the intent of policy 6.1.7.

- O11-25 Please see Response to Comment A3-8.
- O11-26 Please see Response to Comment O2-17 for additional discussion of the Event Transportation Management Plan. Please also see Revised Appendix L included as part of Chapter 2 in this Final EIR.
- O11-27 The comment states support for the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.

O11-28 Please see Responses to Comments O2-50 and O11-24 for further discussion of the evaluation of consistency with the 2030 General Plan Mobility Element policies.

O11-29 The consistency of the Proposed Project with 2030 General Plan policy LU 5.6.2 is addressed in Table 3-1, page 3-16 of the Draft EIR.

2030 General Plan policy LU 2.6.1 states that “[t]he City shall promote compact development patterns, mixed use, and higher-development intensities that use land efficiently; reduce pollution and automobile dependence and the expenditure of energy and other resources; and facilitate walking, bicycling, and transit use.”

2030 General Plan policy LU 5.6.2 states: “The City shall promote the CBD as a family-friendly area by requiring the development of a variety of housing types, daycare and school facilities, family-oriented services, and parks, plazas, and open spaces that will safely and comfortably accommodate those who wish to raise a family.”

The consistency of the Proposed Project with each of these and other policies of the 2030 General Plan are discussed in Table 3-1. 2030 General Plan policy LU 5.6.2 speaks to a range of different types of private and public spaces that reflect the City’s vision of a family-friendly downtown. The policy does not address transportation infrastructure in general, and pedestrian and bicycle facilities or access in particular. As is noted on pages 2-52 and 2-54, as well as depicted on Figure 2-24, of the Draft EIR, the Proposed Project would provide for a wide variety of bicycle and pedestrian facilities in and around the project site. For additional discussion of policy LU 5.6.2, please see Response to Comment O19-4.

O11-30 CEQA does not require the statement of project objectives to address any particular aspect of a project’s architecture, design, or other physical characteristics. Rather, the objectives are intended to articulate the “underlying purpose of the project” and to assist the lead agency in developing the range of alternatives.

The statement of project objectives in Chapter 2 of the Draft EIR is articulated in two parts: a statement of objectives of the project applicant, and a statement of objectives of the City of Sacramento.<sup>14</sup> This approach is reflective of the public-private partnership nature of the joint investment that is part of the financing of the Proposed Project. The collective statement of objectives of the private applicant and the public agency partner has been used in other EIRs for similar

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<sup>14</sup> The City of Sacramento City Council approved the City’s statement of objectives at its meeting of October 29, 2013. Please also see City of Sacramento City Council Report 22, Report Number 2013-00737, October 29, 2013, pages 2 of 7 to 3 of 7.

facilities in other jurisdictions. The combined objectives of the applicant and the City represent the “statement of objectives sought by the proposed project.”

The objectives referenced in the comment state:

- Ensure that adequate parking for ESC patrons and employees is available for use during events;
- Ensure that parking is available and sufficient to support the patrons and employees of the mixed use development and other adjacent uses;

These objectives relate to specific desired characteristics of the Proposed Project, and are different in orientation but not inconsistent with the City objectives.

O11-31	Please see Response to Comment O2-7.
O11-32	Please see Response to Comment O2-8.
O11-33	Please see Response to Comment O2-9.
O11-34	Please see Response to Comment O2-10.
O11-35	Please see Response to Comment O2-7.
O11-36	Please see Response to Comment A3-8.
O11-37	Please see Response to Comment O2-13.
O11-38	Please see Response to Comment A3-8.
O11-39	Please see Response to Comment A3-8
O11-40	Please see Response to Comment A3-8.
O11-41	Please see Response to Comment O2-17.
O11-42	Please see Responses to Comments O2-17 and O2-18.
O11-43	Please see Response to Comment O2-19.
O11-44	Please see Response to Comment O2-20.
O11-45	The comment’s request for funding for adequate transit service is noted and will be conveyed to the City Council for its consideration.
O11-46	Please see Response to Comment O2-7.

- O11-47 Please see Response to Comment A3-8.
- O11-48 Please see Response to Comment A3-8.
- O11-49 Please see Response to Comment O2-24.
- O11-50 Please see Response to Comment O2-25.
- O11-51 The comment provides an opinion regarding the site plan and anticipated levels of pedestrian activity around the ESC. The comment is noted and will be conveyed to the City Council for its consideration.
- O11-52 The comment relates to the financing of transit service. This is an economic issue and does not address physical environmental effects. Expansion of transit service is not identified as a measure to mitigate significant impacts of the Proposed Project. For further discussion of the consideration of social and economic effects under CEQA, please see Response to Comment O4-17. The comment is noted and will be conveyed to the City Council for its consideration.
- O11-53 The comment makes reference to the Caltrans comment letter on the Draft EIR. The letter is included in this Final EIR as Comment Letter A4. The Caltrans letter does not encourage or recommend expansion of the capacity of the I-5 freeway. Rather, it validates Mitigation Measure 4.10-2 which calls for a project contribution to planned improvements that are in the SACOG MTP and are in the I-5 corridor in the vicinity of the Proposed Project. A wide variety of different projects are included on that list, as noted by Caltrans, including the West Sacramento-Sacramento streetcar, intelligent transportation systems on I-5, new river crossings, auxiliary lanes on I-5, and improvements to the Richards Blvd. interchange. The comment is accurate in that CEQA requires the secondary effects of mitigation measures to be evaluated. However, in this instance, no specific capacity enhancements to I-5 are being proposed. Based on the speculative nature of which improvements could be supported by the fee payment from the project, it would be impractical and inappropriate to address these speculative improvements in the ESC EIR. Furthermore, the majority of those improvements will require their own project-level environmental reviews.
- O11-54 Please see Response to Comment O11-52.
- O11-55 The comment opines that additional transportation options around the Downtown project site would stimulate economic activity in the surrounding areas. It also opines that ESC event tickets should serve as transit tickets. The comment is noted and will be conveyed to the City Council for its consideration.

O11-56            The comment provides an opinion that a robust housing environment would be more revitalizing for downtown than an ESC. The comment is noted and will be conveyed to the City Council for its consideration.



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# UNITE HERE



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January 31, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
SRJohnson@cityofsacramento.org

Dear Mr. Johnson,

UNITE HERE Local 49 is hereby submitting comments on the DEIR for the Sacramento Entertainment and Sports Center and Related Development (Project Number P13-065, State Clearinghouse Number SCH 2013042031). UNITE HERE Local 49 represents hotel and restaurant workers in the City of Sacramento and the surrounding area, and we are concerned that development projects in these industries be thoroughly studied under CEQA. Beyond the impacts this project will have on the approximately 300 food-service workers at Sleep Train Arena who are most directly impacted by the project, we are especially concerned that the project's ancillary commercial developments (including hotel and restaurants) are not adequately described or analyzed in the current Draft EIR.

012-1

## 1. Project description

The description of the ancillary development is extremely vague, making it difficult to fully evaluate many of its potential environmental impacts (sections 2.4.4 - 2.4.10). There is virtually no information other than total square footage and/or number of units, and some very general design guidelines. For example, the description does not even specify on what sites the hotel, office, and residential development will be located. By extension, it does not describe their respective loading and unloading needs, effects on traffic flow, or other potential impacts.

012-2

Under the description of the mixed-use development (the ancillary development not including the ESC itself), there is a table showing the net increase of employment, comparing the mixed-use development to the existing uses at Downtown Plaza. The table shows that the project would result in an increase of 2,312 jobs as compared

012-3

to the number of jobs at the site in 2012. This number is misleading, because it does not include employment estimates for the ESC itself, which will also be on the Downtown Plaza site (Table 2-8). Earlier in the chapter, ESC employment numbers are estimated at nearly 1,500 on the days of major events.

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cont.

The circulation section (2.4.13) contains a description of circulation as it relates to the ESC, but virtually no description of circulation as it relates to the ancillary development. This is potentially significant, since hotel uses require significant loading and delivery circulation, and office, residential, and commercial uses require significant vehicular circulation, for example. The section does state that "Service delivery and loading for buildings in the PUD area would remain in the current location, access in the alley behind the Traveler's Hotel building, on the west side of 6th Street south of J Street, and from the alley between the Ramona Hotel and the 660 J Street office building (see Figure 2-22)." However, there is no description of how this would be achieved, given that the existing buildings will be replaced by new buildings that have not been described in any detail beyond total square footage and number of units. Also, Figure 2-22 does not indicate the location of these existing service delivery and loading locations as they relate to the proposed development.

012-4

**2. Air quality**

The analysis of Impact 4.2-1, the effect of the project on the implementation of applicable air quality plans, is inadequate. The analysis rests primarily on estimates of vehicle miles travelled, which depend in part on estimates of employment at the site. This section acknowledges a probably increase of 3,000 jobs and 80,000 daily vehicle miles travelled, but it does not consider the impact on air quality of these additional vehicle miles travelled. There appear to be two purported justifications for this omission: that the project will result in urban infill, and that the number of jobs to be created is within SACOG's estimate of new jobs to be created in the downtown area by 2035. The first justification is inadequate because there is no claim that the project's status as urban infill will reduce the net increase in daily vehicle miles travelled. It is possible that the increase would have been greater than 80,000 if the project were not urban infill, but an increase of 80,000 is significant nonetheless. The second justification is inadequate because the impact analysis should compare the project to the no-project alternative, not to projections of future growth. The City has consistently described this project as a catalyst for further development downtown (including in Section 2.3 or project objectives), not simply as a piece of the downtown development that is expected to occur regardless. Therefore, the project's impact should be analyzed as it relates to the rate at which SACOG's projections might be reached (i.e. possibly before 2035) and the resulting stresses placed on the ability of the City to implement it's air quality plan. Because of these omissions, the DEIR errs in concluding that these impacts are less than significant.

012-5

The analysis of Impact 4.2-3, the effect of the project on long-term emissions of NOx

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and ROG, is inadequate. By comparing tables 4.2-5 and 4.2-6, it can be deduced that the calculations presented depend on an assumption that the ESC (apart from the ancillary development) will cause 28% less ROG emissions than the Sleep Train Arena, and that it will cause 40% less NOx emissions than the Sleep Train Arena. There is no explanation for these large decreases, and the contrast with the numbers presented in Table 4.10-20, which estimates a decrease of event-related vehicle miles travelled of 18%. This is despite the fact that the analysis states that the reduction in emissions is primarily based on a reduction in vehicle miles travelled, together with "cleaner engines in future years." This latter factor is not an appropriate consideration, because engines will become cleaner in future years whether or not the project is built, causing Sleep Train Arena-related emissions to decrease at the same rate as the project's estimated emissions, should the project not be built.

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012-6  
cont.

**3. Biological resources**

The analysis of Impact 4.3-4, the effect of the project on street trees and heritage trees, is inadequate. The analysis concludes that the impact would be significant but also that it could be reduced to less than significant with appropriate mitigation measures. The mitigation depends primarily on the replacement of street trees in accordance with the City code. However, heritage trees are virtually impossible to replace, by definition. Figure 4.3-16 identifies three heritage trees that would have to be removed for the construction of the ESC. City code section 12.64 essentially acknowledges that heritage trees cannot be replaced, in that the section of the code on heritage trees (12.64) contains no provision for replacement, unlike the section on "trees generally" (12.56).

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012-7

**4. Climate change**

Section 4.5.2 claims that the downtown ESC will achieve and maintain carbon neutrality based on the number of private vehicle trips as compared with the Sleep Train Arena. Table 4.5.1 purports to show that it meets this standard by resulting in a small decrease of CO2 emissions per year. However, this calculation relies on an assumption, explained in Appendix B, that carbon emissions per vehicle miles travelled will decrease from 365.992/VMT to 324.942/VMT between 2013 and 2017. The reliance on this assumption ignores the fact that the same reduction would occur if the project were not built and Sleep Train Arena remained in operation. Taking this into account, the ESC would actually result in a 7% increase in CO2 emissions based on vehicle miles travelled.

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012-8

The analysis of Impact 4.5-1, the effect of the project on the City's Climate Action Plan (CAP), is inadequate. This section lists seven criteria that, if met, allow a project to be considered consistent with the CAP and avoid a comprehensive project-specific analysis of greenhouse gas emissions. This section claims that the project meets all seven criteria, but Appendix B reveals that it actually does not meet

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criterion number 3 on the inclusion of traffic-calming measures. The explanation provided is that traffic-calming measures are not advised in the downtown area. However, this is not a specified reason for the requirement not to apply. Therefore, a comprehensive project-specific analysis of greenhouse gas emissions is required, and the DEIR errs in concluding that the impact is less than significant.

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012-9  
cont.

**5. Hazards and hazardous materials**

The analysis of Impact 4.6-2, the potential of the project to expose people to asbestos, lead paint, or other hazardous materials, is inadequate. The DEIR acknowledges that due to the age of the buildings on the Downtown Plaza site, they could contain asbestos and lead paint. It assumes that compliance with applicable laws will result in a less-than-significant impact, but offers no explanation of or support for this assumption.

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012-10

**6. Public services**

The analysis of Impact 4.9-2, the effect of the project on the capacity of the City's police services, is inadequate. This section notes that additional taxes and fees paid by residents of the residential component of the project would pay for the additional officers needed to serve the increased downtown population. No numerical analysis is provided to demonstrate that this is the case. Furthermore, this analysis does not take into account the effect on demand for police services of increased downtown employment or of the presence of an increased number of customers, guests, and event attendees. The analysis does not take into account the increased concentration of residents, employees, and customers downtown in consideration of whether the police department might need a new facility in the downtown area. (The nearest police station is outside the downtown core, about a mile and half away from the proposed project.) Finally, this section acknowledges that the Sacramento Police Department will be taking over security duty at ESC events, currently provided at Sleep Train Arena by the Sacramento County Sheriff's Department. However, it does not take this into account at all in considering the possibility that additional police resources might be needed. The section does note that the police department currently does not have the funding to come close to meeting its officer/resident ratio goals, let alone the increased demand possibly required by this project. Therefore, the DEIR errs in concluding that this impact is less than significant.

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012-11

The analysis of Impact 4.9-3, the effect of the project on the demand for fire services, is inadequate. The DEIR acknowledges that the projected increase in call volume could not be handled by Stations 1 and 2. It is proposed that this problem could be mitigated by relocating a fire company to Station 1, but there is no discussion of Station 1's physical capacity to accommodate another fire company, what the effect on other parts of the city would be of such a relocation, or whether one additional fire company in the downtown area would be sufficient to meet the increased

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demand. Therefore, the DEIR errs in concluding that this impact is less than significant.

012-12  
cont.

The analysis of Impact 4.9-5, the effect of the project on the City's schools, is inadequate. The DEIR takes into account new residents expected at the project, and the corresponding increase in numbers of school-age children, but it does not take into account the effect of new employees at the project. Even if the employees are all from the Sacramento region, as the DEIR assumes, they may relocate from other school districts in order to be closer to work. The City has consistently touted the project as one that would draw residents, including potential employees at the project, into downtown. Also, the assumption itself is questionable, as creation of new jobs is widely understood to result in relocation of families from one area to another for the purposes of finding work, especially in a time of high unemployment. Therefore, the DEIR errs in concluding that this impact is less than significant.

012-13

**7. Transportation**

The analysis of Impact 4.10-1, the effect of the project on the condition of intersections in the City of Sacramento, is inadequate. The DEIR acknowledges that the impacts would be significant, but claims that the required adoption of a transportation management plan (TMP) will provide mitigation sufficient to reduce the impact to less than significant. Possibly because the TMP "has not been finalized and approved by the City," there is no explanation of how the TMP would provide adequate mitigation or discussion of whether adequate mitigation is even possible.

012-14

The analysis of Impact 4.10-4, the effect of the project on the ability of the transit system to accommodate demand, is inadequate. Table 4.10-18 shows that projected ridership will be below hourly peak capacity even during peak hours on game days, but neither this table nor the subsequent discussion takes into account the capacity of the two on-street light rail stations nearest the ESC that attendees are likely to use when leaving an event (7th&K and 9th&K), both which are located very close to the principal pedestrian exit from the ESC, to handle the boarding of hundreds of people all at once, regardless of whether hourly ridership is within capacity. Furthermore, the table acknowledges that at post-event peak hours, all seats will be occupied on the busiest trains and some trains will be very near capacity in terms of standing room. The analysis also fails to consider the effect of thousands of pedestrians leaving the ESC and crossing 7th St and 8th St at the same time on the ability of trains to navigate those streets and keep to their schedules. Relatedly, Table 4.10-15 omits any estimate of pedestrian volumes during the post-event peak hour, which is the time at which the largest number of attendees would be expected to be on the street at the same time (since people generally arrive at events at different times but leave all at once when the event is over). Likewise, Table 4.10-12 offers no estimate of total trip generation during the post-event peak hour, hampering the analysis not only of pedestrian volume but also traffic impacts on downtown intersections and freeway on-ramps.

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012-17

**Conclusion**

Due to the various inadequacies described herein, the DEIR is substantially inadequate in its overall consideration of the potential environmental impacts of the project, particularly with regards to the ancillary development around the ESC (hotel, residential, office, commercial). These issues should be thoroughly considered in the final EIR for the project.

012-18

Sincerely,



Taylor Hudson  
Research Analyst

Cc: Chris Rak  
Ian Lewis  
Nischit Hegde  
Lee Strieb



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**Letter O12     Taylor Hudson, Unite Here, Local 49**  
**Response        January 31, 2014**

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- O12-1            As referenced in the comment, the development schedule for the mixed use development on the Downtown project site is unknown at this time. However, the environmental impacts of the mixed use development are analyzed in each relevant technical section of the Draft EIR.
- O12-2            The service and delivery loading characteristics of the mixed use development are described on page 2-52 of the Draft EIR, which states that “[s]ervice delivery and loading for buildings in the PUD area would remain in the current location, access in the alley behind the Traveler’s Hotel building, on the west side of 6<sup>th</sup> Street south of J Street, and from the alley between the Ramona Hotel and the 660 J Street office building (see Figure 2-22).” The effects of the non-ESC land uses on traffic flow and circulation were considered in the existing plus project analysis of impacts. For analysis purposes, these uses were assumed to have the same access provisions along J Street and L Street as currently exist. City review of future individual applications will include information regarding site circulation and loading.
- O12-3            As is described by the commenter, Section 2.4.9 of the Draft EIR presents the employment characteristics of the proposed mixed use development that would occur on the project site around the ESC. These employment characteristics are compared to existing employment at the Downtown project site, and reflect the changes that would occur as existing retail, commercial, and office uses are demolished and replaced with retail, office, hotel, and residential uses. The employment characteristics of the proposed ESC, including permanent and event-related jobs, are presented in section 2.4.3, pages 2-17 to 2-18 of the Draft EIR. Because the ESC-related employment already exists at Sleep Train Arena, and would be anticipated to be simply a relocation of existing employment from the existing Natomas site to the proposed Downtown project site, it was appropriate to describe this employment separately from the prospective employment associated with the future mixed use development. All project-related employment was accounted for in the environmental analyses presented in Chapter 4 of the Draft EIR.
- O12-4            It is currently anticipated that service and delivery access points for the future mixed use development would remain in their current locations, as described on page 2-52 of the Draft EIR. In the event that future proposals for development in the SPD area call for relocation of service and delivery access points, the City would evaluate the potential for environmental effects related to those changes,

and would consider whether such changes would alter the conclusions presented in the Draft EIR.

O12-5 The comment suggests that assessment of the Proposed Project in relation to an applicable air quality plan (Impact 4.2-1 of the Draft EIR) is inadequate. As noted in the EIR, the Sacramento Metropolitan Air Quality Management District (SMAQMD) recommends comparing a project to growth projections developed by the Sacramento Area Council of Governments (SACOG). Contrary to the commenter's assertion, SACOG's review of the Proposed Project and the City's evaluation of its impacts demonstrate that the project complies with SACOG's growth projections and would not conflict with any air quality plan. As SACOG has stated:<sup>15</sup>

“The project's mixed use development is an example of the type of development critical to achieving these benefits and other performance benefits of the MTP/SCS”;

“...the ESC at the proposed site truly makes sense from the transportation and land use perspective”;

“In terms of the SACOG Blueprint, the project is clearly supportive of the Blueprint smart growth principles (housing choice, transportation choice, use existing assets, compact development, mixed use development, natural resource conservation, and quality design)”.

O12-6 The commenter questions the reduction in ozone precursor emissions (ROG and NO<sub>x</sub>) associated with the Proposed Project. Two scenarios were detailed in Impact 4.2-3 of the Draft EIR, an NBA Game Day and a Non-Event Day. The NBA Game Day scenario was determined to result in less than significant ozone precursor emissions due to the 18.8% reduction in VMT per attendee for the Arena, cleaner engines in future years (conservatively assumed to be 2016), and beneficial variables such as density, diversity of uses, and accessibility to multiple modes of transportation (transit, bicycle, pedestrian) for the mixed-use development. However, the Non-Event Day scenario was determined to result in a significant and unavoidable impact for ozone precursor emissions.

O12-7 There are three heritage trees, as defined by Sacramento City Code Section 12.64.020, on the Downtown project site. All three are in planters along the sidewalk on the north side of L Street between 5<sup>th</sup> Street and 6<sup>th</sup> Street. Sacramento City Code Section 12.64.050 requires a permit from the director of the City's Department of Public Works or the Director's authorized representative prior to removal of or disturbance to a heritage tree. Although

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<sup>15</sup> Mike McKeever, Chief Executive Officer, Sacramento Area Council of Governments, letter to Scott Johnson, January 27, 2014; This letter is included as Letter A14 in this Final EIR.

Sacramento City Code Chapter 12.64 does not specifically discuss replacement ratios for the loss of heritage trees, Sacramento City Code Section 12.56.090 sets minimum replacement requirements for street trees. Under Sacramento City Code Section 12.56.090, removal of a heritage tree (which would have a circumference over 100 inches, or approximately a 32-inch diameter) would require a planting of a tree of at least 24-inch box size.

Mitigation Measure 4.3-4 requires the City's Director of Public Works to determine an appropriate replacement ratio should street trees or heritage trees be removed. By ensuring that the trees are replaced at an appropriate ratio, the loss of the existing trees would be offset by the growth of new trees. The impact would therefore be less than significant after mitigation.

O12-8 The commenter is incorrect that the Proposed Project would increase CO<sub>2</sub> emissions by 7%. Senate Bill 743 requires that existing (2013) Sleep Train Arena CO<sub>2</sub> emissions be compared to future emissions that would be generated by the ESC when it opens in 2017. CO<sub>2</sub> emissions per vehicle are lower in 2017 as compared to 2013 because of two regulations designed to reduce GHG emissions in passenger vehicles. The first is the Low Carbon Fuels Standard (LCFS), which requires that the carbon content of gasoline and diesel fuel sold in California be reduced by 10% between 2010 and 2020. In addition, the Pavley regulations are designed to increase the energy efficiency of the passenger vehicle fleet, effectively reducing GHG emissions. The Pavley regulations will reduce GHG emissions from California passenger vehicles by 30 percent by 2016.

The GHG emissions per vehicle miles traveled for 2013 and 2017 were estimated using the California Air Resources Board's EMFAC2011 "on-road vehicle emissions" model. EMFAC2011 accounts for the GHG emission reductions associated with the LCFS and the Pavley regulations.

Senate Bill 743 requires the Sacramento Metropolitan Air Quality Management District (SMAQMD) to verify that the project reduces to at least zero the net GHG emissions from private automobile trips to the ESC in 2017 as compared to the baseline (existing Sleep Train Arena). As noted in a comment letter on the Draft EIR dated January 31, 2014, Larry Greene, the Air Pollution Control Officer for SMAQMD, states "[t]he District has reviewed the DEIR and finds that the project meets this provision of SB 743."

O12-9 The City of Sacramento has determined that traffic calming is not an appropriate measure in the Central Business District. Draft EIR Mitigation Measure 4.10-8 and the traffic management plan call for crosswalk widening and signal timing changes at a number of intersections around the proposed ESC site; such measures would tend to "calm" traffic by emphasizing pedestrian flow. Nevertheless, the City staff has determined that the streets in the Central Business District surrounding and serving the project site are not appropriate for

traffic calming measures. As mentioned in the CAP Checklist, the traffic calming criterion does not apply to the project, and the project would be consistent with the City's CAP.

- O12-10      Impact 4.6-2 explains the steps to determine whether asbestos or lead paint are present in buildings subject to demolition, and the measures taken if asbestos or lead paint is present (see page 4.6-10 19 of the Draft EIR). A State-certified risk assessor would conduct a risk assessment and/or paint inspection of all structures constructed prior to 1978 for the presence of asbestos or lead-based paint prior to demolition. If such hazards are determined to exist on site, the risk assessor would then prepare a site-specific hazard control plan detailing asbestos and/or paint removal methods and specific instructions for providing protective clothing and gear for abatement personnel. If necessary, a State-certified lead-based paint and an asbestos removal contractor (independent of the risk assessor) would be retained to conduct the appropriate abatement measures as required by the plan. Wastes from abatement and demolition activities would be disposed of at a landfill(s) licensed to accept such waste. Once all abatement measures have been implemented, the risk assessor would conduct a clearance examination and provide written documentation to the City that testing and abatement have been completed in accordance with all federal, state, and local laws and regulations. These laws and regulations are extensive, and would protect construction workers from risk of exposure to asbestos and/or lead paint. Once these materials have been removed, there would be no risk to other members of the public, such as ESC attendees or project residents.
- O12-11      As stated on page 4.9-2 of the Draft EIR, the threshold of significance used to determine whether there would be a significant effect on police services is if implementation of the Proposed Project would “require, or result in, the construction of new, or the expansion of existing, facilities related to the provision of police protection, the construction of which could cause significant environmental impacts.” As described in Impact 4.9-1, the Proposed Project would result in the demand for 2 new officers and 1 new civilian support staff in order to serve this additional population in the downtown area. This additional demand takes into account the increased number of residents, employees, and visitors to the Downtown project site, including security necessary for events at the ESC. However, based on the available information, the addition of these positions would not result in the need to construct a new facility. Therefore, implementation of the Proposed Project would not require or result in the construction of new, or the expansion of existing, facilities related to the provision of police protection, the construction of which could cause significant environmental impacts. The impact would be less than significant, consistent with the finding made under Impact 4.9-1.

O12-12 As stated on page 4.9-10, a fire company could be relocated to Station #1 from another SFD station, resulting in additional fire response coverage in the downtown area, including the Downtown project site.<sup>16</sup> Station #1 has the physical capacity to accept an additional fire company. As discussed on page 4.9-11, the reallocation of existing resources between existing fire stations in the downtown area combined with securing additional equipment and resources placed at existing fire stations would result in sufficient emergency fire and medical response at the Downtown project site.<sup>17</sup> The relocation of a fire company to Station #1 from another station in the city would not cause an adverse effect on fire response coverage in other parts of the city.

As stated on page 4.9-9 of the Draft EIR, the threshold of significance used to determine whether there would be a significant effect on fire protection services is if implementation of the Proposed Project would “require, or result in, the construction of new, or the expansion of existing, facilities related to the provision of fire protection, the construction of which could cause significant environmental impacts.” As discussed above and in the Draft EIR, the relocation of fire equipment and personnel would not result in the need to construct a new facility. Therefore, implementation of the Proposed Project would not require or result in the construction of new, or the expansion of existing, facilities related to the provision of fire protection, the construction of which could cause significant environmental impacts. The impact would be less than significant, consistent with the finding made under Impact 4.9-3.

O12-13 As stated on page 4.9-15, it is anticipated that most employees at the Downtown project site would either be current residents of the City of Sacramento or would commute from other areas within Sacramento County, rather than relocating to Sacramento from a distant city or another state.

Impact 4.9-5 presents the reader with information about the number of school-age children that could be generated by the Proposed Project, taking into account the number of residential units planned for the Downtown project site and the student generation factors for elementary, middle, and high school students in a multi-family residential unit. Students generated by the residential component of the Proposed Project were then compared to the capacity of each of the relevant SCUSD schools. Because the schools that serve the Downtown project site have adequate capacity to serve project students, no new school facilities would be required. As stated on page 4.9-15 of the Draft EIR, the threshold of significance used to determine whether there would be a significant effect on school services is if implementation of the Proposed Project would “generate students that would

<sup>16</sup> Parrington, Desmond. 2013. Personal correspondence via e-mail between Christina Erwin of ESA and Desmond Parrington of the City of Sacramento. December 7, 2013.

<sup>17</sup> Tunson, King, 2013. Personal communication via e-mail between Desmond Parrington of the City of Sacramento City Manager’s Office and King Tunson of the Sacramento Fire Department. October 30, 2013.

exceed the design capacity of existing or planned schools, resulting in the need for new or physically altered school facilities, the construction of which could cause significant environmental impacts.” Implementation of the Proposed Project would not require or result in the need for new or physically altered school facilities, the construction of which could cause significant environmental impacts. The impact would be less than significant, consistent with the finding made under Impact 4.9-3. In addition, as stated on page 4.9-16, pursuant to Senate Bill 50 (SB 50), the project applicant would be required to pay any applicable school impact fees. Although the Proposed Project is unlikely to result in substantial additional students within SCUSD facilities, payment of fees as may be applicable under SB 50 is deemed full and complete mitigation under state law. No further mitigation is required, and the potential impact is less than significant.

- O12-14 Please see Response to Comment O2-17. Please also see Revised Appendix L included as part of Chapter 2 in this Final EIR.
- O12-15 As described on Page 4.10-96, Impact 4.10-4 addresses transit ridership and system capacity. Impact 4.10-6 addresses access to light rail including ticket purchases, queuing during post-event conditions, and loading of riders onto trains. Impacts to light rail transit access were identified as significant. Mitigation Measures 4.10-6 (a) through (e) describes the various mitigation measures recommended to provide adequate access to light rail. In their January 31, 2014 comment letter on the Draft EIR, RT staff indicated they are in agreement with these mitigation measures to address station access/capacity issues. The loading capacity of the RT stations situated near the project was evaluated for post-event conditions. Mitigation Measures 4.10-6(a) – (e) include measures to increase the effective capacity of each station. It was not necessary to evaluate the capacity of local RT stations that serve at the end of the post-game transit trip (i.e., trip alighting) because these stations typically accommodate many more transit riders during peak periods.
- O12-16 Mitigation Measures 4.10-6(b) and (c) specifically address boarding of LRT passengers from the 7<sup>th</sup>/K station, while also accommodating pedestrians continuing easterly on K Street, and southerly on 7<sup>th</sup> Street toward other stations and parking garages. RT staff has indicated that they are in agreement with these mitigation measures. Table 4.10-15 shows existing plus project pedestrian volumes at the project access points for the AM peak hour, PM peak hour, and pre-event peak hour conditions. Data are not shown for the post-event peak hour condition because the proposed ESC would include additional egress points to accommodate outbound pedestrian travel. Further, the closure of 7<sup>th</sup> Street and L Street would enable pedestrians to quickly disperse to reach their destination (versus being limited to using crosswalks only during pre-event conditions).

- O12-17      Table 4.10-12 does not show the project's post-event peak hour trip generation because a quantitative post-event peak hour impact analysis was not conducted. Such an analysis was not necessary because the roadways in the study area, including freeways and on-ramps, would be substantially less utilized during the post-event peak hour when compared to the other hours that were analyzed. Further, parking garage egress constraints may limit the outbound flows during this peak hour, further rendering quantitative analysis of the post-event peak hour unnecessary.
- O12-18      Environmental effects of the Proposed Project, including the mixed use development proposed for the Downtown project site, are thoroughly discussed in each of the technical sections of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.



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1/31/2014

Via Email

Scott Johnson, Associate Planner  
City of Sacramento Community Development Department,  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

**RE: Draft Environmental Impact Report for the Entertainment and Sports Center & Related Development Project (P13-065) (SCH#: 2013042031)**

Dear Mr. Johnson:

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Entertainment and Sports Center & Related Development Project (P13-065).

Development projects that lead to more walking and active travel are critical to our community's future. Human beings need moderate exercise, such as walking, for about 30 minutes a day in order to prevent the development of chronic disease and overweight. If more people could obtain regular exercise by walking and bicycling to their regular destinations, in lieu of driving, it could yield significant health improvements to the resident population of this area. More trips by walking and bicycling could help reduce the current expensive burden on the health care system of providing medical care to more and more people with chronic conditions due to inactivity and poor air quality.

013-1

We expect that the Sacramento ESC and PUD development (SESC) will lead to much more walking in the central city. Most of the walking trips to and from the project site will be new trips as people from the surrounding area walk to and from new uses on the site and new residents living on the site begin and end walking trips to destinations in the central city.

1. We are pleased to see that pedestrian Level of Service (LOS) was analyzed in the DEIR. The use of pedestrian LOS is extremely critical for a thorough evaluation of the potential impacts to pedestrians resulting from the project.

The text on page 4.10-75 states the pedestrian LOS calculation was based on Chapter 23 (Off-Street Pedestrian and Bicycle Facilities) of the 2010 Highway Capacity Manual. **Since the crosswalks and most of the sidewalks analyzed are not off-street facilities, please include a statement providing the reasons for using Chapter 23 of the 2010 Highway Capacity Manual in the pedestrian LOS calculations.**

013-2

2. Was the presence of bicyclists with their bicycles included in the analysis of average space per pedestrian and pedestrian flow rate used to determine pedestrian LOS? Figure 2-24 shows four short-term bicycle parking locations, four possible bike share docking locations, and one long-term bicycling parking location. Five of these

013-3

locations are within the PUD development. **Analyze the impact bicyclists accessing on-site parking facilities would have on pedestrian Level of Service.**

3. Mitigation Measure 4.10-8 (ESC) b) on page 4.10-102 would require the width of certain crosswalks to be increased. The widening of the eleven identified crosswalks will help to improve the safety of pedestrians at eight intersections. With the exception of the intersection at J Street and 7<sup>th</sup> Street, only crosswalks on the east and west legs will be widened. This will accommodate north-south pedestrian travel, but it doesn't improve the conditions for travelling east and west. A significant number of off-street parking spaces are located in garages west of 5<sup>th</sup> Street, so many pedestrians walking from the garages to the ESC will need to cross 5<sup>th</sup> Street. Post-event flow will cross 5<sup>th</sup> Street in even greater numbers. **Mitigation Measure 4.10-8 should include widened crosswalks on the north and south legs of 5<sup>th</sup> Street at L Street and at Capitol Mall.**

4. Mitigation Measure 4.10-8 (ESC) c) on page 4.10-103 would require traffic control personnel to monitor/assist with pedestrian travel at several intersections. Figure 16 in the Event Transportation Management Plan shows there will be a traffic control officer stationed at 6<sup>th</sup> and J before and after events. Pedestrians are prohibited from crossing on the east leg of the intersection. The reason for the missing crosswalk may be that vehicles exiting the garage and turning right onto J Street to travel east have been given priority over pedestrians. With a traffic control officer stationed at the intersection, even if there were a crosswalk on the east leg, we expect the officer could balance the pedestrian and vehicle flows appropriately. At other times, when exiting vehicle traffic would be lower, a crosswalk on the east leg of the intersection may not present a problem to vehicles exiting the garage. **Add a crosswalk to the east leg of 6<sup>th</sup> Street at J Street as part of Mitigation Measure 4.10-8 (ESC).**

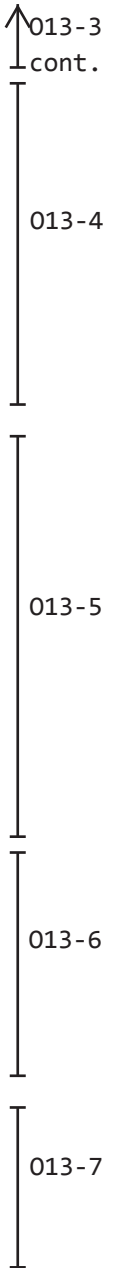
5. Pedestrians travelling between the ESC and the intermodal facilities, including Amtrak, will not be inclined to walk only on the east side of 5<sup>th</sup> Street. However, pedestrians are prohibited from crossing I Street at 5<sup>th</sup> Street on the west side. This may increase the number of illegal and unsafe crossings when people get to the southwest corner and find they must cross the other three legs of the intersection to get where they want to go. **Add a crosswalk to the west leg of 5<sup>th</sup> Street at I Street as part of Mitigation Measure 4.10-8 (ESC).**

WALKSacramento is working to support increased physical activity such as walking and bicycling in local neighborhoods as well as helping to create community environments that support walking and bicycling. The benefits include improved physical fitness, less motor vehicle traffic congestion, better air quality, and a stronger sense of cohesion and safety in local neighborhoods.

Thank you for your consideration of these comments.

Sincerely,

Chris Holm  
Project Analyst



**Letter O13**      **Chris Holm, Walk Sacramento**  
**Response**      **January 31, 2014**

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O13-1            The comment opines that walking and biking could result in healthier people, and that the Proposed Project would lead to more walking in the Central City. The comment is noted and will be conveyed to the City Council for its consideration.

O13-2            Page 23-1 of Chapter 23 (Off-Street Pedestrian and Bicycle Facilities) of the Highway Capacity Manual (HCM) specifies, “In general, facilities located within approximately 35 feet of an urban street are not considered off-street, although the precise definition of ‘off-street’ varies by facility.” Page 23-1 then suggests that sidewalks be evaluated using Chapter 17 and crosswalks be evaluated using Chapter 18. Before discussing these chapters, it is important to note that the primary purpose of the pedestrian LOS evaluation presented in the Draft EIR was to determine whether the proposed crosswalk/sidewalk widths are adequate to accommodate the projected special event pedestrian demand.

The Draft EIR relied on methods from Chapter 23 of the HCM for analysis of crosswalk width adequacy instead of Chapter 18 for the reasons stated below. Pages 18-69 and 70 of Chapter 18 provide six equations based on 13 different input variables, which after a series of sequential calculations yield the pedestrian LOS score. None of these input variables use the hourly pedestrian flow as a direct input. The only input relating specifically to pedestrians is the average delay they experience which is a function of the walk interval length and the overall signal cycle length. Page 18-69 states, “research indicates that average pedestrian delay at signalized intersection crossings is not constrained by capacity, even when pedestrian flow rates reach 5,000 pedestrians per hour. For this reason, delay due to oversaturated conditions is not included in the pedestrian delay calculation”. In other words, Chapter 18 does not consider the number of pedestrians that use a crosswalk per hour in determining the pedestrian LOS. Since the very purpose of conducting pedestrian LOS calculations was to determine whether crosswalks were adequately sized, Chapter 18 was found to not serve this purpose. Instead, Chapter 23 was used for this purpose. Specifically, the pedestrian flow rate thresholds for a given LOS were used from Exhibit 23-2 (Platoon-Adjusted LOS Criteria for Walkways) were used to calculate the pedestrian LOS at crosswalks. This was used for two reasons. First, Page 23-2 states, “Exhibit 23-2 applies when platoons of pedestrians form along the facility, for example, when a signalized crosswalk is located at one end of the portion of the facility being analyzed.” Second, the LOS is based on the pedestrian flow rate, which is a function of the number of pedestrians per minute per foot of crosswalk width. Chapter 23 explicitly considers the effects of heavy

pedestrian flows on pedestrian comfort (and the need for wider crosswalks), whereas Chapter 18 does not.

Table 4.10-24 of the Draft EIR shows the seven sidewalks that were analyzed for pre-event peak hour conditions. Five of these sidewalks are entry/exit walkways to the Plaza, which are “off-street” facilities whose operation are not affected by the level/proximity of vehicular traffic. Accordingly it was appropriate to analyze them using Chapter 23 (Off-Street Pedestrian and Bicycle Facilities).

In response to this comment, the sidewalks along the west side of 7<sup>th</sup> Street between L Street and J Street were re-analyzed using Chapter 17 (Urban Street Segments). Page 17-45 states, “Steps 6 and 7 (in Exhibit 17-15) of the pedestrian methodology can be used as a stand-alone procedure for link-based evaluation of pedestrian service. This approach is regularly used by local, regional, and state transportation agencies”. Step 6 determines the pedestrian LOS score for the link. Step 7 determines the link LOS. The overall pedestrian mode LOS is determined using Exhibit 17-3. Whereas Table 4.10-24 of the Draft EIR reported that the west side segment of 7<sup>th</sup> Street north of L Street would have a pedestrian LOS of C based on Chapter 23, it would have a LOS of B based on Chapter 17. Similarly, whereas the west side segment of 7<sup>th</sup> Street south of J Street would have a pedestrian LOS of B based on Chapter 23, it would have a LOS of A based on Chapter 17. Thus, the decision to use Chapter 17 versus Chapter 23 for the sidewalk analysis does not alter the overall conclusion that the pedestrian LOS will be C or better.

O13-3           Bicyclists were not explicitly considered in the pedestrian LOS calculations for two reasons. First, the precise location of future bicycle parking is not presently known, and would evolve over time as the mixed use development is designed and constructed, and as the activities and function of the ESC plaza areas become better understood. Second, and more important, the Proposed Project is estimated to add 59 bicyclists who travel to the ESC during the pre-event peak hour (17,500 attendees, 0.5 percent bike, and 67.4 percent arrive during the peak hour). When distributed to the various crosswalks and sidewalks located east, west, north, and south of the site, this level of bicycle usage would have little or no effect on the pedestrian LOS results. A significant proportion of bicyclists may use K Street and cross at 7<sup>th</sup> Street. Given its signal timing and crosswalk width, this crosswalk would operate at LOS B.

O13-4           Page 4.10-102 of the Draft EIR includes the widening of the east leg of the L Street/5<sup>th</sup> Street intersection from 10 to 15 feet to accommodate pre-event peak hour pedestrian flows. This crosswalk is expected to be used to a greater degree than the other crosswalks at the intersection because it provides a direct connection between the main pedestrian Plaza walkway north of L Street and the sidewalk on the east side of 5<sup>th</sup> Street south of L Street, which can be used to

walk from various parking garages south of L Street. The presence of a crosswalk across Capitol Mall at 5<sup>th</sup> Street on the east side, but not west side also increases this crosswalk's expected use.

The commenter's suggestion that the north and south leg crosswalks also be widened was evaluated. These crosswalks would carry fewer pedestrians per hour than the east leg crosswalk. In addition, they would be reconfigured to include pedestrian countdown heads (along with longer walk intervals) as part of Mitigation Measure 4.10-8. Thus, they would provide more walk time per hour and fewer pedestrians than the east leg. Additionally, opportunities to widen the south leg crosswalk are constrained by a variety of physical conditions including the existing RT bus stop shelter located in the southeast quadrant of the intersection (which would be relocated as part of the project), limited sidewalk widths, proximity of the 555 Capitol Mall garage driveway on 5<sup>th</sup> Street, and presence of traffic signal equipment. Opportunities to widen the north leg crosswalk are constrained by an existing retaining wall on 5<sup>th</sup> Street directly north of L Street, and traffic signal equipment.

The commenter also suggests that wider crosswalks be provided on the north and south legs at Capitol Mall/5<sup>th</sup> Street intersection. For reasons similar to the above explanation, the location of parking garages expected to be used by ESC attendees, existing signal timings, and the overall provision of pedestrian facilities in the area, would not warrant these widenings.

- O13-5 A crosswalk is currently provided on the west leg of the J Street/6<sup>th</sup> Street intersection to accommodate north-south pedestrian travel between the ESC and points to the north. The provision of a crosswalk on the east leg, as suggested by the commenter, would introduce potential conflicts with right-turning vehicles exiting the premium ticketholder parking garage, particularly after games. Right-turning vehicles would need to yield to pedestrians using this crosswalk, thereby causing additional delays to exit the garage. North-south crosswalks across J Street are provided about 70 feet to the west and 330 feet to the east of this location. For these reasons, a crosswalk on the east leg of the J Street/6<sup>th</sup> Street intersection is not recommended.
- O13-6 A crosswalk is currently provided on the east leg of the I Street/5<sup>th</sup> Street intersection. The east leg crosswalk is expected to handle 300 pedestrians during the pre-event peak hour. North-south crosswalks across I Street are provided about 330 feet to the west (at 4<sup>th</sup> Street) and 90 feet to the east of this location. The provision of a crosswalk on the west leg, as suggested by the commenter, would not be warranted based on the level of pedestrian activity the ESC would generate at this intersection.
- O13-7 The comment is noted and will be conveyed to the City Council for its consideration.

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January 30, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
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Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (SCH # 2013042031)

Dear Mr. Johnson:

Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) & Related Development project.

The **Sacramento Housing Alliance** is a nonprofit corporation that is a coalition of over 65 community organizations and affordable housing developers in the greater Sacramento region. The Alliance promotes quality affordable housing and enhanced opportunities for lower income households and homeless individuals through advocacy, education and participation in public discourse. We work with community groups, low-income residents, business leaders and elected officials to raise awareness about the need for affordable housing. We also monitor the funding and policy decisions of local agencies and governments in order to effect positive change.

014-1

**Background- Insufficient Comment Period**

The allotted period for review and comment on the SEC DEIR has been insufficient. The DEIR is a complicated and lengthy document and for the average community member an insurmountable barrier to participation in this public process.

014-2

The exceptional nature of the Proposed Project does not end with its large size, limited review, or extensive environmental impacts; the exceptional qualities extend to the very laws applying to the SESC Project itself. Unlike other development projects in California, the Proposed Project is subject to limited administrative and judicial review provision unique to it, which has been implemented for the sole purpose of advancing the Project. These provisions were incorporated into the Public Resources Code pursuant to Senate Bill 743 (SB 743). (See Pub. Res. Code § 21168.6.6) We assert that SB 743 is unconstitutional, as outlined below, and may have an adverse effect on judicial economy and the administration of justice.

## Analysis

### LAND USE, POPULATION and HOUSING

The project must not cause decay in the housing stock as people leave existing housing for the proposed new units. More analysis is needed on how Basketball Holdings, LLC's proposal will affect housing affordability for local residents who wish to reside in and benefit from a redeveloped downtown Sacramento. Not all TOD and infill development results in equitable development. In addition, the Draft EIR also needs more analysis of how this proposal will adversely affect existing small businesses in the project area, impacting jobs and small, minority-owned firms.

The DEIR fails to properly analyze the Proposed Project's impact on people's ability to choose housing in an environment free from discrimination and is inconsistent with other goals of the 2013-2021 Housing Element. There is concern regarding the availability of housing for lower income households and the quality housing that does exist (i.e. City's number of aging and quality of SROs) including:

**H-1.2.5 Neighborhood Input on Development.** The City shall continue to work with neighborhood associations and residents through the planning and delivery of residential development to ensure that neighborhoods are safe, decent, and pleasant places to live and work.

We are greatly concerned with what seems to be a lack of resident engagement to provide input on the proposed residential development. We suggest the City organize a series of workshops to discuss the need for safe, decent affordable housing in Downtown Sacramento. This will also allow for input from the various neighborhood groups who are seeking healthy, inclusive neighborhoods with a variety of housing options.

**H-1.3.1 Social Equity.** The City shall encourage economic and racial integration, fair housing opportunity, and the elimination of discrimination.

**H-1.3.2 Economic Integration.** The City shall consider the economic integration of neighborhoods when financing new multifamily affordable housing projects.

**H-1.3.4 A Range of Housing Opportunities.** The City shall encourage a range of housing opportunities for all segments of the community.

There is nothing equitable or integrated about adding a large number of market rate housing units all together in one place, and it is inconsistent with the City's newly adopted Housing Element within their General Plan. A healthy, sustainable community provides a variety of housing options for people of all income levels regardless of race and ethnicity.

**H-3.1.1 Promote Extremely Low Income Housing.** The City shall promote the citing, production, rehabilitation, and preservation of housing for ELI households, including nontraditional housing types. Example: Unregulated SRO and other units in the surrounding area will be priced out.

While smart growth can transform neighborhoods, it fails to help the long term underemployed and unemployed and very-low income wage-earning households that cannot access newly created jobs or afford the new amenities or even basic goods and services.

014-3

The SEC is planned in an area where many low-income Sacramentans occupy the existing housing stock. The area is also the home, for lack of a better word, of many homeless residents of Sacramento. These are disadvantaged members of our community that need to live in close proximity to public transportation options and social services. Because of this development, many of these people will be negatively impacted. Studies show that investment of this magnitude will more than likely follow a pattern in which housing becomes more expensive, neighborhood residents become wealthier and vehicle ownership becomes more common. Consequently, the most vulnerable in our downtown community (renters, low-income and homeless people and people of color) are pushed to the urban fringes away from jobs, schools and amenities, contributing to what have been dubbed the suburbanization of poverty, and increased air pollution.

014-4

Ex: Officers of City of Sacramento Police Department have already expressed in front of community groups at public meetings that they have been given orders to increase enforcement of vagrancy and illegal camping laws to force the homeless out of the downtown development area.

In the interest of mitigating the impacts of this change in land uses, and to address the desire of the developers and City to decrease the population of homeless individuals in the downtown development area, we suggest that the City, Basketball Holdings, LLC, and homeless social service nonprofits work together to fund a foundation to develop a first-step transitional housing community.

014-5

Mitigation efforts must be made, and because the DEIR does not address these impacts of the planned development nor mitigating solutions, it is insufficient.

ENVIRONMENTAL IMPACTS, SETTING and MITIGATION MEASURES

**The Draft EIR Traffic Study Is Incomplete And Misleading.**

Faulty methodology used in the Traffic Study significantly underestimates the number of new trips that will occur from the proposed expansion in the already gridlocked area. As Mike Wiley, General Manager/CEO of Regional Transit stated, "the success of the new arena will be dependent on effective transit service."<sup>1</sup>

014-6

We wish to reiterate the comments made about the project's DEIR by Sacramento Area Bicycle Advocates, which articulated three key areas of inadequacies:

**Project objectives and general plan policy:** The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with important General Plan policies.

**Failure to adequately provide for access by bicycle:** The Proposed Project fails to adequately provide for access by bicycle and therefore would cause significant adverse impacts. These adverse impacts on bicycle access would result from: 1) inadequate bicycle parking, 2) inadequate access to bicycle parking, and 3) inadequate bicycle access to and from the ESC site.

**Inadequacy of the Event Transportation Management Plan:** Mitigation Measures 4.10-1, 4.10-6, 4.10-8, 4.10-11, 4.10-17, and 4.10-19 all require the project applicant to prepare and implement an Event Transportation Management Plan (ETMP). These mitigation measures are flawed, however, and do not comply with CEQA. The ETMP itself is flawed and does not include

014-7

<sup>1</sup> Quoted from response to a public question during "Transit Talk with the General Manager," June 07, 2013

infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access.

014-7  
cont.

We also support comments submitted by the Sacramento Coalition for Shared Prosperity and the Environmental Council of Sacramento.

014-8

Basketball Holdings, LLC and the City of Sacramento must cooperatively agree to a partnership with local community groups such as the Sacramento Coalition for Shared Prosperity and the Sacramento Coalition for Good Jobs to provide local hiring, union jobs, training local residents, assisting local businesses and preserving and creating affordable housing for community residents. Such agreements have been highly effective on other major projects throughout the state and can serve as models for this proposal. This type of agreement can serve to mitigate the negative impacts of the development on the local community by dealing with some of the less desirable impacts and housing affordability issues that are expected to arise with this development.

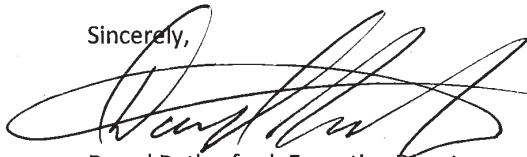
014-9

Thank you for considering our comments. We wish to meet with key partners at Basketball Holdings, LLC to discuss mitigating many of the deficiencies in the DEIR we have mentioned in our comments.

014-10

Pursuant to Pub. Res. Code Section 21092.2 and Gov. Code Section 65092, please notify the undersigned in writing of any hearings, decisions, notifications, or actions referring or related to this Project. Should you have any questions regarding the comments made within this letter or if you need more information, please contact me directly.

Sincerely,



Darryl Rutherford, Executive Director  
Sacramento Housing Alliance  
1800 21<sup>st</sup> Street, Suite 100  
Sacramento, CA 95811  
916-455-4900 x301  
Darryl@SacHousingAlliance.org

**Letter O14**     **Darryl Rutherford, Sacramento Housing Alliance**  
**Response**     **January 31, 2014**

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- O14-1            The comment provides information about the Sacramento Housing Alliance. The comment is noted and will be conveyed to the City Council for its consideration.
- O14-2            The comment expresses concern that the public has not had adequate opportunity to participate in the project review process. The City’s outreach, workshops, public hearings, and environmental review process have provided numerous opportunities for public input and comment, well in excess of the requirements of CEQA. The Draft EIR public review period was 45 days, as required by State CEQA Guidelines section 15105. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project’s relationship to that statute have been forwarded to the City Attorney for consideration.
- O14-3            Please see Responses to Comments O11-2 and O11-3.
- O14-4            The comment raises a number of social and economic concerns related to the cost of housing, effects on homeless people, gentrification, and enforcement of city ordinances regarding vagrancy and illegal camping. These issues relate to social and economic effects, which are not considered physical environmental effects under CEQA. Please see Response to Comment O4-17 for further discussion of the consideration of social and economic effects.

Although under CEQA these issues are not subject to review in an EIR unless they are directly linked to physical environmental effects, it should be noted that there is no evidence provided to substantiate the assertions that the Proposed Project would adversely affect a homeless population, would result in adverse effects on existing housing stock, limit the transportation options for disadvantaged residents of Sacramento, or result in gentrification that would affect the housing stock. The Downtown project site is currently a regional shopping center, Downtown Plaza, which is patrolled by private security on a 24-hour basis; homeless individuals are not allowed to create encampments within Downtown Plaza, and thus no homeless would be displaced as a result of the Proposed Project. The assertion that the Sacramento Police Department is purposely targeting the homeless in downtown is inaccurate. The Police Department recently has increased its focus on crime and nuisance issues in the Downtown, with increased attention being paid to everything from jaywalking to public intoxication to petty theft. However, there is no effort to target any particular segment of the population, including the homeless. To the extent that the City of Sacramento Police Department is enforcing existing City laws and regulations, this represents the routine and necessary exercise of the City’s police power to protect the health and safety of the community, and is not an effect of the Proposed Project.

As is noted in Chapter 3 of the Draft EIR, the City's Housing Element contains policies that reflect "the City's mission to strengthen neighborhoods, improve livability and conditions for all residents, and maintain the economic well-being of the City and all its residents." The Proposed Project would include up to 550 residential units, continuing the City's efforts to increase the residential population of the Central Business District. Further residential development is anticipated to occur with the construction of the 700 Block of K Street project which was approved including 137 housing units. Numerous affordable housing units are located in proximity to the project site, including the Wong Center apartments, the Ping Yuen Apartments, Riverview Plaza, the Studios at Hotel Berry, Mercy Housing's 7<sup>th</sup> and H housing community, and others. These units are legally protected as housing for workforce, low, and very low income residents. The concern that the traditional forces of the phenomenon known as gentrification (where increased demand leads to increased property values which lead to increased housing costs) would adversely affect residents of affordable housing units in downtown as a result of the development of the Proposed Project is unfounded. The Proposed Project could not affect the rents at these existing affordable housing units because rents are set as a percentage of median household income of residents, and are not related to the underlying value of land in the vicinity of the project.

- O14-5 As is addressed in Response to Comment O14-4, the Proposed Project would not adversely affect homeless people on the Downtown project site or elsewhere in downtown Sacramento. Issues related to homelessness are primarily social and economic in nature; please see Response to Comment O4-17 for a discussion regarding the consideration of social and economic effects under CEQA. Because there is not a significant impact related to effects on the homeless population, there would be no basis for including the funding of transitional housing as a mitigation measure in the EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- O14-6 The comment states that the traffic study underestimates the number of new trips that would be generated by the Proposed Project. The comment constitutes unsubstantiated opinion in that it includes no explanation and provides no evidence related to an underestimation of trip generation. The comment is noted and will be conveyed to the City Council for its consideration.
- O14-7 Please see Response to Comment O2-2.
- O14-8 Please see Responses to Comment Letters O17 and O11.
- O14-9 Please see Response to Comment O11-4.
- O14-10 The comment requests to meet with Sacramento Basketball Holdings, LLC to discuss the comments in Comment Letter O14 and requests notification of future

actions regarding the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.



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Scott Johnson, Associate Planner  
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Environmental Planning Services  
300 Richards Blvd. Third Floor  
Sacramento, Ca 95811

**CITY OF SACRAMENTO  
DOWNTOWN PERMIT  
CENTER**

**JAN 31 2014**

**RECEIVED**

RE: RESPONSE TO ENTERTAINMENT & SPORTS CENTER E.I.R.

Dear Mr. Johnson:

Old Sacramento business and property owners are strong supporters of a Downtown Entertainment and Sports Center (ESC). We have helped with fundraising, bought season tickets, provided letters of support, testified at City Council and have been cheerleaders for this long awaited Downtown project. We applaud the efforts of the City and the Kings owners in overcoming seemingly insurmountable hurdles so far.

The following are formal comments by the Old Sacramento Business Association (OSBA) regarding the Draft Environmental Impact Report (EIR). They are submitted in the spirit that raising and respectfully discussing concerns will make for a more successful arena project and a stronger and more vibrant Old Sacramento. OSBA represents over 120 shops, restaurants, museums and other attractions in addition to another 100 business office tenants. These comments were prepared and reviewed by concerned OSBA members and approved by the OSBA Executive Committee.

As with any project of this magnitude, there will be impacts on surrounding neighborhoods and businesses related to the construction and operation of the ESC as well as effective mitigation that will offset negative impacts. Through both formal and informal review, the Old Sacramento business community has previously identified significant negative impacts on the historic business district and recommended Old Sacramento-specific mitigation. Nevertheless, we note that the draft EIR, as presented, does not yet reflect sufficient and substantive mitigation recommendations. We realize that some elements of our comments may be deemed outside the legal scope of the EIR, but are nonetheless significant environmental impacts that require discussion and intervention as a result of the ESC project, and cannot be isolated from one another.

COMMERCIAL AND CULTURAL IMPACTS

The EIR states on page 5.22 that the business owners in Old Sacramento should do their own mitigation – through significant alteration of their business plans – and if not then businesses risk closure, to be replaced by a business more complementary to the ESC. As a National Historic Landmark, the district should remain independently viable both commercially and as a visitor attraction. A drastic turnover of retail tenancy or a shift toward the district primarily serving as arena-oriented concessions would compromise Old Sacramento’s cultural character and viability. Over 95 percent of the shopping and dining businesses in Old Sacramento are locally owned, family-operated small businesses. The EIR incorrectly and unfairly shifts the responsibility for negative impacts to Old Sacramento from a nearly half-billion-dollar construction project to small family owned businesses.

015-1  
↓



The impact to Old Sacramento business and property owners is complicated by the fact that tenancy in the district is not managed like a shopping center but instead by over a dozen independent property owners. A sudden and wholesale turnover of retail tenants during construction (or in the first year of ESC operation), whether ultimately resulting in an upgrade or not, will have undue negative impact on property owners that will compromise the district as a cultural asset and undermine existing private and public investment.

### PARKING AND TRAFFIC

Old Sacramento has very real existing transportation, parking and connectivity issues which the construction and operation of the ESC will amplify and will have direct and immediate negative impacts in Old Sacramento. In some cases, it will undo the incremental progress made over the last ten years with regard to parking and traffic.

The three garages currently serving Old Sacramento (including the Downtown Plaza West Garage at 3rd and L) should have sufficient capacity for most Old Sacramento usages. Yet, almost every public survey or market analysis has concluded that parking and the ability to navigate to parking are serious inhibitors to people coming to Old Sacramento. The public perception – whether correct or not – is more serious than the reality. A 2013 study performed by MeringCarson and funded by OSBA found that the two greatest challenges to attracting visitors to Old Sacramento were traffic and parking. The assessment was further supported by a 2013 survey by the Sacramento Metro Chamber of Commerce. Demolition and construction of the ESC will add to confusion and negative perception of both parking and traffic, and uncertainty for drivers headed to Old Sacramento is sure to continue after the arena opens. The EIR downplays the impact of traffic and parking on Old Sacramento and takes little account of public perception as a factor in attracting visitors.

The Old Sacramento and Tower Bridge parking garages hold approximately 1,300 cars and the ESC projects utilizing 500 (or 38%) of those spots. This severe reduction in capacity combined with increased ingress and egress challenges to the City garages will only compound the already difficult parking situation for the district. Further, garages don't typically operate efficiently at 100 percent capacity, especially when continuous in and outs are necessary (as it would be for Old Sacramento to continue to welcome visitors during major events at the ESC). The draft traffic plan and parking scenarios in the EIR do not sufficiently take this into account.

The EIR suggests that businesses in Old Sacramento should change their hours of operation to lessen the impacts of ESC parking on Old Sacramento (Page 5-21). Its conclusions are based on false assumptions that businesses like Laughs Unlimited don't start until 8:00 p.m. and therefore will not be impacted by traffic and parking from the ESC. However, Laughs' customers arrive early for dinner, drinks or sight seeing before the show. Additionally, Laughs' second show starts at 10:30 p.m., when the draft traffic plan suggests vehicles be routed away from Old Sacramento parking. The road closures plus congestion will make it nearly impossible for their customers – as well as patrons of the active bar and nightclub scene and guests of the Delta King Hotel – to enter Old Sacramento between 10 and 11 p.m., a fact not addressed in the EIR.



Consideration should also be given that the Old Sacramento Garage is used by train commuters as well, some of which return to Sacramento late in the evening and could amplify the potential for conflicts and congestion when peak periods overlap.

RESTAURANTS AND DINING

Over 65 percent of the revenue in Old Sacramento is generated by restaurants and most restaurants derive more than 70 percent of that revenue from dinner. The overwhelming majority of diners arrive by 7:00 p.m. The EIR suggests that there won't be an impact by ESC events if only the restaurants adjust their hours. Restaurants cannot influence when people want to eat, and they rely on several seatings in an evening to cover staffing costs. Additionally, gains from larger crowds on weeknights (when Old Sacramento is quieter) will not fully offset losses on Fridays and Saturdays when arena traffic will negatively impact late seatings. The EIR does not account for the complexities of operating dining establishments. In some forums, it has been suggested that the Kings games and other events should be begin at 7:30 p.m. to encourage people dine in Downtown restaurants before the game. We support this, however, this measure has not been included in the EIR.

Where the EIR discusses competition, it does not address the fact that the ESC will add (net over what now exists in the Downtown Plaza) \$16.8 million in revenue from restaurants and drinking establishments (page 5.15). This is dismissed by saying it is only 2.1 percent of the total sales by restaurants and drinking establishments in Sacramento and West Sacramento. It is unclear what the rationale is for spreading the comparison over two cities, except perhaps to mask the significance of the impact on businesses in Old Sacramento as well as the central city. In any case, the new restaurants and drinking establishments, while adding to a healthy Downtown economy, will also represent significant competition for existing businesses and should have an impact on traffic and pedestrian flows, not just during arena events, but every day of the year.

DISCOUNT PARKING PROGRAMS

Over the years the OSBA and the City have worked diligently to reduce the real and perceived problems related to parking. Three programs (parking validations, discount employee parking and valet parking) have been successful. The reduction of parking accessibility during construction and operation of the ESC will significantly diminish the availability of these programs unless mitigation measures are implemented.

The parking validation program that was jointly developed by the Old Sacramento businesses and City of Sacramento includes providing validation cards to customers. It is a broadly used program. But, during prepaid parking events – at present there are about a half dozen events per year – validation cannot be used. Old Sacramento businesses have had complaints from patrons when parking validation is not honored. The addition of 150 event days with prepaid parking for the ESC would reduce the effectiveness of the validation system, and OSBA would lose a major marketing cornerstone.



015-1  
cont.

There are presently four businesses that provide valet parking in Old Sacramento in both public and private lots surrounding the district. It is reasonable to assume that the presently available spaces for valet parking will be significantly reduced when there are events at the ESC due to an increase in market demand. The result will be insufficient readily accessible parking for valets at the same time as demand for valet will be increasing due to high self-parking demand.

If availability of parking during peak times is reduced, there will be pressure to increase rates, which could compromise the discounted parking program for employees and could impact the ability to hire.

In assessing existing parking needs in Old Sacramento and the impacts of the ESC on availability for existing use, consideration should be given to the 74 residents (ref. 2010 census) of the historic district (many of whom are of low income) who rely off-street parking facilities.

CONNECTIVITY

Perhaps more critical than parking or competition will be the basic ability (or inability) of people trying to access Old Sacramento. The report says there would be no significant problems at the primary entrance to the district at 3rd and I Streets. Yet, it acknowledges tripling the wait times to 15 minutes to get off the freeway at Interstate 5 and J Street (page 4.10.71). This is the main off ramp from I-5 into Downtown Sacramento and thus the primary off ramp to Old Sacramento. It does not logically follow that there can be a tripling of volume at 3rd and J and an increase in cars using the 800-space Old Sacramento garage for arena events, but no impact on traffic to 3rd and I – or that there is not a substantial deterrent to non-ESC customers coming to Old Sacramento through that intersection.

Missing from the traffic study apparently is discussion of special events in Old Sacramento, which already tax the City's parking and traffic management systems. As the top event destination in the Sacramento area with some events drawing tens of thousands, this analysis should clearly be part of the EIR.

With all of the statements minimizing traffic impacts, the EIR still concludes there will be significant and unavoidable impacts at the J Street off ramp and 3rd and J Streets (Page 4.10-96) without any substantive mitigation recommendations.

Transportation impacts will begin during construction when street closures at 5th will impact access to the Sacramento Valley Station. The proposed solution of modifying one-way sections of 3rd to two way will significantly compound vehicular transit to Old Sacramento. (Page 4.10 – 104 and 105).

Pedestrian and bicycle connections to Old Sacramento will be interrupted when K Street is blocked by construction from 7th to 5th (the Mall) and the sidewalks on J (south side) and L (north side) streets will be blocked. If this is correct how will pedestrians be able to go from Old Sacramento to 7th Street?



015-1  
cont.



SUMMARY

The EIR does not provide sufficient mitigation measures regarding Old Sacramento as an existing successful retail district as well as a National Historic Landmark. We respectfully suggest that the City, project developers and Kings owners give serious consideration to our comments and develop substantive mitigation.

Questions:

- How will the City and project developers provide meaningful remediation to businesses and property owners in Old Sacramento who will be negatively impacted during construction and operation of the ESC?
- How will the City and project developers ensure that the cultural and historic character of the district will be maintained despite significant impacts on traffic flow, parking and competition?
- How will the City ensure that those who want to visit Old Sacramento immediately prior, during or after major ESC events will be able to do so without undue confusion, frustration and delay, and have available parking at existing reasonable market rates?
- How will the City ensure that market forces on parking do not eliminate discount parking programs for employees, Old Sacramento validation, or valet access, or availability of reasonable parking for residents?
- How will the City and arena operators counteract negative public perception regarding downtown traffic and parking that is presumed by the public to become worse after the arena opens?
- How will circulation, parking and traffic be managed by the City to ensure that Old Sacramento is active during major events at the ESC and not just for the hour before and the hour after?
- How will the City account for demands on parking and traffic when there are simultaneous major events in Old Sacramento, the arena, and perhaps other venues like Memorial Auditorium, the Community Center Theater or Raley Field?
- How will the City and project developers mitigate the significant disruption of pedestrian traffic during construction and the operation of the arena from the Convention Center through K Street to Old Sacramento?

The following are some mitigation measures we have developed that the City, the Kings and the project developers should give consideration to:

1. The City should develop and promote alternative dedicated entrances (and exits) to Old Sacramento, such as coming down 2nd Street behind the Crocker and going across the freeway on O Street (will require a commitment to not block the streets) and expediting construction of the 2nd Street and Capitol Mall intersection. These alternatives will be operational prior to operation of the ESC, and the city and project developers to fund signage and communication plans.
2. The City should create a valet entrance to the Old Sacramento Parking lot at 2nd and Oak Alley (between J and K) for Old Sacramento valet vehicles only. This should include setting aside 300 spaces close to the new entrance for Valet Parking. The spaces should be apportioned to all approved Old Sacramento valet operations. In addition the city should provide appropriate



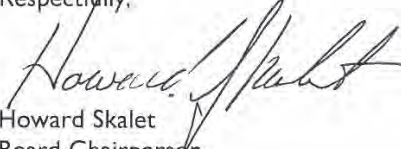
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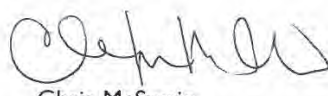
accommodation for discount employee parking and validation, perhaps providing specific garages or entrances for Old Sacramento-only users.

3. To improve pedestrian traffic between Old Sacramento and the ESC and to offset increased vehicular traffic congestion, the City and project developers should significantly improve the primary pedestrian access to Old Sacramento: K Street/I-5 underpass by substantially improving the lighting and safety.
4. The Kings and ESC staff should include in customer communication and arena messaging information on accessing Old Sacramento, including signage, electronic and interactive media.
5. The Kings and the City should fund a significant ongoing marketing and public relations campaign to attract people to Old Sacramento by presenting a positive image to offset negative impacts of traffic and parking. The marketing and public relations program should be executed cooperative with the City, OSBA and Downtown Sacramento Partnership (DSP).
6. The City should return to previous staffing and funding levels for Old Sacramento management, including a designated City staff person in charge reporting at a high level within the City. This staff should be authorized to work with the businesses in Old Sacramento and present issues to the City Manager both for ESC-related issues, as well as ongoing operations.
7. The Kings should start most games and events at 7:30 p.m. to encourage attendees to patronize Downtown restaurants.
8. The City should establish an official communication channel between the City, project developers, the Kings and DSP/OSBA such that problems during construction and operation can be addressed quickly.

The Old Sacramento business community seeks to continue as a positive element in the overall Downtown experience including the ESC. At the same time, the district will be in a vulnerable position regarding traffic, parking, other physical limitations and its status as a National Historic Landmark District. As the region's number one tourist destination, Old Sacramento's greatest need is for the City, project developers and the Kings to provide cooperative consideration of our issues and to do what is necessary so that the construction and operation of the ESC does not compromise Old Sacramento's status as a critical cultural and commercial asset for the Sacramento region in particular and the nation as a whole.

Respectfully,

  
 Howard Skalet  
 Board Chairperson

  
 Chris McSwain  
 Executive Director

cc: Mayor  
 City Council Members  
 City Manager  
 Sacramento Kings Owners



015-1  
cont.



**Letter O15    Howard Skalet, Old Sacramento Business Association**  
**Response    January 31, 2014**

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O15-1            This comment letter is a duplicate of Comment Letter O9. Please see Responses to Comments O9-1 through O9-37.

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January 31, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Planning Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811-0218

Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Complex & Related Development Project (SCH # 2013042031)

Dear Mr. Johnson,

Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) and Related Development project.

Safe Ground Sacramento’s mission as a nonprofit is to *create model communities where people experiencing homelessness can live in safety and dignity, without threat of violence, harassment or arrest while taking the first step out of homelessness.* Following HUD’s Housing First model, our planned first step community will house 100 of the most vulnerable on our streets and provide extensive healthcare and social services through collaborative partnerships. The Sacramento Regional Coalition to End Homelessness’ mission is *to end and prevent homelessness in the Sacramento region through policy analysis, community education, collective organizing and advocacy.*

016-1

Jointly we believe that the Proposed Project, properly planned and implemented as an important enhancement to the city’s downtown infrastructure could provide a major contribution to the health and vibrancy to the future of Sacramento’s CBD. As the capital city of California we must work together to ensure that the needs of all the members of the community are satisfactorily addressed as this important project moves forward. This must include the low income and homeless individuals that populate the areas of downtown Sacramento in and adjacent to the proposed ESC.

Our concerns are primarily focused on Housing plans in the DEIR, and notably, the inadequacies of the DEIR to speak to the needs of the homeless individuals and SRO residents that will be displaced by the ESC Development Project. The DEIR fails in this regard to recognize and show consistency with important elements of the 2013-2021 Housing Element. In particular the following elements need to be addressed with the aforementioned homeless and very low income groups in mind:

016-2



**H-1.3.1 Social Equity.** The City shall encourage economic and racial integration, fair housing opportunity, and the elimination of discrimination.

**H-1.3.2 Economic Integration.** The City shall consider the economic integration of neighborhoods when financing new multifamily affordable housing projects.

**H-1.3.4 A Range of Housing Opportunities.** The City shall encourage a range of housing opportunities for all segments of the community.

016-2  
cont.

*Historical Considerations*

The homeless population in Sacramento has historically been displaced without sufficient plan for where they can go, when our efforts to improve the CBD infrastructure fail to recognize the needs of the homeless population and include solutions in the plans. Fifty-one years ago when Sacramento’s historic West End was designated for redevelopment and historical preservation as Old Sacramento, the Sacramento Redevelopment Agency of the City of Sacramento failed in their Master Plan, to address the needs of the homeless and low income people that would be displaced.

Soon thereafter the Sacramento City Council requested that the County Welfare Council prepare a report on this homeless population. An earlier investigation by the Sacramento Redevelopment Agency had found that 5,500 men lived in the West End and reported that over 50% of the men were over 55 years of age with an average income of \$1,762 per year. By 1963, prior to the start of the urban renewal in the West End, the Agency was reporting an ongoing population of 1,400 but was unable to account for the 4000 men who had moved from the West End. However, the Agency reported that they believed 55% of the men had moved to areas adjacent to the West End. That would include the CBD where the ESC project is now to be sited.

016-3

Of the remaining 1400 homeless men, the agency found that 795 had lived in the same place over 30 days and stated they were the agency’s responsibility to relocate as West End (Old Sacramento) redevelopment proceeded. At the same time the agency reported that little was known about the needs of the other 600 men living in the West End skid row or about the existence of a third group of undetermined number that lived in the area but not in an SRO. It was estimated from records of people providing food for these men that at least 350 lived outdoors.

The 1964 Plan stated that a list of recommended partial solutions including a men’s Service Center, a new City Park, and a broadening of County unemployment policy to include helping these men. The 1964 plan further stated that these recommendations were designed in a way that was intended to encourage the maximum “self-reliance” possible. It also recommended that a second report be completed that would contain recommendations for skid row alcoholics that are a police problem, as well as a problem to feed and house. No finalized, published second report could be found in our research.

The redevelopment of the West End skid row into the commercial, tourist and recreational oriented Old Sacramento proceeded during the 1960s and 1970s. A significant problem was encountered as a portion of the population of single men, the alcoholics who never managed a



move, spilled over into the downtown business district. It should be noted that this plan addressed help for those who already were the ones best positioned to be able to navigate a move and ignored, in terms of a concrete plan, those who most needed help and support.

016-3  
cont.

*Further Recommendations*

Since the redevelopment of the West End there has been a continuous and significant homeless and very low income population in the CBD. Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness are concerned that the DEIR does not address the needs of this population that will again be displaced by the ESC. We recommend attention to historical mistakes in our redevelopment efforts and an effort to make this a project that includes a plan for this vulnerable population.

016-4

Again, referring to the 2013-2021 Housing Element, we point to the following element:

**H-3.1.1 Promote Extremely Low Income Housing.** The City shall promote the citing, production, rehabilitation, and preservation of housing for ELI households, including nontraditional housing types. Example: Unregulated SRO and other units in the surrounding area will be priced out.

Members of the downtown homeless community have reported to Safe Ground that since the announcement of this project they have been experiencing increased enforcement of city ordinances designed to criminalize their homelessness. This city law enforcement effort has been publically verified in community meetings by members of the Sacramento Police Department.

016-5

Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness believe that rather than spend additional tax payer dollars on enforcement of these ordinances, the City of Sacramento and Basketball Holdings, LLC have an opportunity to help all Sacramentans by including a plan for those that will be displaced. This can be accomplished by addressing the Housing Element sections addressed in this letter.

Additionally, as members of the Sacramento Coalition for Shared Prosperity (SCSP), Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness support the recommendations of SCSP in the proposed Community Benefits Agreement. Specifically here, we are voicing support for the recommendation of the coalition that the City, Basketball Holdings, LLC, and homeless social services work together to fund a foundation to develop this first-step transitional housing community.

Thank you for considering these comments. As members of the SCSP we wish to meet with key partners of the Basketball Holdings, LLC to discuss mitigation on behalf of the populations that will be displaced as related above. Pursuant to Pub. Res. Code Section 21092.2 and Gov. Code Section 65092, please notify the undersigned in writing of any hearings, decisions, notifications, or actions related to this Project.

016-6

Please contact us directly if you have any questions or require more information from Safe Ground Sacramento, Inc. or the Sacramento Regional Coalition to End Homelessness.



Best Regards,

Stephen Watters, Executive Director  
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**Letter O16 Response**     **Stephen Watters, Safe Ground/Sacramento Regional Coalition to End Homelessness**  
January 31, 2014

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- O16-1     The comment provides information about Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness. The comment provides an opinion that the Proposed Project could enhance the downtown's health and vibrancy. The comment is noted and will be conveyed to the City Council for its consideration.
- O16-2     Please see Responses to Comments O11-2 and O11-3.
- O16-3     The comment provides a historical view of homelessness in Sacramento and past efforts to eliminate homelessness in the city. The comment is noted and will be conveyed to the City Council for its consideration.
- O16-4     The comment suggests that homeless individuals in the Central Business District will be displaced by development of the ESC. The Downtown Plaza shopping center and office buildings currently occupy the Downtown project site. The site is patrolled by security 24 hours per day, and loitering and camping are not permitted on the property. Homeless persons would not be expected to currently locate on the Downtown project site. The comment is unclear as to how homeless individuals would be displaced by development of the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O16-5     Please see Responses to Comments O11-2, O11-3, and O14-4.
- O16-6     The comment requests to meet with Sacramento Basketball Holdings, LLC to discuss issues related to homeless individuals. Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness separately requested mediation with the City on this issue in a letter dated February 5, 2014. Safe Ground Sacramento and the Sacramento Regional Coalition to End Homelessness participated in mediation with the City on February 18, 2014. The Mediator's Report of SB743 Mediation is posted on the City's website at <http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports>. The comment is noted and will be conveyed to the City Council for its consideration.



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# Sacramento Coalition for Shared Prosperity



January 30, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811-0218  
srjohnson@cityofsacramento.org

Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (SCH # 2013042031)

Dear Mr. Johnson:

Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) & Related Development project.

The **Coalition for Shared Prosperity** is a broad-based coalition of Sacramento community organizations has formed to develop a comprehensive list of community benefit enhancements to guarantee that all residents of Sacramento benefit from the SESC throughout its construction phase and continued operation. Across the nation, communities have negotiated benefit and Development Agreements that provide for good jobs, affordable housing, the utilization of environmentally sound building technologies and the application of appropriate smart growth attributes. Sacramento needs to ensure, just as other cities have done, that our community receives a return equal to the investment our City has made to keep the Kings basketball team here. The residents of this City have subsidized the building of the SESC with at least a \$270 million of their public assets. The residents of Sacramento, the City government and the developers of the SESC need to work together to make this the smartest possible public venture.

017-1

***Background- Insufficient Comment Period***

The allotted period for review and comment on the SEC DEIR has been insufficient. The DEIR is a complicated and lengthy document and for the average community member an insurmountable barrier to participation in this public process.

017-2

The exceptional nature of the Proposed Project does not end with its large size, limited review, or extensive environmental impacts; the exceptional qualities extend to the very laws applying to the SESC Project itself. Unlike other development projects in California, the Proposed Project is subject to limited administrative and judicial review provision unique to it, which has been implemented for the sole purpose of advancing the Project. These provisions were incorporated into the Public Resources Code pursuant to Senate Bill 743 (SB 743). (See Pub. Res. Code § 21168.6.6) We assert that SB 743 is unconstitutional, and may have an adverse effect on judicial economy and the administration of justice.

**Analysis**

**Population**

The DEIR calls out 2030 General Plan Goal/Policy ERC 4.1 Diversity of Arts and Cultural Facilities Programs as relevant to the Proposed Project. We believe this goal falls short by not explicitly promoting culturally diverse arts organizations working in culturally-specific and historically underserved communities of the City of Sacramento. The Proposed Project aims to be a first-class “venue for large-scale events and musical acts” and “develop and expand performing arts in downtown Sacramento” (Discussion of ERC 4.1.4). These considerations of ethnic diversity are crucial to meeting the goals of the City for the ESC, particularly because the diversion of City resources required to build the Proposed Project will likely affect the City’s ability to fund ethnically diverse arts programs.

017-3

Diversity is also an important consideration with regard to hiring for the Proposed Project’s construction and operation. The opportunities created by the Proposed Project should be available to all Sacramentans, particularly as it is their tax dollars that are being invested, regardless of whether they can afford to attend the events it hosts. We believe an agreement should be in place to target hiring of disadvantaged workers from neighborhoods with high unemployment and/or high poverty. In addition, the Draft EIR also needs more analysis of how this proposal will adversely affect existing small businesses in the project area, impacting jobs and small, minority-owned firms.

017-4  
017-5

The Proposed Project takes credit for creating jobs, while at the same time acknowledging that approximately the same numbers of jobs will transfer from the existing Sleep Train arena. While the DEIR’s analysis addresses the effects of the Proposed Project on Natomas’ retail base, it does not address the potential loss of the approximately 800 jobs<sup>1</sup> at Sleep Train arena itself. The developer and ownership teams should work with affected unions to ensure that current Sleep Train employees are reinstated at the new arena and their current labor agreements are retained. Any new vendors should also work with unions to ensure that there are the appropriate labor agreements in place. The City should ensure that labor peace agreements are in place throughout the Proposed Project.

017-6

The DIER correctly notes that jobs/housing fit is an important consideration, particularly when undertaking a project of this size and scope. While the Proposed Project includes “approximately 550 multi-family residential units” (p. 3-44), it is unlikely that the employees of the Proposed Project could afford to live where they work, since none of these housing units are planned to be regulated affordable units. Furthermore, the analysis does not address the social and economic effects of low-wage paying, temporary/seasonal jobs with regard to transportation, and the availability of community amenities such as grocery stores and affordable childcare facilities. As the DEIR acknowledges, “people are often willing to commute longer distances from areas where their housing dollar goes further” (3-42). In other words, without the creation of additional, nearby, affordable units, employees at the Proposed Project site are likely to live further away and commute in to downtown causing traffic congestion and greenhouse gas emissions, to the detriment of our air quality, their own health and the health of all Sacramentans. This is contrary to innumerable stated goals of the state, the region, and the City. The same jobs/housing fit issue will be multiplied for the indirect employment generated by the Proposed Project.

017-7

**Housing**

017-8

<sup>1</sup> Harvey, Antonio. “Sleep Train Arena Workers Get New Uniforms; 800 Jobs Saved.” *Sacramento Observer*. October 28, 2013

Although the Proposed Project makes much of its intention to meet of infill development goals, not all TOD and infill development results in equitable development. More analysis is needed on how Basketball Holdings, LLC's proposal will affect housing affordability for local residents in the downtown Sacramento. The project must not cause decay in the housing stock as people leave existing housing for the proposed new units.

The DEIR fails to properly analyze the Proposed Project's inconsistency with other goals of the 2013-2021 Housing Element, including:

**H-1.2.5 Neighborhood Input on Development.** The City shall continue to work with neighborhood associations and residents through the planning and delivery of residential development to ensure that neighborhoods are safe, decent, and pleasant places to live and work.

Has anyone from the City talked to the neighborhood groups about this new housing?

**H-1.3.1 Social Equity.** The City shall encourage economic and racial integration, fair housing opportunity, and the elimination of discrimination.

**H-1.3.2 Economic Integration.** The City shall consider the economic integration of neighborhoods when financing new multifamily affordable housing projects.

**H-1.3.4 A Range of Housing Opportunities.** The City shall encourage a range of housing opportunities for all segments of the community.

There is nothing equitable or integrated about adding a large number of market rate housing units all together in one place, and it is inconsistent with the City's newly adopted Housing Element within their General Plan.

**H-3.1.1 Promote Extremely Low Income Housing.** The City shall promote the citing, production, rehabilitation, and preservation of housing for ELI households, including nontraditional housing types. Example: Unregulated SRO and other units in the surrounding area will be priced out.

While smart growth can transform neighborhoods, it fails to help the long term underemployed and unemployed and very-low income wage-earning households that cannot access newly created jobs or afford the new amenities or even basic goods and services.

The SEC is planned in an area where many low-income Sacramentans occupy the existing housing stock. The area is also the home, for lack of a better word, of many homeless residents of Sacramento. These are disadvantaged members of our community that need to live in close proximity to public transportation options and social services. Because of this development, many of these people will be negatively impacted. Studies show that investment of this magnitude will more than likely follow a pattern in which housing becomes more expensive, neighborhood residents become wealthier and vehicle ownership becomes more common. Consequently, the most vulnerable in our downtown community (renters, low-income and homeless people and people of color) are pushed to the urban fringes away from jobs, schools and amenities, contributing to what have been dubbed the suburbanization of poverty, and increased air pollution.

Ex: Officers of City of Sacramento Police Department have already expressed in front of community groups at public meetings that they have been given orders to increase enforcement



017-8  
cont.

017-9

of vagrancy and illegal camping laws to force the homeless out of the downtown development area.

017-9  
cont.

In the interest of mitigating the impacts of this change in land uses, and to address the desire of the developers and City to decrease the population of homeless individuals in the downtown development area, we suggest that the City, Basketball Holdings, LLC, and homeless social service nonprofits work together to fund a foundation to develop a first-step transitional housing community.

017-10

Mitigation efforts must be made, and because the DEIR does not address these impacts of the planned development nor mitigating solutions, it is insufficient.

**Traffic and Transportation**

Faulty methodology used in the Traffic Study significantly underestimates the number of new trips that will occur from the proposed expansion in the already gridlocked area. The ESC has a clear advantage over the Sleep Train arena site when it comes to potential transit and active transportation options. It is critical to take full advantage of these opportunities due to the existing traffic in downtown and the fact that Sacramento is already a community that is underserved by transportation options.

017-11

As Mike Wiley, General Manager/CEO of Regional Transit stated, "the success of the new arena will be dependent on effective transit service."<sup>2</sup> We support Regional Transit in their attempts to find innovative means of financing and promoting additional use of their transit system, including ticket surcharges, as well as the use of ESC tickets of any kind as transit passes for both inbound and outbound travel. Without such measures, the ESC will simply add financial burdens to the Regional Transit system.

We also wish to reiterate the comments of our Coalition for Shared Prosperity made about the project's DEIR by Sacramento Area Bicycle Advocates, which articulated three key areas of inadequacies:

**Project objectives and general plan policy:** The DEIR is defective because it fails to acknowledge that the Proposed Project is not consistent with important General Plan policies.

**Failure to adequately provide for access by bicycle:** The Proposed Project fails to adequately provide for access by bicycle and therefore would cause significant adverse impacts. These adverse impacts on bicycle access would result from: 1) inadequate bicycle parking, 2) inadequate access to bicycle parking, and 3) inadequate bicycle access to and from the ESC site.

017-12

**Inadequacy of the Event Transportation Management Plan:** Mitigation Measures 4.10-1, 4.10-6, 4.10-8, 4.10-11, 4.10-17, and 4.10-19 all require the project applicant to prepare and implement an Event Transportation Management Plan (ETMP). These mitigation measures are flawed, however, and do not comply with CEQA. The ETMP itself is flawed and does not include infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access.

Again, development is not equitable simply by virtue of being transit-oriented unless consideration is given to the impacts of the development on transit service for all users.

<sup>2</sup> Quoted from response to a public question during "Transit Talk with the General Manager," June 07, 2013

**Cultural Resources**

We appreciate the analysis of the Proposed Project’s impact on paleontological, cultural and historic resources within the footprint of the Proposed Project. We hope that the same care and attention is given to the paleontological, cultural and historic resources on ancillary sites the City has contributed to the project, such as the Plaza Building, the Bel-Vue Apartments, and other locally significant architecture that has recently become eligible for historic status, e.g. Sam’s Hof Brau building.

017-13

**A Community Benefits Agreement is Needed**

Basketball Holdings, LLC and the City of Sacramento must cooperatively agree to a partnership with local community groups such as the Sacramento Coalition for Shared Prosperity and the Sacramento Coalition for Good Jobs to provide local hiring, union jobs, training local residents, assisting local small businesses and preserving and creating affordable housing for community residents. Such agreements have been highly effective on other major projects throughout the state and can serve as models for this proposal. This type of agreement can serve to mitigate the negative impacts of the development on the local community by dealing with some of the less desirable impacts and housing affordability issues that are expected to arise with this development.

017-14

Thank you for considering our comments. We wish to meet with key partners at Basketball Holdings, LLC to discuss mitigating many of the deficiencies in the DEIR we have mentioned in our comments. Pursuant to Pub. Res. Code Section 21092.2 and Gov. Code Section 65092, please notify the undersigned in writing of any hearings, decisions, notifications, or actions referring or related to this Project. Should you have any questions or need more information, please contact me directly.

017-15

Sincerely,



Tamie Dramer  
Sacramento Housing Alliance  
o/b/o Coalition for Shared Prosperity  
1800 21<sup>st</sup> St. Ste 100  
Sacramento, CA 95811  
916-455-4900 x.304  
tamie@sachousingalliance.org

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**Letter O17  
Response**      **Tamie Dramer, Sacramento Coalition for Shared Prosperity  
(SCSP)**  
January 31, 2014

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- O17-1            The comment provides information about the Sacramento Coalition for Shared Prosperity and advocates for a fair return on the City’s investment in the Proposed Project. The comment is noted and will be conveyed to the City Council for its consideration.
- O17-2            Please see Response to Comment O14-2.
- O17-3            City of Sacramento 2030 General Plan Goal ERC 4.1 establishes a goal for the City to “[p]rovide a diversity of first-class arts and cultural facilities and programs for people of all ages to improve knowledge of Sacramento’s history, enhance quality of life, and enrich community culture.” As is stated on page 3-18 of the Draft EIR (in Table 3-1), “[t]he Proposed Project would include an entertainment and sports center that would be a state-of-the-art facility that would add to the City’s cultural identity and would provide the City with a regional center for concerns, conventions, sporting events, family shows, graduations, and other gathering occasions...” The emphasis of this goal is the provision of a diversity of facilities and programs, not on any one type of facility or program. As is noted in Table 2-4, page 2-16 of the Draft EIR, it is estimated that the proposed ESC would accommodate events that would attract approximately 1.65 million attendees each year. While approximately half of those attendees would be for NBA basketball games, it is estimated that over 100,000 would attend graduations from local schools and universities; over 200,000 would attend family ice shows, circuses, and other family shows; over 250,000 would attend concerts; about 80,000 would attend other sporting events, which could include high school and college athletic events, and over 200,000 would attend civic events, trade shows, conventions, and other similar events. The diverse nature of the range of events that would occur at the proposed ESC is such that it is reasonable to expect that they would attract a wide spectrum of the Sacramento community.
- It is not anticipated that the Proposed Project would adversely affect the City’s ability to fund other cultural or arts programs. In February, 2013, the City Council adopted Principles for the Finance and Development of a New Entertainment and Sports Center. In adopting those Principles, the City stated that “[a]ny losses to the General Fund that result from the parking monetization program must be backfilled by new and reliable sources of revenues.” By protecting the General Fund, the Proposed Project would reduce the risk that the project financing could adversely affect potential funding of other community assets. Further, by spurring additional development in the downtown and the region, the Proposed Project would increase

property and sales tax revenues to the City, providing additional revenues to support City-sponsored projects and programs.

- O17-4 The issues addressed in this comment are social and economic in nature, and are not linked to environmental effects of the Proposed Project. Please see Response to Comment O4-17 for further discussion of the consideration of social and economic effects under CEQA.

Related to the construction of the proposed ESC, the project applicant is consulting with its general contractor, Turner Construction, and the Sacramento-Sierra Building and Construction Trades Council, the Sacramento Employment and Training Agency (SETA), and a diverse coalition of community organizations in the development of a Priority Construction Apprenticeship Hiring Program. This program, if approved, would promote participation of economically disadvantaged residents, prior offenders, veterans, former foster children, homeless individuals, and individuals from high poverty communities in the region, in construction apprenticeship programs and work opportunities on the construction of the ESC.

- O17-5 The effect of the Proposed Project on small businesses in the project area, including minority-owned firms, is a social and economic effect. Please see Response to Comment O4-17 for further discussion of the consideration of social and economic effects under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

On October 29, 2013, City Council adopted goals for the Proposed Project, including a goal to leverage the economic development opportunities created by the proposed ESC, including supporting local business. At its meeting of December 10, 2013, the City Council approved the Sacramento Entertainment and Sports Center Local and Small Business Involvement Plan (Plan). The Plan was prepared by the project applicant and is designed to promote local business enterprise (LBE) and small business enterprise (SBE) involvement in the development of the proposed ESC. In the Plan, local is defined as businesses within the six-county SACOG region, which includes Sacramento, Yolo, Placer, El Dorado, Sutter and Yuba counties, plus neighboring San Joaquin County. Small businesses are generally defined as those with fewer than 100 employees and less than \$14 million in gross annual receipts.

The Plan establishes the eligibility criteria for small and local businesses and sets forth both overall and subcontracting performance goals. Those goals include an overall goal for local business of 60% of the ESC project budget and a goal of 20% for small business, of which at least 75% must be local. In terms of the subcontracting objectives, the applicant has established a “best value” basis rather than low-bid as a key criterion for awarding subcontracts. The “best value” approach coupled with the LBE/SBE contracting requirements ensures that larger firms either are local or partner with a LBE and/or SBE in order to be competitive.

The Plan also establishes an extensive outreach and engagement program including a community advisory council that will be comprised of local business organizations such as the local chambers of commerce, among others. Early and effective outreach utilizing a variety of methods would be crucial so that businesses know about the opportunities and have time to prepare for the forthcoming bid packages. The Plan includes monitoring and reporting on the implementation and progress achieving the performance goals.

This Plan was developed with extensive input from the local chambers of commerce, local businesses, and many of the local property-based improvement districts (PBIDs). Furthermore, the Plan was developed using the extensive knowledge and experience of the project applicant's design and construction team. The project applicant would implement the Plan to ensure that the project achieves high levels of local business participation.

O17-6 As noted in the comment, the Draft EIR acknowledges that the employment at the proposed ESC would be essentially the same as at Sleep Train Arena. The employment growth of 2,084 direct jobs that is projected for the Proposed Project would be associated with the businesses that would locate in the proposed mixed use development (see Table 2-8, page 2-43 of the Draft EIR). The project applicant has not yet determined how event-related jobs at the proposed ESC would be filled, although it is expected that Sleep Train Arena event employees would be offered the opportunity to work at the proposed ESC.

The article in the Sacramento Observer, referenced in the comment, does not address the proposed ESC. Rather, the article addressed the potential loss of 800 full-time and part-time jobs at Sleep Train Arena that could have occurred if the Sacramento Kings had relocated to Seattle, and specifically stated that “[t]he new owners of the Kings saved about 800 jobs that would have been lost had the team relocated from Sacramento to Seattle.”

Issues related to labor agreements for construction or operational jobs involve social and economic effects that are not considered physical environmental impacts. Please also see Response to Comment O4-17 for further discussion of social and economic effects under CEQA.

O17-7 On page 3-41, the Draft EIR states “[a] well-balanced ratio of jobs and housing can contribute to reductions in the number of vehicle trips resulting from community due to employment opportunities in closer proximity to residential areas. Such a reduction in vehicle trips would necessarily result in lower levels of air pollutant emissions (including lower greenhouse gas emissions) and less congestion on area roadways and intersections.” The Draft EIR reports that employee per unit ratio in the City of Sacramento in 2010 was 1.55:1.

On page 3-44 of the Draft EIR it is reported that the Proposed Project would result in an increase in employment of about 2,084 jobs and an increase in housing of 550 units with an estimated 1,155 residents. The discussion on pages 3-44 and 3-45 compares the estimated employment and housing in the Proposed Project to the assumptions for the City's 2030 General Plan, and recognizes that the Proposed Project "would be consistent with and does not propose to change the 2030 General Plan land use designations for the project site. Therefore, the proposed number of housing units and population projections for this site are consistent with the assumptions of the 2030 General Plan."

The Draft EIR does not assume that employees of the Proposed Project would disproportionately live in the housing units to be developed as part of the mixed use development. Rather, a regional traffic model was used to allocate project-related employees to the regional roadway system, resulting in a conservative estimate of transportation, air quality, greenhouse gas emissions, and other effects triggered by employee-to-work travel. To the extent that employees of businesses located within the Proposed Project development would also live within the Proposed Project housing, impacts related to transportation and other travel-affected environmental effects would be less than projected in the Draft EIR.

- O17-8 Please see Responses to Comments O11-2 and O11-3.
- O17-9 Please see Response to Comment O14-4.
- O17-10 Please see Response to Comment O14-5.
- O17-11 Please see Response to Comment O14-6.
- O17-12 Please see Responses to Comments O2-2 and A3-8 (policy consistency), O2-7 (bicycle parking), and O2-17 (Revised Draft Event TMP).
- O17-13 The comment applauds the Draft EIR's cultural resources analysis and expresses an opinion that the same type of analysis should be used for future development projects in the city. The comment is noted and will be conveyed to the City Council for its consideration.
- O17-14 Please see Response to Comment O14-9.
- O17-15 The comment requests to meet with Sacramento Basketball Holdings, LLC to discuss mitigation for perceived deficiencies in the Draft EIR. Sacramento Coalition for Shared Prosperity separately requested mediation with the City on this issue in a letter dated February 5, 2014. Sacramento Coalition for Shared Prosperity participated in mediation with the City on February 13, 2014 and February 18, 2014. The Mediator's Report of SB743 Mediation is posted on the City's website at <http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports>. The comment is noted and will be conveyed to the City Council for its consideration.



# SPRAWLDEF

Sustainability, Parks, Recycling

## And Wildlife Legal Defense Fund

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)

Mr. Johnson:

I write as Research and Development Director of SPRAWLDEF (Sustainability, Parks, Recycling and Wildlife Legal Defense Fund) to state our objections to the Draft Environmental Impact Report for the downtown Sacramento professional sports arena.

SPRAWLDEF is active throughout Northern California concerning the environmental impacts and financial sustainability (or relative lack thereof) regarding publicly-owned and publicly-subsidized infrastructure projects such as recreation, open space and recycling projects. We object to wasteful expenditures of public funds on projects where environmental impacts have not been publicly examined and the opportunity for open public discussion and debate made available.

018-1

Where the public is excluded from public projects, they must be opposed. To allow it undermines the efforts of SPRAWLDEF and all other engaged citizens.

018-2

Such is the case with the Sacramento arena and the draft environmental impact statement. Public review and access to the courts is barred for the DEIR's review by Senate Bill 743, special interest legislation passed to benefit this one specific project.

The document itself is defective under CEQA thereby. Further substantive objections are offered in the comments of our attorney.

018-3

Thank you for your attention to this matter.

Sincerely,

DAVID TAM (510-859-5195)  
Research and Development Director SPRAWLDEF

**Norman La Force, President 802 Balra Drive, El Cerrito, CA 94530**  
**510 526-4362 <http://www.sprawldef.org> [n.laforce@comcast.net](mailto:n.laforce@comcast.net)**

**Scott Johnson**

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**From:** David Tam <daviditam3@gmail.com>  
**Sent:** Friday, January 31, 2014 4:53 PM  
**To:** Scott Johnson  
**Cc:** SPRAWLDEF Attorney Kelly T. Smith  
**Subject:** SPRAWLDEF.Comment on DEIR for Kings Arena.31Jan14

:

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
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Mr. Johnson:

I write as Research and Development Director of SPRAWLDEF (Sustainability, Parks, Recycling and Wildlife Legal Defense Fund) to state our objections to the Draft Environmental Impact Report for the downtown Sacramento professional sports arena.

SPRAWLDEF is active throughout Northern California concerning the environmental impacts and financial sustainability (or relative lack thereof) regarding publicly-owned and publicly-subsidized infrastructure projects such as recreation, open space and recycling projects. We object to wasteful expenditures of public funds on projects where environmental impacts have not been publicly examined and the opportunity for open public discussion and debate made available.

Where the public is excluded from public projects, they must be opposed. To allow it undermines the efforts of SPRAWLDEF and all other engaged citizens.

Such is the case with the Sacramento arena and the draft environmental impact statement. Public review and access to the courts is barred for the DEIR's review by Senate Bill 743, special interest legislation passed to benefit this one specific project.

The document itself is defective under CEQA thereby. Further substantive objections are offered in the comments of our attorney.

Thank you for your attention to this matter.

Sincerely,

DAVID TAM (510-859-5195)

Research and Development Director SPRAWLDEF



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**Letter O18 Response**     **David Tam, Sustainability, Parks, Recycling And Wildlife Legal Defense Fund (SPRAWLDEF)**  
January 31, 2014

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- O18-1            The comment provides information about Sustainability, Parks, Recycling And Wildlife Legal Defense Fund (SPRAWLDEF). The comment is noted and will be conveyed to the City Council for its consideration.
- O18-2            The comment provides an opinion regarding the legal force and effect of Senate Bill 743 and does not raise any environmental issues related to the project or its potential environmental effects. The City's commitment to the public participation and information disclosure requirements of CEQA is unchanged by Senate Bill 743, and the Draft EIR was prepared in full compliance with CEQA's requirements. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project's relationship to that statute have been forwarded to the City Attorney for consideration.
- O18-3            The Draft EIR has been prepared to meet all of the substantive and procedural requirements of CEQA and the State CEQA Guidelines. The comments of the commenter's attorney are addressed in Responses to Comment Letter O19.

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January 31, 2014

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**RE:** Comments on Kings Arena draft EIR (SCH 201304031); SPRAWLDEF and citizens

Dear Mr. Johnson:

I write representing SPRAWLDEF (Sustainability, Parks, Recycling and Legal Wildlife Defense Fund), Laura Rubalcaba, Jeanie Keltner, Dennis Burkett Neufeld, Bob Blymyer and Maggie O'Dell (citizens). SPRAWLDEF advocates financially sustainable, environmentally benign infrastructure in Northern California, including open space, parks and recycling. The citizens live in Sacramento.

019-1

We object that the Draft Environmental Impact Report (DEIR) for a downtown sports arena built for the National Basketball Association and the Sacramento Kings is defective under the California Environmental Quality Act (CEQA) and invalid under the California constitution.

The DEIR has numerous substantive flaws and omissions, addressed below. However the entire document is flawed because it is drafted under unconstitutional legislation muscled through by state Senator Darrell Steinberg in the opaque final days of the last legislative session.

019-2

That legislation, SB 743, unconstitutionally infringes on the power of courts to grant extraordinary relief, such as injunction or writ of mandate. Cal. Const. art. VI, §§ 1, 10; *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231. The legislation also infringes upon the appeal courts. *In re Quantification Settlement Agreement Cases* (2011) 201 Cal.App.4th 758, 845.

The judicial fire drill established just for this professional sports venue facially voids the power of the courts to review the misdeeds of elected and public officials. See the comments of the California Judicial Council herewith. Exhibit A.

Further, as applied, the SB 743 EIR here violates the due process and equal protections of the citizens. The EIR and SB 743 make it impossible for the citizens to access the courts for the redress of this enormous special interest project.

019-3

As has been the pattern of state and local officials in promoting this Arena, the environmental review prejudices the citizens by thwarting the open decision making that is the fundamental purpose of CEQA. For example, comments to changes in the DEIR or upon a Final EIR made after the SB 743 cutoff will not be allowed.

We now turn to the substantive defects of the DEIR.

**The “throwaway” Sleep Train arena.**

Several glaring defects in the draft EIR are obvious. Initially however is the failure to describe and evaluate abandoning the Sleep Train arena, which currently functions as it has for years as a professional sports arena. The project would mothball the arena and its surrounding lands. The “new” Kings contract would prohibit its use as a sports arena, the only use suitable other than monster truck pulls.

019-4

The “throwaway arena” is a blight fostered by the public money thrown to pro sport promotion. See Exhibits B, C and D. No funding is identified in the DEIR for the maintenance or demolition of the existing arena. No timeline of its fate is even attempted in the document.

Yet the land use implications of removing the Sleep Train are obvious. The surrounding—and potentially competing—land use ranges from habitat conservation preserve in the north, to new subdivisions to the south and suburban commercial to the east. Which will it be? No discussion is provided.

019-5

Meanwhile, the cracking blacktop and unmaintained structure of the Sleep Train will sit. As evident in the attached stories of the Seattle Kingdome and other national arenas, they become instant blight.

019-6

None of these potentially significant environmental impacts are addressed in the DEIR.

Finally, the EIR fails to describe and analyze a remodel of the Sleep Train as a viable alternative to the downtown project Arena proposed. Clearly, costs of remodel versus demolition versus doing nothing with the Sleep Train arena will be vital to such an analysis. However, the record is clear that remodel is possible and therefore the analysis under CEQA must be done.

019-7

**Six mammoth digital billboards at landmark City locations flashing NBA promotion.**

Regardless of whether Sacramento residents care about pro sports, it will be in their face at prominent locations of their city in the form of six LED-lighted digital signs, as high as 90 feet and double sided. Presumably flashing purple fan gear and ticket promotions, at least six of these

019-8

billboards will be located among ten of the most prominent roadsides of Sacramento, including at the iconic water tower at I-5 and Freeport, and Sutter’s Landing on Business 80.

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While the aesthetic impact of these flashing signs is obvious, the DEIR also fails to adequately describe the safety hazard of the digital billboards. As described in Exhibit E herewith, accidents increase 35 percent where digital billboards are located.

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Nor does the DEIR describe the actual billboards. Extensive discussion is given about sign regulations. But the actual sizes, placement, content and times of the billboards at the actual sites is never provided. The vagueness is compounded by statements that exceptions to regulations may also be sought.

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The failure to describe the billboards also includes failure to describe and evaluate the cumulative aesthetic blight of purple billboards at every major entryway to the city, and also the detraction from the water tower as an aesthetic for all those entering Sacramento from the south.

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**Decay of existing shopping use and surrounding blight.**

The once vibrant shopping experience of the downtown mall will be replaced, under the project, by an enormous cavern that looks like a crushed aluminum can.

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One of the stated objectives of the project is revitalization of downtown’s K Street and environs. Yet the DEIR fails to describe the urban decay that will occur as a result of the project. The project does not even properly describe K Street, the City’s redevelopment efforts there, and how the project will specifically help or hurt its current and planned uses.

The DEIR also ignores the City’s own massive development works and plans at the nearby Railyard.

The DEIR concludes that the project’s cumulative impact to urban decay is less than significant. This conclusion is based on the DEIR’s determination that merely 995,587 square feet of retail space will be developed under cumulative conditions. DEIR, Appendix H, p. 40.

This is rather remarkable in light of the fact that the DEIR identified a total of 8,478,285 square feet of retail planned. DEIR, Appendix H, Exhibit 29. In other words, the DEIR excluded 7,482,412 square feet of planned retail in its formulation of cumulative conditions.

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The exclusion of the vast majority of planned retail is internally inconsistent with other analyses in the DEIR and violates the CEQA requirement that the EIR address cumulative conditions including “past, present, and probable future projects.” CEQA Guidelines, §15130(b)(1)(A).

The DEIR limited cumulative projects to “Total Projects Potentially Developed Before or Concurrent with the ESC retail.” DEIR, Appendix H, Exhibit 29. This strategy of arbitrarily

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limiting cumulative projects to those developed “concurrent with” the proposed project is patently inconsistent with Guidelines §15130.

Arbitrarily limiting cumulative projects is further internally inconsistent with the DEIR’s discussion of cumulative conditions in other contexts in the DEIR. More specifically, the DEIR excludes the 1.4 million square feet of retail associated with the downtown Railyards development project (DEIR, Appendix H, p. 40), and yet assumes development of that very same project in order to claim a higher percentage of non-automobile trips to the project. DEIR, p. 4.10-78.

In an attempt to justify excluding the Railyards development, the DEIR states, “This plan has not been revisited of late, and could ultimately change when the project becomes more active.” DEIR, Attachment H, p. 40. This analysis ignores, of course, that the City has an existing development agreement that specifically authorizes up to 1.4 million square feet of retail. City ordinance 2007-140, incorporated here by reference.

In other words, the DEIR’s inference that the planned 1.4 million square feet is somehow not probable ignores the City’s own contracts and the conditions on the ground. But most importantly, the DEIR’s claim of uncertainty surrounding the Railyards development is refuted by its own analysis contained in other sections of the DEIR:

“It is reasonable to assume that a greater percentage of ESC attendees would live or work in the Central City when compared to current conditions. This is especially true in light of the amount of new land development expected in the Railyards Specific Plan and Township 9, both of which are current under varying levels of construction.”

The City cannot have it both ways. The DEIR cannot assume development of the Railyards project when it helps the City to claim higher transit trips, and then assume no development of the Railyards project when it is convenient to avoid claims of over-development of retail. This type of self-serving internal inconsistency is the hallmark of arbitrary conduct and patently violates CEQA. The City must prepare a urban decay analysis that does not vastly understate the amount of retail that will be developed under cumulative conditions.

The DEIR also ignores ongoing roadway construction within the Railyards site. This is only one of several attempts to escape analysis of the reconstruction of the J Street interchange at Interstate 5 to accommodate the traffic to the Arena at J Street and out at I Street.

The DEIR fails in several other aspects to describe the arena’s impacts on the surrounding downtown commercial viability.

The DEIR fails to describe the lack of consistency with the City’s general plan, especially with its priorities for “...walkable blocks, distinctive parks and open spaces, tree-lined streets, and varied architectural styles.” DEIR p. 4.1-58. Rather the DEIR states generalities such as “consistent with the vision for the City” without specific description and analysis of general plan specifics such as those of land use policy 2.4.



019-13  
cont.

019-14

019-15

019-16



The impact to the historical character of adjoining K Street is patently insufficient. The discussion of historical uses at DEIR p. 4.4-26 fails to discuss the impact to the character of the buildings on the immediate 700 block of K Street. The DEIR refuses to recognize impact to the historic K Street buildings because they “are also relatively tall, multi-story urban context structures.” Relative to the giant crushed can arena? Specific discussion of the K Street historic district must be included in the DEIR to understand the impacts.

019-17

**The City entirely ignores impacts to historical Old Sacramento.**

Old Sacramento is the historical waterfront attraction of Sacramento, the mandatory destiny of every out-of-town visitor, home to the Railroad Museum and many other attractions. See Exhibit F.

019-18

Many of Old Sacramento’s attractions take place outside, including the internationally popular Sacramento Music Festival (jazz festival), the Saint Patrick’s Day, Mardi Gras and Halloween parades and street side events.

Yet the DEIR completely ignores Old Sacramento and any Arena impacts upon it. Both locations are primarily accessed at I-Street and J Street. At the northwest corner of the arena, closest to Old Sacramento, “...outdoor speaker operations during events would be expected to exceed the exterior daytime and nighttime noise standards...” DEIR p. 4.8-24.

019-19

Even the DEIR “Recreation impacts” discussion fails to describe Old Sacramento. This section, beginning at p. 4.9-17, is glaring in its ignorance of Old Sacramento. While the discussion of parking in the DEIR transportation section reveals a significant impact of the Arena on Old Sacramento parking, the nature of that impact on Old Sacramento use is not presented. See Figure 4.10-8 at p. 4.10-29.

019-20  
019-21

The DEIR lacks discussion of project impacts on Old Sacramento from noise, including vibration noise and sensation during construction and noise conflicts with outside events such as the Music Festival and the parades. The cumulative impact of such events is entirely ignored.

019-22

The DEIR lacks discussion of traffic access impacts on Old Sacramento. The Arena traffic will clearly require the construction of new or improved I-5 freeway access and egress. Therefore the project will thereby cause a substantial physical deterioration of recreational parking and create a need for construction or expansion of recreational facilities beyond what was anticipated in local plans.

019-23  
019-24

Finally the dislocation of existing Old Sac small businesses and traffic to other locations during construction, or permanently, is not considered in the DEIR.

019-25

The description and analysis of environmental impacts is a mandatory element of the EIR. “The environmental impact report shall include a detailed statement setting forth... (1) All significant effects on the environment of the proposed project.” PRC §21100(b).

019-26

It must include potentially significant indirect as well as direct impacts, including any which are reasonably foreseeable. Guideline §15126, §15126.2. That guideline specifically calls for description of impacts resulting from bringing people to a project site. Guideline §15126.2(a).

Without an adequate description and analysis of the environmental impacts of a project, an EIR is useless. “The EIR must contain facts and analysis, not just the bare conclusions of a public agency.” *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831.

**The traffic analysis evades the potential impacts of I-5 reconstruction at J and I streets.**

The DEIR’s transportation section reveals what any resident could have told the City’s traffic consultants—driving through downtown on I-5 with a basketball game at the Arena is going to be a mess.

But the tables and maps and figures of the DEIR traffic analysis hide the most significant defect of the study—failure to describe the impacts of reasonably foreseeable modifications to the I-5/J Street interchange.

Although only VIP parking will be provided at the actual Arena itself, the VIPs can join everybody else backed up from the J Street off-ramps far onto I-5 itself. “The majority of the delay increase during the pre-event peak hour occurs at the J Street/3rd Street/I-5 ramps intersection.” DEIR p. 4.10-71.

“During the pre-event peak hour, the addition of project trips to existing volumes would substantially increase vehicle queues on the SB I-5 off-ramp at J Street. Queued vehicles would extend into the freeway mainline.” DEIR p. 4.10-75.

Ultimately these impacts are identified as significant. But the DEIR evades describing whether or not Caltrans will require physical improvements to the interchange, whether as a reasonably foreseeable aspect of the project or as mitigation.

*“The TMP describes several potential traffic management strategies that could implemented at the J Street/3rd Street/I-5 off-ramps intersection. Since these strategies have not been fully analyzed by the City, a preferred strategy is not presented in this chapter.”* DEIR p. 4.10-75.

Thus the DEIR evades description of the one of the most serious environmental impacts of the project—the reconstruction of the I-5/J Street interchange. Such construction will impact the main entryway to downtown Sacramento, for those who must work and live in addition to those driving to watch professional athletes. A new I-5 interchange would drastically impact the small businesses of Old Sacramento and the downtown core.

↑  
019-26  
cont.

019-27

CEQA prohibits deferring parts of a project or delaying the analysis of mitigation. *Vineyard Area Citizens for Resp. Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441 (“CEQA’s informational purpose ‘is not satisfied by simply stating information will be provided in the future.’”)

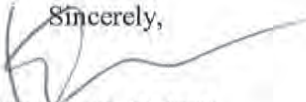
The DEIR attempts to cover this defect with an unsubstantiated statement that somebody spoke with somebody at Caltrans and got the impression that adding ramp capacity would not be feasible due to “*certain geometric design standards not being met.*” This comes nowhere close to the CEQA mandated level of description required.

A description of I-5 interchange improvements must be described before they can be considered. Furthermore, an EIR cannot dodge describing impacts, segments of projects or mitigation by incorporating vague reference to other studies or agencies. *Id.*

The DEIR must fully describe the reasonably foreseeable modifications to the I-5/J Street interchange resulting from the project.

Thank you for your attention to this matter.

Sincerely,



KELLY T. SMITH

019-28

# EXHIBIT A



**Judicial Council of California**  
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS  
770 L Street, Suite 1240 • Sacramento, California 95814-3368  
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TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

STEVEN JAHR  
*Administrative Director of the Courts*

CORY T. JASPERSON  
*Director, Office of Governmental Affairs*

September 12, 2013

Hon. Darrell Steinberg  
President Pro Tempore of the Senate  
State Capitol, Room 205  
Sacramento, California 95814

Subject: SB 743 (Steinberg), *as proposed to be amended* - Oppose

Dear Senator Steinberg:

The Judicial Council regrets to inform you of its continued opposition to SB 743, as proposed to be amended (based on amendments taken or described in the September 11, 2013 hearing in the Assembly Local Government Committee). The bill requires the Judicial Council, on or before July 1, 2014, to adopt a rule of court to establish procedures applicable to certain lawsuits seeking review of a public agency's action in certifying an environmental impact report and in granting project approvals for a downtown arena project in the City of Sacramento. The new version of the bill, which is not yet in print, directs that the procedures established by the rule require that actions or proceedings, including any appeals therefrom, be resolved within 270 days of the certification of the record of proceedings.<sup>1</sup> SB 743, as proposed to be amended, would also amend the recently-enacted expedited judicial review procedures in AB 900 (Stats. 2011, ch. 354) by requiring the council to adopt a parallel rule of court, under the same deadline, which applies the same 270-day timeline for the courts to resolve lawsuits challenging projects that have been certified pursuant to the AB 900 process. It is important to note that the Judicial Council's concerns regarding SB 743 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the job creation goals of the legislation, as those issues are outside the council's purview.

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<sup>1</sup> Based on communications from staff, it is the council's understanding that the prior language in the bill that included "to the extent feasible" for the 270-day timelines is being removed from the measure.

Hon. Darrell Steinberg  
September 12, 2013  
Page 2

The Judicial Council did not take a position on AB 900 in 2011 because of the speed with which that bill moved through the legislative process. A variety of concerns about its expedited judicial review process were conveyed informally to the Legislature, a number of which were addressed at the time. Significant concerns remain<sup>2</sup>, however, some of which were identified more fully during the council's rulemaking process after AB 900 was enacted.

The bill's requirement that any lawsuit challenging either the downtown arena project or an AB 900-certified project, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, the timeline is triggered by *the certification of the record*, which is an action that takes place *before* the court has any jurisdiction or control over the proceedings. This means that under the current version of SB 743, the extremely tight 270-day period in which the trial court and Court of Appeal must issue their respective decisions on an action could—and likely would—begin weeks before the lawsuit is even filed. In the council's view, it makes no sense to make something that occurs before the matter even comes to the courts start the courts' already limited time period to complete their work.

Second, the Judicial Council strongly believes that the 270-day timeline will be unworkable in practice. During the council's development process for the rules to implement AB 900, it became clear that 175 days (which was the timeline under the enacted version of that bill) is an unrealistically short timeframe for the Court of Appeal to decide a large CEQA matter. This bill would shift the initial review to the superior court. As was the case for initial review in the Court of Appeal, even assuming that no extensions of time are granted for any aspect of the proceeding, it appears that it will take about 175 days just to get to hearing in the superior court, much less to issue a decision, in the majority of these cases. Even if the superior court were able to issue its decision within 175 days, which is highly unlikely, that would leave only 95 days for proceedings in the Court of Appeal, which the council believes to be infeasible.<sup>3</sup>

Third, SB 743's expedited judicial review for all of the potential projects covered by the bill will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding these cases has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other

---

<sup>2</sup> AB 900 currently requires the Judicial Council to conduct a study and "report to the Legislature, on or before January 1, 2015, on the effects of [the bill], which shall include, but not be limited to, a description of the benefits, costs, and detriments of the certification of leadership projects pursuant to this chapter." (See Public Resources Code section 21189.2.) The author and his staff have acknowledged that this study language was inadvertently written too broadly, and indicated their intent to pursue clean-up legislation that would make clear that its focus is limited to the impacts on the administration of justice. Such cleanup language was included in the author's SB 52 of 2012, but that measure was not enacted, and it is not contained in the current version of SB 743. Should this bill move forward, the council respectfully requests that it include clarifying amendments to both narrow the scope of the study and extend the deadline for its completion to January 1, 2017, consistent with the other new proposed deadlines in the measure.

<sup>3</sup> In a typical civil appeal, it takes more than 95 days from when a trial court decision becomes final just for the record on appeal to be prepared and filed in the Court of Appeal. This does not include any time for briefing, oral argument, analysis of the issues, or preparation of a decision by the court.



Hon. Darrell Steinberg  
September 12, 2013  
Page 3

cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from any expansion of this expedited judicial review approach would be even more pronounced in light of the dire fiscal straits faced by the judicial branch.

Fourth, providing expedited judicial review for the select projects covered by SB 743 while other cases proceed under the usual civil procedure rules and timelines, in the council's view, undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out these special categories of cases for such preferential treatment appears at odds with how our justice system has historically functioned.

In addition to the above, the council questions the propriety of the provision in SB 743 that requires it to adopt a special set of court rules that will only apply to one potential lawsuit filed in Sacramento County. Furthermore, the provision in the bill that significantly limits the forms of relief that the court may use in any action challenging the downtown arena project<sup>4</sup> interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For all of these reasons, the Judicial Council must respectfully oppose SB 743.

Sincerely,



Daniel Pone  
Senior Attorney

DP/nco

cc: Hon. Ted Gaines, Member of the Senate  
Hon. Cathleen Galgiani, Member of the Senate  
Hon. Jim Nielsen, Member of the Senate  
Hon. Lois Wolk, Member of the Senate  
Hon. Ken Cooley, Member of the Assembly  
Hon. Roger Dickinson, Member of the Assembly  
Hon. Dan Logue, Member of the Assembly  
Hon. Richard Pan, Member of the Assembly  
Members, Assembly Natural Resources Committee

---

<sup>4</sup> See Proposed Public Resources section 21168.6.6(h)(1)(A)(i),(ii)[which provides that the court shall not stay or enjoin the construction or operation of the downtown arena unless the court finds either that its continued construction or operation "presents an imminent threat to the public health and safety" or the site "contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the downtown arena unless the court stays or enjoins the construction or operation of the downtown arena."]



Hon. Darrell Steinberg  
September 12, 2013  
Page 4

Members, Assembly Local Government Committee  
Members, Senate Environmental Quality Committee  
Members, Assembly Judiciary Committee  
Members, Senate Judiciary Committee  
Ms. Kathryn Dresslar, Chief of Staff, Office of Senate President Pro Tempore Darrell Steinberg  
Mr. Kip Lipper, Chief Policy Advisor for Energy and the Environment, Office of Senate President Pro Tempore Darrell Steinberg  
Mr. Anthony Williams, Policy Director, Office of Senate President Pro Tempore Darrell Steinberg  
Ms. Margie Estrada, Policy Consultant, Office of Senate President Pro Tempore Darrell Steinberg  
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Ken Alex, Director, Office of Planning and Research  
Ms. Fredericka McGee, General Counsel, Office of Assembly Speaker John A. Pérez  
Mr. Panama Bartholomy, Special Assistant on Environmental Policy, Office of Assembly Speaker John A. Pérez  
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee  
Mr. John Kennedy, Consultant, Assembly Republican Office of Policy  
Ms. Debbie Michel, Chief Consultant, Assembly Local Government Committee  
Mr. William Weber, Consultant, Assembly Republican Office of Policy  
Mr. Drew Liebert, Chief Counsel, Assembly Judiciary Committee  
Mr. Paul Dress, Consultant, Assembly Republican Caucus  
Ms. Joanne Roy, Consultant, Senate Environmental Quality Committee  
Mr. Lance Christensen, Consultant, Senate Republican Office of Policy  
Mr. Benjamin Palmer, Chief Counsel, Senate Judiciary Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy

# EXHIBIT B



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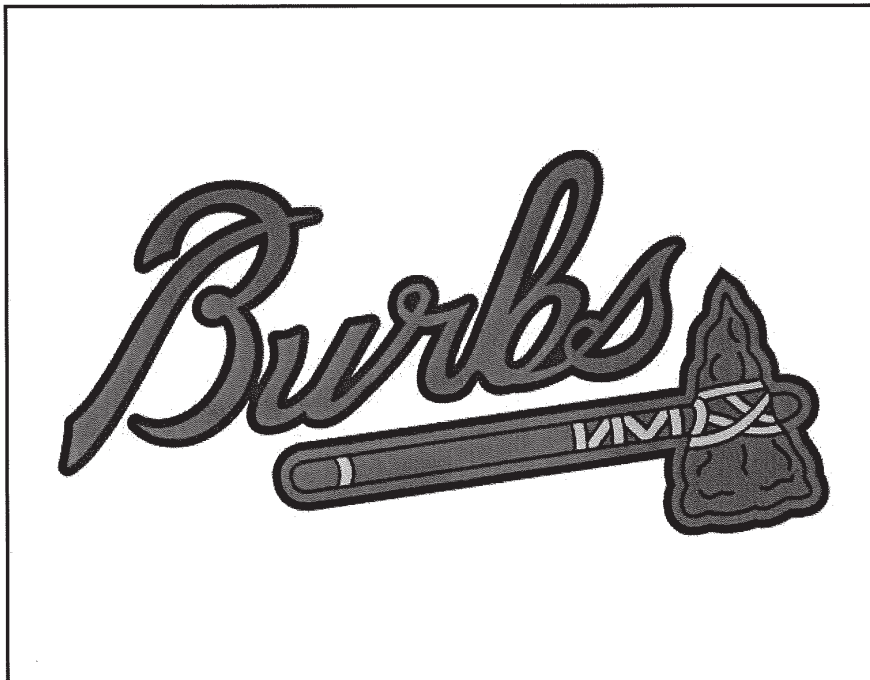
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## The Age of the Throwaway Stadium


Nov 14, 13 • [Consumer](#), [Lifestyle](#), [saving money](#) • [20 Comments](#) • [Read More »](#)



My beloved Atlanta Braves are moving. They are forsaking a stadium that they've played in since 1997 for a new shiny ball-field. There are certainly other political,

NO DEAL  
NO HIDDEN

\$1,500 IN  
SAVINGS

 CAR  
A whole new

Free Save C  
Box Info to  
Inbox

Sign Me Up!



location, and monetary factors that played into this decision, but **the way our culture treats insanely expensive sports arenas is damning.**

This scenario takes place all across our country. Sports teams abandon perfectly good arenas for the new and more revenue friendly option – and often hold their local city or county at gunpoint to foot the bill.



The wonderful city of Seattle knows the effects of this all too well. The Kingdome opened up in 1976 and was demolished in the year 2000. **The taxpayers are still footing the bill for it. They'll finally finish paying for it in 2016**, almost two decades after it's implosion.

**We live in the age of the throwaway stadium** – and you know what, it suits our culture. Most of us approach debt in the same way our cities and sports teams do. We'll buy a new car – or build a new stadium – even when the old one works perfectly fine. Even if we're upside down in our old one! **What is wrong with us?**

We had another intense battle in our city recently over whether the Falcons would move out to the suburbs to build their new stadium. An in-town area was finally settled on for their shiny new gaudy monstrosity – at a commitment of hundreds of millions of dollars from the city. And an overall cost of an estimated \$1.2 billion.

**Someone hand me a barf bag. Is that number for real?** Their incredibly run-

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The @sprintcare rep convince me that the charge is a legit and t costs them a lot. I'm r

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ATL SNOWPOCALYPISE  
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pic.twitter.com/iTr1w1  
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down (*sarcasm intended*) impossible to play in (*sarcasm again*) Georgia Dome opened in 1992. **I have awesome furniture older than that!**

**So what's the problem?** I have a lot of issues with the way this system works. But lets focus on the main issue at hand. **Stadium lust.**

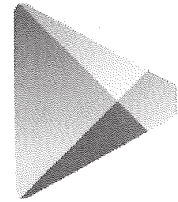
It's gotten out of hand. I'm tired of it. If my Nissan Altima with over 200,000 miles on it can still hack it, then Turner Field can certainly handle a few hundred more doubles to the left field corner. And the Georgia Dome can also handle some more end zone dances following a sick touchdown run.



**What's up with our incessant need for the latest and greatest?** I understand getting rid of the outdated things around us. **There's an obvious reason that typewriter factories don't exist anymore, right?** But these infantile stadiums aren't an example of that. They do their job and they do it well. Look at Wrigley Field and Fenway Park. They've been there for 100+ years. And they still bring immense enjoyment to their fan base. Every year. Without fail.

**We should build things to last.** Stadiums made out of particleboard just won't do. The short-term Ikea approach towards sports arenas has failed us. It has left us with

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unfinished bonds for imploded stadiums. It is leaving us with blight in our neighborhoods and richer team ownership to show for it. Lets focus on long-term solutions in our lives as opposed to just grabbing the quickest and cheapest option.

**Let's avoid this in our personal lives as well.** Just like the car example I mentioned earlier, it's easy to ditch our old hunk of junk for a shiny new piece of metal. But that comes with its own problems – a big new monthly payment, higher taxes, and increased insurance costs. Continually “trading up” won't make you feel better. It won't solve problems in your life. It'll only impoverish you. Practice being content. It will pay long-term dividends.

**We live in the age of the throwaway stadium. But we don't have to subscribe to this throwaway mentality.**

*[photos courtesy of [Seattle Municipal Archives](#) and [Donald](#)]*

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### 20 Responses to The Age of the Throwaway Stadium



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1.  Jau says:

November 14, 2013 at 9:34 am

Great post, Joel! I think the fact that taxpayers are forced (i.e., if you don't pay your taxes, you go to jail) to pay for these stadiums is proof they're a bad deal. The reason there aren't typewriter factories anymore is entrepreneurs had better ideas, investors recognized the value of these new ideas, and VOLUNTARILY offered up funds to pay for the new PC factories. Putting a gun to taxpayers' heads is a major red flag.


Jay recently posted...[I can't cut it.](#) 

Reply

◦  JoelLarsgaard says:

November 14, 2013 at 1:10 pm

Thanks Jay! Yeah, there's a lot of money being requested/demanded by people that are making a lot. It creates even higher salaries for everyone involved in the sports industry. Normal businesses don't get that sort of special treatment from their local governments.

JoelLarsgaard recently posted...[5 Reasons to Consider Working For Yourself](#) 

Reply


2.  Kali @ CommonSenseMillennial says:

November 14, 2013 at 9:59 am

Great post – so nice to read something logical and rational after all this stadium craziness! I thought the Falcons building a new stadium was a little silly (especially after I saw the planned designed for the new one..), but the situation with the Bravos is just ridiculous. There is absolutely nothing wrong with The Ted. The surrounding neighborhood may not be fantastic, but it's accessible from 75/85 and 20 – sticking it up 75 in Smyrna is going to be an



absolute nightmare when it comes to traffic. I like how Cobb County has created furlough days for its teachers, but is willing to shell out millions in tax dollars to build a stadium for a team who has a 16 year choking streak in the playoffs.

Kali @ CommonSenseMillennial recently posted...[Why Hipsters Should Be Our New Financial Role Models](#) 

[Reply](#)



JoelLarsgaard says:

November 14, 2013 at 1:22 pm

Yeah. That Falcons stadium is pretty ridiculous, especially when you consider the cost. And it certainly does seem like Cobb County, and we the American people as a whole, don't have our priorities straight. When a brand new stadium comes at such high cost and wastefulness it should cause us to do some thinking about what really matters. What an odd thing to blow up such a nice stadium.

JoelLarsgaard recently posted...[To Be or Not To Be a Minimalist](#) 


[Reply](#)



3. Shannon @ Financially Blonde says:

November 14, 2013 at 10:40 am

Completely agree! We get so fixated on the "shiny new toy" but then get buyer's remorse and financial headaches after it. Just like it is easier to lose weight by not eating the bad food for us to begin with, it is easier to be financially sound if we don't buy the latest and greatest all the time.

Shannon @ Financially Blonde recently posted...[Wealth Strategies That Won't Work – I am going to marry rich!](#) 

[Reply](#)



◦ [JoelLarsgaard](#) says:

November 14, 2013 at 1:16 pm

Totally agreed Shannon. Makes me sad at the insane amount of waste that will be created from this whole move.

JoelLarsgaard recently posted...[3 Pop Culture Money Questions](#)

[Answered](#)

[Reply](#)



4. [Kevin Fields](#) says:

November 14, 2013 at 1:04 pm

Allow me to offer an opposite opinion that shows how both the Braves and Falcons deals benefit everybody. The reason the Falcons deal makes sense is because the new stadium is going to be built on state owned land, so the cost to taxpayers is minimized. For the Braves deal, Cobb County already has three existing pools of money that they will be using to pay for the stadium, so it is not going to cost bear taxpayers any additional taxes or fees to finance. The city of Atlanta is going to demolish Turner Field, and sell the property to a developer, so therefore the city and the taxpayers of Atlanta will actually make money, not lose money.in both cases, the Falcons and Braves will both be building not only new baseball facilities, they will also be developing the property around be stadiums to include restaurants hotels and other amenities that they will profit from as well.


[Reply](#)



◦ [JoelLarsgaard](#) says:

November 14, 2013 at 1:14 pm

I hear ya Kevin. My main objection is still “stadium lust.” It’s a lavish waste of money as a whole and a squandering of a perfectly good, very expensive sports arena. Turner Field is a baby. What a pity to blow it up.

JoelLarsgaard recently posted...[Should Our Growing Family be Downsizing?](#) 

[Reply](#)



Kevin Fields says:

[November 14, 2013 at 5:15 pm](#)

In many cases, though, I will agree with wastefulness of stadiums. The Seattle and Minneapolis stadiums are prime examples of that. Very expensive to build, and being replaced before it's paid off, and taxpayers are on the hook for most of it. I recently heard in NPR that, on average, NFL teams budgets are subsidized by almost 75% via local and state taxes and incentives. Expecting the tax base to pony up millions of dollars, in most cases, is ridiculous.

I'll give another example where building a new stadium made sense, that's Indianapolis. The Hoosier Dome was planned in the early 1980s as a way to draw an NFL team to the city, there were several that had been talking about moving. At the time, the Baltimore Colts were not in the mix, but when Baltimore and the state of Maryland not only refused to honor previous commitments to repair and expand the 40 year-old stadium that was too small and had crumbling infrastructure, it forced the Colts to reconsider. And when the Maryland legislature actually started a bill to take control of the team via Eminent Domain, that sealed the deal, the Colts bolted overnight for Indy, who welcomed them with open arms.

The 1980s-era Hoosier Dome (later RCA Dome) was built to late 70s-early 80s standards and it was a very nice municipal, multi-use stadium. Unfortunately it was built just before the big stadium boom started, with more focus on luxury and box seats,

VIP sections, giant indoor screens, etc. Within two decades, it went from being a model municipal stadium to one that not only looked plain, but absolutely underwhelming.

The decision to blow up the Dome and replace it with Lucas Oil Stadium ended up being a no-brainer. A new stadium with modern amenities means that the venue can make more money and continue to be of use. The old site of the Dome became a parking lot of the new stadium, something else that was desperately needed in the downtown area. The areas around the Dome/Stadium had already been developed into high-end shopping and hotels, which saw a pretty good boost from the Super Bowl that came just a year or so later.

Same story can be told for Market Square Arena, home of the Indiana Pacers. Built in the late 60s, it too was a great municipal stadium, but by the time the 90s came around and the Pacers had a great couple of runs into the playoffs, its lack of amenities became painfully clear. The new Bankers Life Fieldhouse is even more iconic (mirroring the designs of nearby Hinkle Fieldhouse, as well as other famous basketball venues in Indiana), and while I loved MSA, it really does pale in comparison to the Fieldhouse. The old MSA site became the new home of a structured parking garage.

Of course, it helps that Indianapolis the self-proclaimed "Sports Capital of the World". With an NBA, WNBA, NFL, AAA baseball, pro soccer and hockey team, as well as the headquarters of NCAA, quality venues are almost a must.


#### Reply

-  Joel Larsgaard says:

November 15, 2013 at 9:48 am

I won't disagree that sometimes a city and a team need a new venue. That wasn't the case in either of these scenarios in Atlanta. And why in the world aren't these stadiums built to last longer? I know that our city has been shortsighted and they refused to commit a maintenance fund to Turner Field. That was stupid.

On another note, the NFL, MLB, NBA and the team owners should be paying for a lot more of the cost. Them not doing so has led to greater profit margins, inflated salaries, and outrageous demands. And Joe Taxpayer ends up on the hook for everything – including higher ticket and concession prices. Not to mention his tax bill.

JoelLarsgaard recently posted...[Debt vs Strange Roommate. Which would you pick?](#) 

Reply



◦ *Ski* says:

November 16, 2013 at 9:57 am

Great points!!! I was agreeing with this post till i scrolled down and saw your point of view!! Knock that shit down, build a new more cost efficient one, sell the old land so the buyer/developer can build hotels n restaurants to create more jobs to keep the city booming!!!

Reply



▪ *JoelLarsgaard* says:

November 16, 2013 at 3:24 pm

Knock that shit down? Yeah, we're gonna disagree here. That's the exact point of view I'm trying to battle here. Newer and shinier is not always better. And the way we run through stadiums is crazy. We should approach the development of our

stadiums, cities, and personal lives with more of a long-term approach – at least in my opinion. 😊

JoelLarsgaard recently posted...[5 Reasons Working for the Man Isn't All That Bad](#) 🌟

Reply

5.  Andy Darnell says:

November 16, 2013 at 9:43 am

Lease vs Own is too much of a part of this issue than is being discussed.

The Braves entered a 20 year deal. They are honoring that contract. In a society where contracts and covenants are ignored and torn up, the Braves are fulfilling their part of the deal.

Repairs to a home must be done otherwise it could become unsafe but also undesirable to live in. The repairs needed aren't right now, but the investment over the short and long term by the Braves are why they are not renewing. The Braves aren't throwing away their stadium, they are returning it to its owner and making a business decision if where they need to live in 2017.

AND... their getting away from a landlord who has been taking advantage of them for years. Don't miss that fact.

Reply

◦  JoelLarsgaard says:


November 16, 2013 at 3:41 pm

I agree that the landlord (city of Atlanta) in this case has done a terrible job. It wasn't my intention to give a ruling on the mismanagement on the part of the city and the Braves – although I certainly could do so for both. 😊 But it doesn't negate the fact that we as a culture continue to let useful stadiums be blown up – consistently. Stadiums with lots of

useful life left should not be discarded, especially at the expense of the taxpayers for the benefit of super-rich players and (especially) owners.

JoelLarsgaard recently posted...[Should Our Growing Family be Downsizing?](#) 🌐

[Reply](#)

6.  [Jack Yeager](#) says:

[November 16, 2013 at 11:15 am](#)

Kevin's note (above) "...so it's not going to cost their taxpayers any additional taxes or fees..." is a joke. Be careful what you wish for Cobb County- all I can say is good luck to ya taxpayers of Cobb.

I'm glad Mayor Reed didn't agree to this nonsense.

[Reply](#)

◦  [JoelLarsgaard](#) says:

[November 16, 2013 at 3:34 pm](#)

Agreed Jack. Although maintenance on an already built stadium is a whole lot cheaper than building a whole new one – unless you are claiming the ridiculous maintenance costs the Braves are. 😊

JoelLarsgaard recently posted...[To Be or Not To Be a Minimalist](#) 🌐


[Reply](#)

7.  [James Molet \(SavvyJames\)](#) says:

[November 16, 2013 at 3:26 pm](#)

Unfortunately, we absolutely live in a society that has a throwaway, disposable mentality that extends from items that cost \$1.50 all the way up to multi-million dollar stadiums and arenas. No doubt that we have to get a whole lot smarter about how we use/re-use our resources. After all, nothing is limitless.



James Molet (SavvyJames) recently posted...[Your Rendezvous With Retirement](#) 


[Reply](#)



◦ [JoelLarsgaard](#) says:

[November 16, 2013 at 3:36 pm](#)

Exactly my sentiment James. We waste about 40% of our food in America too! Our society is very much used to trashing things that have worn out their welcome – including incredibly expensive stadiums. Nothing is limitless. We need to slow our roll on demolishing arenas that still have lots of life left in them.

JoelLarsgaard recently posted...[Debt vs Strange Roommate. Which would you pick?](#) 

[Reply](#)



8. [Golflin Gortenats](#) says:

[November 24, 2013 at 5:56 pm](#)

Worst example in recent history is the Lucas Oil Monstrosity. Delusional Indy people thought hosting the superbowl would give them some kind of economic boon. No such luck. The logical fallacies and irrational thinking never dies in the midwest.


[Reply](#)



9. [Andy@artofbeingcheap](#) says:

[November 25, 2013 at 8:24 am](#)

Well said. It drives me mad that communities are paying hundreds of millions of dollars to fund for profit businesses. Occasionally on the news I hear about a city's voters saying no, and I think "good for them". Throwing away a stadium that is wasn't even built when I graduated high school is ridiculous. Maybe cities that fund stadiums should require much longer leases. 50 years?

Andy@artofbeingcheap recently posted...[Review of the Moto X and Republic Wireless smartphone plan](#) 

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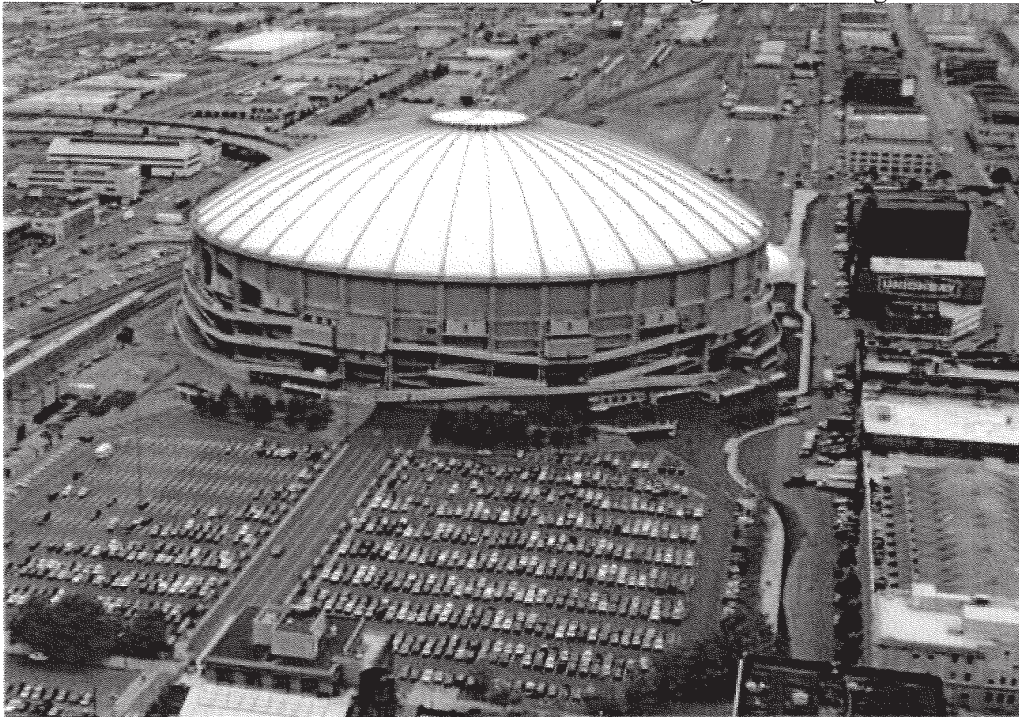
page contents ↕

# EXHIBIT C

### The Seattle Kingdome

Note: This material is excerpted from Boothby, Thomas E. and Roise, Charlene K. Soaring or Crashing? The Challenges of Preserving Thin-Shell Concrete Construction, in Slaton D., Foulks; W.G. *Preserving the Recent Past 2*. Washington, Historic Preservation Education Foundation, 2000.

The design of the King County Stadium (completed in 1975 and later renamed the Kingdome) was a joint venture including Skilling, Helle, Christiansen, and Robertson, although most of the credit for the form of the roof is due to Jack Christiansen. In the words of David Billington, "The Kingdome is by far the most economical large-scale fixed covered stadium ever built....The Kingdome is also the most visually dramatic roof structure of any large covered stadium anywhere, both from above and from the inside. It is an extraordinarily striking thin-shell design...."<sup>1</sup>



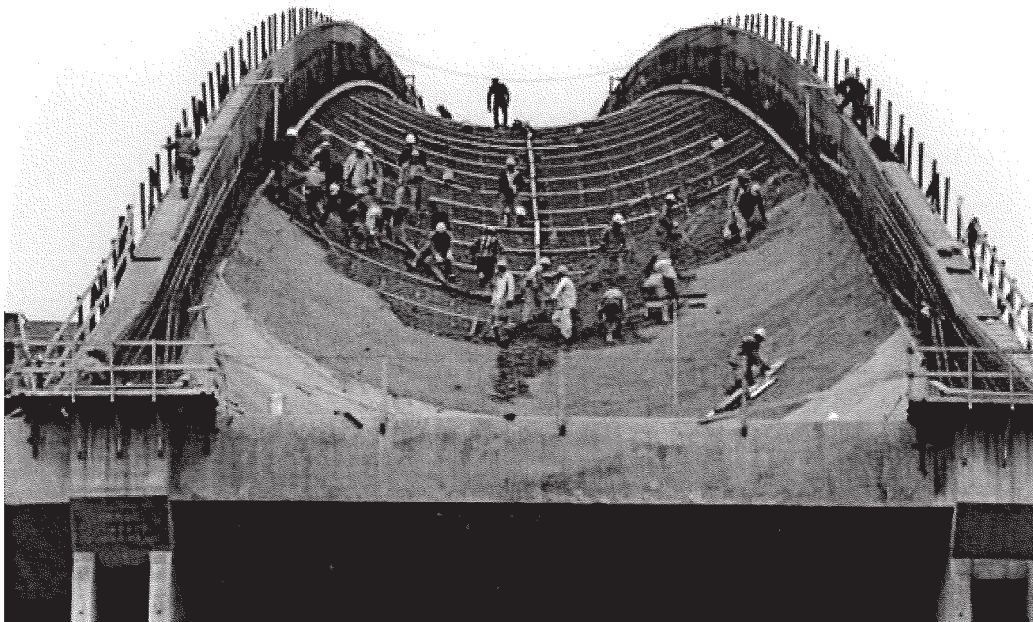
*The Kingdome, Seattle, WA, 1995, following the completion of the roof repairs (courtesy of The Seattle Times)*

The form of the roof is a scalloped shell, consisting of radial stiffening ribs across the 660-foot diameter, roughly in the shape of an umbrella, with inverted barrel vaults draped between the ribs. Concrete placement and consolidation in the shell portions of the roof structure was quite difficult, as evidenced by the photograph of this operation (Figure 6). As a result, according to a 1994 article in the *Engineering News-Record*, low density and honeycombing of the concrete were widespread<sup>2</sup>. The roof insulation is a patented cemented composite wood-fiber board known as Tectum, that has a layer of asphalt felt at the top to receive a roof membrane—however, contrary to the usual application of this material, it was placed *below* the roof deck, and used as a stay-in-place form liner. As a result of this, the insulation was very poorly bonded to the roof. By 1994, 19 years after the opening of the stadium, the roof was in very poor condition, due to lack of cleaning, and attack by seagulls. The original roof was a spray-applied urethane foam material, a very poor roofing material. Water from Seattle's frequent rains had penetrated the roof membrane and found easy paths through the poorly consolidated concrete. To make matters worse, in a roof replacement scheme under construction the



roof membrane was stripped, and the roof deck was being cleaned with very high-pressure water spray. According to the *Engineering News-Record*,

After frequent leaks and repeated repair attempts, the county decided to strip off the moisture-prone urethane foam in 1993. Without engaging an engineer for the \$4 million scheme, the county substituted a modified cement grout and silicone elastomeric coating that, it turned out, failed to bond well. Furthermore, the new system lacked insulation, in violation of the state energy code....In March 1994, they switched to pressure washing at 25,000 to 40,000 psi. Management's reaction highlighted a rift; the Kingdome's facilities manager looked after the stadium's interior and the county's facilities manager oversaw the exterior. To no avail, the interior's manager complained about the hydroblasting. On July 19, just before a Seattle Mariners baseball game, four waterlogged ceiling tiles [the Tectum stay-in-place formwork/insulation] fell to the floor of the vacant stadium.<sup>3</sup>



*Kingdome, Seattle, WA, 1975, Concrete Placement in Shell Roof, Courtesy, The Seattle Times. This photo shows the real difficulties of concrete placement on a steeply and variably sloping roof. A very stiff concrete is being used, difficult to consolidate properly in the best of conditions.*



*The Kingdome, Seattle, WA. March 2000. This photograph was taken immediately prior to the implosion, during the intentional weakening of the building frame to prepare for the implosion. Photo by Charlene Roise.*

From the beginning, the Kingdome does not appear to have ever been particularly well-liked by the public in Seattle. A 1993 readers' poll in the *Seattle Times* (taken well before the ceiling repair fiasco) identified the Kingdome as Seattle's worst building<sup>4</sup>. After the Seattle Mariners were unable to resume their home schedule for the remainder of 1994, roof repair crews suffered two fatalities and a subsequent delay of an additional 2 months in the completion of the repairs, and roof repairs initially estimated at \$4 million were completed at a cost of over \$50 million in public funds<sup>3</sup>, the public had no love left for the Kingdome. Regina Hackett, in a commemorative piece entitled "That Massive Concrete Shell Had Few Friends Left in the End," which ran on March 27, 2000, the date of the implosion, says "Willam Bain of NBBJ, the architectural firm in charge of the Kingdome's design, refused to acknowledge it even had a chief designer, even though George Loschky is usually given the dubious honor."<sup>5</sup> The implosion of the Kingdome on March 27, 2000 seems to have been met with the kind of public glee that often characterizes such unhappy events. The Kingdome will be replaced by two sports venues, an as-yet-unnamed football and soccer stadium on the site of the Kingdome, and Safeco Field, the retractable-roofed baseball arena, which is described by ballparks.com as "...built to resemble the great ballparks of yesteryear." (<http://www.ballparks.com/baseball/american/seabpk.htm>). Descriptions of the new football and soccer stadium, as well as clips of the Kingdome implosion can be obtained at <http://www.seahawks.com/>. The implosion of the Kingdome can be viewed at <http://www.espn.go.com/gen/2000/0324/444455.html>





*The Kingdome and its replacement, Safeco Field ("built to resemble the great ballparks of yesteryear<sup>2</sup>"), Seattle, WA. March 2000. Photo by Charlene Roise.*

### Lessons Learned

An important legacy of the modern movement in architecture, as well as a daring technical innovation, thin-shell concrete buildings are increasingly threatened by public disdain and functional obsolescence. In recent years, some particularly important thin-shell concrete buildings have been removed, often with the use of public funds. The poor public perception is exacerbated by some of the vexing technical problems frequently encountered in these buildings.

The long-term preservation of thin-shell concrete buildings will require not only the development of improved awareness of the importance and worth of these buildings, but also the resolution of important technical problems of concrete repair and rehabilitation and roofing.

The political management of technical issues is arguably more important than the application of appropriate technology. A quotation by Richard K. Sandaas, Kingdome interim director, from a review of the roofing repairs of the Kingdome is particularly revealing. "The lesson learned here must be to avoid this situation in the future by planning and programming, and by funding maintenance, operations, and capital improvements with a long-term vision."<sup>3</sup>

### Notes

1. Billington, David. Letter to the editor, *The Seattle Times*, June 15, 1997.
2. Falling ceiling tiles uncover problems, *Engineering News-Record*, August 1, 1994.
3. One steep roof repair, *Engineering News-Record*, 234(8):30-32, February 27, 1995.
4. City's worst building described as a 'blight.' *The Seattle Times*, March 28, 1993, B2.
5. Hackett, Regina. That massive concrete shell had few friends left in the end, *Seattle Post-Intelligencer*, March 27, 2000.

# EXHIBIT D

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[House Hearing, 110 Congress]  
[From the U.S. Government Printing Office]

BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADIUMS,  
CONVENTION CENTERS AND HOTELS DELIVER AS PROMISED FOR AMERICA'S CITIES?

=====

HEARING  
before the  
SUBCOMMITTEE ON DOMESTIC POLICY  
of the  
COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TENTH CONGRESS  
FIRST SESSION

\_\_\_\_\_  
MARCH 29, 2007

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Serial No. 110-23  
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Printed for the use of the Committee on Oversight and Government Reform

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BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADIUMS,  
CONVENTION CENTERS AND HOTELS DELIVER AS PROMISED FOR AMERICA'S CITIES?

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THURSDAY, MARCH 29, 2007

House of Representatives,  
Subcommittee on Domestic Policy,  
Committee on Oversight and Government Reform,  
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in  
room 2154, Rayburn House Office Building, Hon. Dennis J.  
Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Cummings, Kucinich, Davis of  
Illinois, Tierney, Watson, Braley, Souder, Turner, and Issa.

Staff present: Jaron Bourke, staff director; Noura Erakat,  
counsel; Jean Gosa, clerk; Nidia Salazar, staff assistant; Amy  
Vossbrinck, scheduler, Office of Congressman Dennis J.  
Kucinich; Erin Holloway, legislative assistant, Office of  
Congressman Dennis J. Kucinich; Leneal Scott, information  
systems manager; Jay O'Callaghan and Kristina Husar, minority  
professional staff members; John Cuaderes, minority senior  
investigator and policy advisor; Benjamin Chance, minority  
clerk; and Meredith Liberty, minority staff assistant and  
correspondence coordinator.

Mr. Kucinich. The Subcommittee on Domestic Policy of the  
Committee on Oversight and Government Reform will now come to  
order.

Without objection, the Chair and the ranking member will  
have 5 minutes to make opening statements followed by opening  
statements not to exceed 3 minutes by any other Member who  
seeks recognition.

Without objection, Members and witnesses will have 5  
legislative days to submit a written statement or extraneous  
materials for the record.

Good morning and welcome.

This is the second hearing in a series of hearings on the  
state of urban America. The series intends to take a closer  
look at American cities, their progress, their problems and  
their future. Today's hearing will examine the use of taxpayer-  
financed debt for the construction of sports stadiums,  
convention centers and hotels as well as recent regulatory  
changes by the IRS that could significantly increase the use of  
tax-exempt bonds for historically private activities.

Last week, our hearing looked at the subprime mortgage  
industry and the problem of foreclosure, the payday lending  
industry and the enforcement of the Community Reinvestment Act.  
In the coming weeks, we will also take a look at the retail and



grocery store industries as well as access to health care in the heart of urban America.

Today, we are taking a look at the use of tax-exempt financed debt for the construction of sports stadiums, convention centers and hotels. My own city of Cleveland has had experience in this regard.

In 1990, the Central Market Gateway Project was formed to develop new stadiums for the Cleveland Indians and the Cleveland Cavaliers. Developers mounted a ballot initiative known as Issue 2 and made claims in their paid advertising that will sound familiar to our witnesses: ``Who wins with Issue 2? We all do; 28,000 jobs for the jobless, neighborhood housing for the homeless, \$15 million a year for schools for our children, revenues for city and county clinics and hospitals for the sick, energy assistance for the elderly.''

The public relations campaign was coupled with hardball threats from Major League Baseball to relocate the Cleveland Indians. The initiative passed by a narrow margin and by 1996, the total cost was up to \$462 million, two-thirds of which came from the public, and by 1997, that cost was still rising.

By the way, for the record, we did invite Major League Baseball to testify today. They declined.

Cleveland had a municipal football stadium and an intensely loyal fan base, affectionately known as the ``Dawg Pound.''

But that wasn't enough and the Cleveland Browns left Cleveland for a new stadium built with taxpayer subsidies in Baltimore. NFL officials insisted that a new stadium and not renovations would be necessary to get a replacement-football team. Cleveland replaced its stadium with a football only structure paid for primarily with tax money.

After spending hundreds of millions of taxpayer dollars to subsidize stadiums for professional baseball, basketball and football, Cleveland's economy does not show the appropriate progress. We have among the highest poverty rates in the Nation and one of the highest foreclosure rates. This month marks the 132nd month or exactly 11 years in which Ohio's job growth is below the national average. This figure is unprecedented nationally.

Whereas Ohio is growing slower than the rest of the country, Cleveland is growing slower than the rest of Ohio. During the 2000 recession, Cuyahoga County lost 75,733 jobs or 9.3 percent of all of its jobs.

The Gateway Project, which promised to generate tens of thousands of new jobs ushered in a period of net jobs lost since its construction. The Gateway Project neighborhood is particularly striking because the neighborhood is even more vacant and has even fewer jobs after the construction of the Gateway Project than before.

Nationally, sports stadium construction is not effective at boosting the local economy and revitalizing urban neighborhoods. Academic research shows that on all counts, sports stadiums add no benefit, no substantial economic benefit to the cities in which they are built, no new jobs, new additional revenue for schools, no new business, no additional value.

In a review of the academic literature, economist Andrew Zimbalist concluded, ``Few fields of empirical economic research offer virtual unanimity of findings. Yet, independent work on the economic impact of stadiums and arenas has uniformly found there is no statistically positive correlation

- BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADI... Page 6 of 67

between sports facility construction and economic development.''

While taxpayer-financed stadiums do not seem to add to the wealth of the public who pay for them, they do add to the wealth of team owners. Consider the Detroit Tigers and the Detroit Lions. We will hear about them and their stadiums from one of our witnesses today. The value of the Detroit Tigers rose from \$83 million in 1995 to \$290 million in 2001, the year after the team moved into their new stadium. The Lions' increase in value is even more dramatic, rising from \$150 million in 1996 to \$839 million in 2006.

Economic benefit to the team owners was certainly the case for George Bush, who in 1989 spent about \$600,000 to buy a small stake in the Texas Rangers baseball team. During his ownership, Mr. Bush and his co-investors were able to get voters to approve a sales tax increase to pay more than two-thirds of the cost of a new \$191 million stadium for the Rangers as well as surrounding development. Mr. Bush and his partners also received a loan from the public authority charged with financing the stadium to cover their private share of the construction costs.

By 1994, the Rangers, in their new publicly financed stadium, were sold for \$250 million, a threefold increase in value in merely 5 years and one that was largely attributable to a new taxpayer subsidized stadium. Mr. Bush personally came away with a profit of \$14.9 million. In this case, the tax-exempt financing indisputably benefited the owners of the Texas Rangers.

Public financing of sports benefits the team owners but not, according to academic consensus, the public. So is tax-exempt financing of stadium construction an appropriate use of taxpayer funds?

Well, the law on this matter is the 1986 Tax Reform Act. As our witnesses will testify, the 1986 act removed sports stadiums from the list of eligible private activities that could be financed with tax-exempt private activity bonds. That was the state of affairs until last year when the IRS issued three rulings.

Two of them were private letter rulings favorable to the Yankees and the Mets, allowing them to use previously prohibited private payments for debt service on tax-exempt bonds. Thus, the new Yankees and Mets stadiums can be built at taxpayer expense. The third was a proposed rulemaking that generalized the Yankees and Mets rulings. The effect of these three rulings would seem to subvert the intent of the 1986 Tax Reform Act as regards to public financing of sports stadium construction.

Today, we will have the opportunity to hear from experts from around the country as well as from the Chief Counsel of the IRS on these questions.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. At this point, I would ask the witnesses to stand.

[Witnesses sworn.]

Mr. Kucinich. Let the record show that the witnesses answered in the affirmative.

- BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADI...Page 7 of 67

I would like to introduce Ms. Joyce Hogi. Ms. Hogi has lived in the Bronx, NY, for the past 30 years. Her apartment used to look out onto the largest public park in the South Bronx. That is Macomb's Dam Park, right?

She now looks onto a construction site for a planned parking garage for the new Yankee Stadium.

She has been a community leader in the unsuccessful effort to save public park land in her community from destruction to make room for a new Yankee Stadium.

Why don't you begin with your testimony, and then I will introduce the individual witnesses as we go along?

STATEMENTS OF JOYCE HOGI, BRONX, NY; FRANK RASHID, MARYGROVE COLLEGE, DETROIT, MI; AND NICK LICATA, PRESIDENT, SEATTLE CITY COUNCIL, SEATTLE, WA

STATEMENT OF JOYCE HOGI

Ms. Hogi. Good morning. My name is Joyce Hogi. I am a 63 year old widow who has lived in the Bronx for the past 30 years, specifically the South Bronx area surrounding Yankee Stadium. Thank you so much for this opportunity to submit testimony concerning the community's reaction to the alienation of our public park land for private use by the Yankee Stadium organization.

This morning, I will tell you the sad story of how 22 acres of park land primarily known as Macomb's Dam and the southern portion of John Mullaly Parks were taken from our community, how the shameful consequences of the construction of the new stadium is on the destruction of our parks.

I have laid out my testimony in three sections.

The importance of the parks to the community: Macomb's Dam was opened in 1899. It immediately drew neighborhood children and aspiring athletes to its extensive recreational facilities. The quarter mile track was a favorite for local and European runners. The track was named Joseph Yancey Track and Field in honor of the co-founder of the New York Pioneers Track and Field Club, an interracial team that developed many Olympic athletes.

These parks are located in the poorest congressional district in the United States but were essentially our Central Park. It was one of the few linear parks in New York City. These parks continued to be used for sports activities for both adults and youth after all these years. They were invaluable to us. They contained a soccer field, a running track, two baseball and softball fields, handball and 16 tennis courts.

The process that set in motion the demolition of our parks had no standard and was arbitrary and capricious.

The overall view from the New York City Department of Parks and Recreation stated that it proposed to allow for the redevelopment of a new Yankee stadium by the Yankees on portions of those parks adjacent to the existing stadium site. This new open air stadium with a capacity for 54,000 spectators, which I might add is 4,000 less than the current facility seats, would replace the existing 82 year old stadium which can effectively accommodate a modern baseball team and provide greatly improved spectator and parking facilities. This project proposes to construct four new parking garages.

This statement sounded the death knell for the parks and for the thousands of residents and school children in an area

- BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADI...Page 8 of 67

deficient of parks, exacerbating other problems already experienced by us. After our initial shock, we came together as a community.

Our New York State legislators, on a day at the end of the legislative session when hundreds of bills were passed, removed the protections ensuring that our beloved parks would remain undeveloped in perpetuity. They decided it was in our best interest to offer a parcel of land that is 40 percent bigger than that of the World Trade Center, not for a public good but to enrich a private business.

We at SaveOurParks! obtained the transcript from the assembly and were just stunned to see how casually the vote to relinquish our beloved park land in such an impoverished community was conducted. Despite the fact that no efforts were made to inform the community of the impending park alienation, the assembly member who introduced the bill proclaimed no community opposition to the project. We were shunned by our elected officials, and we were accused of bringing in professional protesters by Randy Levine, president of the Yankees Organization, as if the community could not discern when it was getting a bad deal.

The media mostly was enamored and was not able to understand the community's point of view as the Yankees had hired Howard Rubenstein Associates, a major well connected public relations firm in New York City to provide a steady stream of material to all the media outlet, selling their projects.

While some newspapers would print an occasional account of the proceedings, Patrick Arden of Metro New York got it and he stayed on the case. He understood the injustices. He showed up at all our hearings. He wrote about it every chance he could get.

SaveOurParks!, supported by other organizations seeking alternative transportation, believed that everything should be done to encourage mass transportation to alleviate the need for the garages. We are in a highly affected asthma community.

We argued for improved subways, the building of a Metro-North station at Yankee Stadium and for the rehabilitation of the neighborhood's Melrose train station on the Harlem and New Haven lines. We argued for train tickets tied to game tickets as an incentive to use mass transit. We have a congressional appropriation for \$2.4 million to upgrade the Metro-North stations in the Bronx and to construct a stadium at Yankee Stadium. Everything seemed to be lined up for a station, but the project did not address it.

Economic development for the community will occur as a result of this new stadium, we were told by the supporters. We contend that economic development will occur as a result of our changing times, not by a stadium. The New York Yankees have been our neighbors for over 80 years. Given the poverty and unemployment rates in the South Bronx, it would seem that no economic benefits have been realized of having the legendary Yankees in our community.

We were told at a contentious community board meeting by parks officials that we are getting bigger and better parks that we would not get if the Yankees weren't building a new stadium. We already had funds allocated to refurbish those parks, and the waterfront parks that we were promised were already included in the plan by the city to build pathways along the entire Harlem River. So it did not need to be a part

of this project.

Additionally, the replacement parks we are promised are scheduled to be built atop concrete parking garages and are subject to closure on game days for security reasons.

Macomb's Dam Park was renovated in the 1980's with Federal funds. To gain approval to convert this park to a non-park or private use required that the following criteria be met: that the review must look at practical alternatives for the project, that new park land must be of the same market value and that new park land must be of equivalent usefulness and location. None of these applied.

The plan states that the Bronx does not have enough quality park land in the first place. It also says that new park land is supposed to be easier for people with disabilities to get to. The parks on top of parking garages are not easier.

The consequences for Macomb's Dam and portion of John Mullaly Parks caused by the construction of the new Yankee Stadium, in a word, shameful. Imagine living across the street from a major development, 100 feet or so, with trucks lining up outside as early as 4 a.m., idling for up to an hour or longer.

Imagine dust coming into your apartment that cannot be controlled regardless of how tightly your windows are closed. Imagine mud and water ponding on the streets in front of you.

Imagine, if you will, the noise from jackhammers going nonstop. I have had residents tell me they leave home during the day because they cannot stand the noise.

Imagine water from your taps running brown from who knows what.

Imagine trying to cross a busy street with children or as an elderly person dodging traffic because drivers are losing patience with trying to maneuver around all the truck traffic.

Imagine the tennis center vendor who lost nine of his courts to the construction but was told he could operate until the end of April 2007. He received a letter from DPR, the Department of Parks and Recreation, a week before he had to close the remainder of the courts on February 28th because construction was ahead of schedule and storage equipment would now occupy that space.

Imagine the drone of helicopters flying over the construction area up to 7 days a week.

Our parks and over 400 trees were sacrificed to make room for the new stadium and four new parking garages. The stadium will sit in a residential area 100 feet from several fully occupied apartment houses. Residents of these buildings will face a monolithic 14-story wall enclosing the stadium isolating residents, even the numerous Yankee fans, from the neighborhood. Imagine the trees you are used to seeing outside your front window.

There has been a total lack of accountability during the construction.

Finally, around midnight, Sunday, August 13, 2006, the Parks Department staff came into our community, closed off this lovely tree-lined 167th Street, put up fencing around Macomb's Dam Park, posted security guards and trucked what was later determined to be very high quality mulch to put around the trees as a backdrop for the groundbreaking of the new stadium scheduled for a couple of days later.

When residents arrived on Monday morning for their walks, jogs on the track, they were told this is private property and they weren't let in.



The day after the groundbreaking, the trees were cut down. We had counted on the National Park Service to protect us. We found later on they were complicit with the city, the State and the Yankees prior to our learning about the project to hand over those federally funded parks to the Yankees.

Thank you very much.

[The prepared statement of Ms. Hogi follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. I want to thank the witness, Ms. Hogi, for her participation in this.

Before I introduce the next witness, I want to ask the witnesses to endeavor to keep their testimony to 5 minutes, and your entire testimony will be included in the record of the proceedings.

At the end of this first panel, our ranking member, Mr. Issa, will be making a statement, and all other Members who wish to have their statements put in the record will be so ordered.

At this point, I would like to introduce Mr. Frank Rashid. Is that the right pronunciation?

Mr. Rashid. Correct.

Mr. Kucinich. Mr. Rashid is a professor of english literature and the English Department Chair at Marygrove College.

He has lived in Detroit, MI, his entire life and was a founding member of the Tiger Stadium Fan Club. The fan club engaged in a successful decade-long battle to block public stadium subsidies in Detroit.

Mr. Rashid is on the advisory board of Wayne State University Press' Michigan Writers Series and serves as vice president of the Michigan Association of Departments of English.

Welcome to this committee. We look forward to your testimony.

#### STATEMENT OF FRANK RASHID

Mr. Rashid. Thank you very much.

Good morning. I thank the Members of this honorable body for inviting me to testify about my experiences in fighting against public subsidies for stadiums.

Mr. Kucinich. Would you like to start over and keep that mic close?

Mr. Rashid. Sure.

Mr. Kucinich. I would ask all witnesses to keep the mic relatively close. Thank you.

Mr. Rashid. Thank you for inviting me to testify about my experiences in fighting against public subsidies for stadiums.

In 1987, four friends and I formed a group intended to save Tiger Stadium, the home of the Detroit Tigers. We began our efforts by highlighting the stadium's distinctive history and its role as common ground for generations of Detroiters. We discovered, however, that the most compelling reason to save the stadium was to save public money, and we committed to a fight to prevent public stadium subsidies. That fight lasted nearly 10 years.

We used every legal method to block public stadium financing, but we finally ran out of options and money. The Tigers moved into Comerica Park in 2000. Two years later, the

Detroit Lions, who in 1975 had moved to a publicly financed suburban stadium, returned to Detroit again helped by public subsidies. Downtown Detroit now has two new stadiums absorbing hundreds of millions of dollars in direct public financing.

Local officials promised that these stadiums would bring new jobs, economic spinoff, contracts for minority firms and increased city revenues for more police and city services. Not one of these promises has been fulfilled. In the last 2 years, the city has hosted the All-Star Game, the Super Bowl and the World Series, but city residents have seen no benefits from these events. Detroit faces a financial crisis and has to cut police and fire protection, library hours and trash pickup.

Comerica Park and Ford Field have operated for six and four seasons, respectively, but the blessings of major league sports have yet to rain down upon us. Franchise value and ticket prices, however, have increased dramatically. In effect, we gave hundreds of millions of dollars to two billionaires so they could increase their wealth and raise their prices.

Detroit's two stadiums suck up resources that could go to schools, police, libraries, parks and proven development strategies. The Michigan Strategic Fund was established in 1984 to promote economic development and create jobs. Wise stewardship of this fund could have helped to address Michigan's economic crisis. Instead, we wasted much of it on a stadium that employs the same number of people as the one it replaced.

Replacement stadiums like Comerica Park and the proposed New York stadium absorb ancillary revenue-generating activity for the team owner, eliminating small businesses, parking lots, souvenir stands, bars and restaurants that contribute more to a local economy than one large recipient of abatements and subsidies.

Detroit must close 30 public schools, but we have two new stadiums. We have shut down several public library branches and restricted hours in those that remain. We have few organized Little Leagues, and we can't maintain parks and playgrounds for children, but we have two stadiums for the big leagues and their millionaire athletes.

Detroiters have to report accidents and crimes at police precincts, and we must travel further now to do so since the police department has replaced 15 neighborhood precincts with six centralized districts. Our mayor proposes days off without pay for city workers including fire and emergency responders and curtails trash pickups, but the two new stadiums receive plenty of police protection and their trash always gets collected.

We call animal control and get no answer. We report a dangerous building and get placed on hold. We call 911 and get a busy signal. We pay the highest millage rate of any municipality in southeast Michigan. We can't afford enough emergency workers and phone lines, but we have two new stadiums.

Detroit needs solutions that would come from a comprehensive urban policy that equitably distributes resources and opportunities. We can list strategies that would strengthen our city and improve our quality of life. Two new stadiums are not on this list.

But stadiums offer politicians the appearance of accomplishment. With limited available funds, Detroit officials focused on stadiums because their powerful beneficiaries--major



league sports, team owners, developers, bond attorneys, construction firms, building and trade unions--would support the campaign to make them happen. Our local leaders persuaded voters that stadiums would solve myriad social problems. They pushed the projects through approval quickly with as little legislative oversight as possible, then sold the stadiums to the public and then dispensed the funds.

At first, we were incredibly naive about all this. We assumed that leaders of cash-strapped cities and counties wanted to save money. Our self-financing stadium renovation plan received praise from architects, stadium experts and baseball historians, but most politicians dismissed it.

Finally, a sympathetic development consultant explained to us that its budget was too small and it required no public money. We should have made the project bigger, he said. How could we expect politicians to be interested when we gave them no role?

I now understand why so many wasteful schemes receive funding while proven strategies get no support. Publicly funded stadiums are distractions from purposeful solutions to the urban crises.

As a lifelong Detroit resident, I am grateful to the members of this committee for holding hearings on the state of urban America and especially grateful for allowing me to participate.

[The prepared statement of Mr. Rashid follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Thank you very much, Mr. Rashid.

I want to note my gratitude for the presence of my colleagues, Mr. Davis, Mr. Tierney, Mr. Braley, Mr. Turner and, of course, Mr. Issa.

I would like to introduce our next witness, Mr. Nick Licata. Nick Licata is the president of the Seattle City Council in Seattle, WA.

Mr. Licata has a history of civic activity and community involvement. Among his list of activities, he was Co-Chair of Citizens for More Important Things. The group opposed excessive public funding for professional sports stadiums.

Welcome, Mr. Licata, and you may proceed.

#### STATEMENT OF NICK LICATA

Mr. Licata. Thank you. Thank you, Chairman Kucinich and Ranking Member Issa and members of the Subcommittee on the Domestic Policy for asking me to speak to you today.

I am Nick Licata, as was pointed out, a Seattle City Council Member and for the past 12 years have been at the heart of Seattle's debate about the use of public funding for professional sports stadiums.

In 1995 before I was elected to the City Council, I did indeed co-found the Citizens for More Important Things along with Chris Van Dyk and Mark Baerwaldt, two other businessmen. This group fought the use of taxes to construct three stadiums for professional sports organizations over the past dozen years, and appendix 1 that you have provides a chronology of the efforts to secure public funding for these facilities in Seattle. It is a pattern that has been repeated across the Nation where perfectly useable facilities are declared too shabby for the home team.

Seattle rebuilt our Seattle Coliseum in 1995 to the specifications of Seattle's professional basketball team.

Mr. Kucinich. You can hold on for a minute until we get these buzzes.

Don't believe the 15 minutes. You will have your time.

Mr. Licata. OK, great, this will be shorter than 15 minutes.

I would like to outline three experiences, the first with our professional basketball team. In 1995, Seattle rebuilt our Seattle Coliseum to the specifications of this professional basketball team, the Supersonics, and we created the state-of-the-art NBA Key Arena at a public cost of \$75 million. The sale of luxury boxes was to pay for the construction of those bonds. When the team could not sell enough luxury boxes, basically, the city had to pick up the tab. Nine years later after the city has paid millions annually, over \$6 million a year annually and over half the public debt still outstanding, the team said they wanted a new facility because it was outdated.

What happened then was that when they got the cold shoulder from the politicians and the public, the Sonics were sold for an estimated \$80 million profit for the new owner who now wants the public to contribute \$400 million for an even bigger facility.

In the case of our baseball team, in 1995 while the city was remodeling the Coliseum for the Supersonics, our professional baseball team, the Mariners, declared that their venue, the 18 year old Kingdome, was obsolete for baseball and threatened to leave Seattle if they were not provided with a new stadium with a retractable roof at the cost to the public of over \$300 million. The previous year, the county had spent \$73 million repairing the Kingdome's leaky room where they played, and a few weeks after local voters rejected a sales tax to pay for the new Mariners stadium, the State legislature met in emergency session to approve a tax package that eventually built it despite voters' wishes.

In the case of our professional football team, the Seattle Seahawks, seeing how successful the Mariners were, demanded they too wanted significant remodeling of the Kingdome and they threatened to move to California if they did not get it. Before they could move, Microsoft founder Paul Allen purchased the team, subject to public approval of a \$300 million public funding package. He spent \$7 million on the election, outspent the opposition at least 1 to 20 if not 1 to 40, and won the election by 00.2 percent. The Kingdome then was imploded with still \$100 million debt unpaid.

Now what does this pattern reveal? It says just what our city staff discovered when reviewing the life of professional sport facilities around the Nation. When public money is used, professional sport facilities are remodeled every 6 years.

Why? Because public money is readily available and free to the teams.

Where does this money come from? Proponents have argued that these taxes are insignificant since they are on restaurant meals, hotel rooms, car rentals and other retail purchases. This mixture of revenue streams does mount up. If pending State legislation in our State passes for the new Sonics basketball arena and a speedway for NASCAR as they are also requesting public funding, our city, county and State governments will have contributed \$2.3 billion over the past two dozen years for new professional sport venues.

Our own Seattle experience has shown that the cost continue to go up. Appendix 2 that you have shows that certain crimes increased around the two new stadiums from what they had previously been in the same neighborhood, contributing to increased public costs.

In ending, let me say that our economy, the Seattle economy, had a downturn. There was a National downturn, but our stadiums in no way contributed to lessening that downturn and, in fact, took money away from Seattle that we could have spent in providing basic services to our citizens.

[The prepared statement of Mr. Licata follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Thank you, Mr. Licata, president of the Seattle City Council, for your testimony.

We are now going to have the statement of the ranking member, Mr. Issa, and at the conclusion of that, we will take a short recess to go vote.

Mr. Issa, you may proceed.

Mr. Issa. Thank you, Mr. Chairman.

I am particularly happy that we are having this hearing today because I believe Mr. Chairman and I think former Mayor Michael Turner who is also going to be participating here today would agree that there are right ways and wrong ways to do it.

I think it is very insightful for us, even though we don't have prime jurisdiction, through our granting of tax-exempt status for these projects, federally tax-exempt status, to evaluate whether they should be done under the conditions they presently are. We have individuals from the IRS and other bond officials that will be testifying later.

I think that very much it is going to cause us to look at the good, the bad and, as I heard today, in many cases what you would say would be the ugly.

I have the privilege, though, of representing the city of San Diego, and I have firsthand knowledge of the economic boom that resulted from our newly built baseball park, PETCO Park, which is the home of the National League West Champions, the San Diego Padres. Our story was different than the ones I have heard in your cities. In November 1998, over 60 percent of San Diego's voters approved Proposition C. The MOU between the Padres and the city of San Diego and the City Center Development was the only legislative action required for the baseball park.

We went through more than 5 years, though, of litigation by one after another individual, some of them particularly notable being landowners of a warehouse district, a district that didn't have individuals living there and by most people's standards, even though it was a downtown distance within walking distance of our finest oceanfront area, was in fact blighted. The owners did not say they didn't want to sell. They simply said they wanted to be made a lot more for warehouse districts. They were paid a lot more than would be based on the tax rolls in that district, a lot more.

After the successful condemnation and 5 years of litigation, PETCO Park was built in what had once been a blighted warehouse district.

Today, we have 7,385 residential units in that district. These are units of choice. These are expensive units. These are units that range up into the multimillion dollar range, and these are units that were 100 percent sold because San Diego

became revitalized around this project. This project was not squeezed in. It was designed from the ground up.

We also have added 747 new hotel rooms, again over 90 percent filled.

The direct documentable economic value is \$3.73 billion of property tax evaluation increase. Now, in California, you just take 1 percent of that or \$37 million and you would get the direct property tax revenue increases. Needless to say, we are talking in multiples of that when you look at our revenues from sales tax and others.

Quite candidly, if baseball players were required to be residents of the State of their home team, it wouldn't help you in Washington, but in California that would add roughly 10 percent of their often high salaries to the economic revenue.

I am proud to say that John Moore, the owner of the Padres, does contribute heavily to local baseball and softball. He has built every single year a new, at his cost, baseball facility for the youth around the city and the county and continues to give back and give heavily.

We were fortunate. We had a multi-billionaire who moved to San Diego and bought a team that was in trouble and has invested net in it and in the redevelopment, from day one, said that he wanted that to be a redevelopment that was a positive for the city.

It is an unusual story to tell, but I wanted it told because as I hear with more than little bit of dismay how cities can go wrong, I also want all of us to realize that it can be done right and hopefully will be done right in the future perhaps because of tax policies that we work on here today.

Mr. Chairman, I thank you and yield back.

[The prepared statement of Hon. Darrell E. Issa follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. I thank the gentleman.

This committee will take a 15 minute recess, at which time we will return to question the witnesses. Thank you.

[Recess.]

Mr. Kucinich. This is a hearing of the Domestic Policy Subcommittee. I am Congressman Dennis Kucinich from Cleveland, OH, the chairman of the subcommittee.

The title of our hearing today is, ``Build It and They Will Come: Do Taxpayer-Financed Sports Stadiums, Convention Centers and Hotels Deliver as Promised for America's Cities?''

We have heard from our first panel, and now we are going to have questions. I am going to have at least one question for every witness, and I would like to ask each of you the same question, and I ask for a brief response. We will start with Ms. Hogi.

Does building a new sports stadium bring growth, revitalization or prosperity to the city and neighborhoods?

Ms. Hogi. I would answer no, not in the way that it was done to Yankee Stadium. Were there more involvement with the community who had great suggestions of how to fashion this new stadium, it would have involved a big infusion of economic growth to the area.

Mr. Kucinich. Mr. Rashid.

Mr. Rashid. I would say that even in cases where it appears that a stadium hasn't done any harm, it is rare that if you really look at the numbers, it could do any good. There are so

many more important things that we can do as cities and as a society to serve our people with public money, that there really is very little excuse for wasting hundreds of millions of dollars on publicly funded stadiums.

Mr. Kucinich. Council President Licata.

Mr. Licata. I have not seen any visible evidence that the neighborhoods that the stadiums have been located in have benefited in any significant or even marginal way, and as I pointed out in our appendix 2, we do know that our public safety costs have gone up.

Mr. Kucinich. I have another question. I would like to ask each of you to answer, and I would ask again for you to make your response brief.

What, in your opinion, motivates team owners to seek public financing for new stadium construction? Ms. Hogi.

Ms. Hogi. In a word, greed.

Mr. Kucinich. Mr. Rashid.

Mr. Rashid. I would say that it is a tremendous opportunity for private business to increase its profits and the value of its business by shifting the costs of its physical plant onto the public, and then basically they charge. The public incurs the risks, and the private owner takes all the benefits.

Mr. Kucinich. Mr. Licata.

Mr. Licata. Basically, they see the opportunity to shift the risk to the public sector. So, therefore, their profit margin is protected, and they have a better opportunity for running a more profitable team.

Mr. Kucinich. OK, I want to thank this panel for its participation.

I want to ask does Ms. Watson have any questions of this panel.

Ms. Watson. Thank you all for coming.

I just want to add a comment. I think this is a very significant question at this point. How do we benefit in our cities?

I am from Los Angeles and represent Los Angeles, Hollywood as well, and I just want to say that we have been trying to get a football team in our coliseum. Well, all of them want the proceeds from parking. I just want to know if that is the case as well. The proceeds from parking go to support the School of Science and Math that we have built in that complex. And so, we have, not for years, had a team. I find that they want everything within the surrounding area.

We are just lucky in that area because we have the University of Southern California that is well endowed and receives a lot of grants for research. We are trying to really build the heart of South Central, and that is where it is.

In New York, are all of you New York? Oh, well, in your cities, are you finding same thing? If they do come in, it will benefit them and they pay tremendous wages to their players and all, but it doesn't necessarily build a community. I would like to have a comment from you.

Mr. Licata. Well, I can kick off and say that specifically regarding parking in both instances, the stadiums and now basketball arena, the parking revenue used to go to the city which we use for general funds which is basically for everything. When they move in, they want the revenue from the parking, so that is a pattern we have seen in our city.

Mr. Rashid. I would say that overall what happens when a new stadium is built in Detroit in particular, the whole idea,



part of the plan of building the stadium was so that the owner could absorb revenue-generating activities that were formerly controlled by smaller independent business people as well as churches and programs that did it for fundraising, used parking revenues and other revenues for fundraising as ways of supplementing their funds. These were programs, for example, for young women in trouble or for churches that were running soup kitchens.

So, basically, what happened when we moved to a new stadium was that now the owner controls all of that parking. And those activities don't have that same advantage. It is a net loss.

Ms. Hogi. My colleague on the next panel, Mr. deMause, would be more proficient in that area than I. I can say that the parking garages are operated by private vendors in New York. Other than the regular business tax, I don't see how it benefits the area.

The one big parking garage right now is closed to the community on non-game days. So, essentially, it sits fallow. The four new garages that are scheduled to be built are being built for the fans, the spectators, not for the community. So it is not even a year-round revenue. As a matter of fact, they have not found a private developer yet to build those parks.

Mr. Kucinich. The gentlelady's time is expired.

Ms. Watson. Thank you, Mr. Chairman.

Ms. Hogi. OK.

Mr. Kucinich. I thank the witness for her testimony.

We now are going to have questions from Mr. Souder.

Before we get to Mr. Souder, I just want to say that, without objection, at the conclusion of panel one in deference to the inevitable time constraints of the IRS, we are going to have a change in panel two. We are going to be hearing from Dennis Zimmerman, Brad Humphreys and then the IRS in panel three. In deference to the minority, we are going to move up the order of testimony on panel four to hear from the witness from Dayton. Without objection, so ordered.

Mr. Souder.

Mr. Souder. Thank you. I am sorry I missed the testimony. I was scrambling through here to try to catch up a little bit. I just had a couple of basic questions and let me put a couple together and then I would be interested to hear your responses.

Do you believe that it is always a bad idea or do you believe that bad deals were cut?

In other words, in St. Louis, my understanding is when they did the redevelopment there, they worked because some of it had public housing in it. They worked some agreements with the public housing groups, and they had some of the low income housing restored which they would have not been able to do had they not done the stadiums.

So I am wondering even like in the case of Seattle and Detroit or, for that matter, New York, a second question rises, and that is this intangible because I share your concerns that it seems like the owners of the teams particularly when they resell and make horrendous amounts of money and they sell lots of food in the stadium, control some of it. I share a lot of those concerns.

At the same time, there are some intangibles in downtown development like core city image. Detroit, for example, had the Tigers. It is one thing to say keep the historic structure. It is another thing what if they had moved up to Pontiac or out to the suburbs. What if, in Seattle, they had gone out into the

suburbs? What about if, in New York, they went out even further into Long Island?

In fact, one of the intangibles that you get here is that suburbanites will come into the urban center. It helps the image of the city.

Then last with this same kind of intangible question, the fact that some cities didn't get the return that they thought, is that related to other things that weren't in control and was it, in fact, a zero sum game that the money wasn't put in crime, the money wasn't put in downtown development?

Or, for example, in downtown Detroit, is the problem so systemic that no matter what is done? From what I can tell there has been some change. The casinos may, unfortunately be more a part of it than the sports. I would be interested in some comments.

Mr. Licata. Why don't we just go down the row? Regarding the question, could some projects be more successful than others depending on what the mixture, you would have to investigate that city by city and process by process.

I can say that in our situation with the professional basketball team, the citizens voted over 70 percent to say that yes, we will put money in. We just want a fair rate of return, looking at, say, a percent of what we earn on Federal bonds, pretty meager, and the public turned it down. So I think the public wants something very visible, and they want a good fair return.

On the image, that is almost immeasurable. But I can say that in Seattle's case vis-a-vis the city of Vancouver, BC, who we compete with on a image-Pacific-international basis, they do not have the kind of professional teams we have. We are fighting for them every day for business, so it doesn't seem to give us any advantage over them.

Mr. Rashid. I think that this is a false dilemma. We are not really, if you really want to look at what a project will do, at the beginning of a project, you have an opportunity to examine, do a full independent cost-benefit analysis. If we are going to spend this money, is this the best possible use? That is an opportunity for a community to really look at what is the best possibility.

From an independent analysis, if that happens and if stadiums come up there at the top of the list, then fine, make sure that happens. Make sure that works.

But you know there are all kinds of wonderful places in the United States to live that don't have professional sports. It is not like my life as a Detroit is really directly hit by professional sports. If it were, we have had the World Series, the All-Star Game and the Super Bowl in the last 2 years, and we have terrible budget deficits. Nothing has happened to touch the people of Detroit as a result of having professional sports.

We have had the top events and all of the television exposure. Is your image of Detroit really significantly improved by having those kinds of events and that kind of exposure? You can't eat image.

Mr. Souder. Winning the World Series might.

Ms. Hogi. I believe Mr. Rashid in that, and New York is unique. Yankee Stadium is only used for Yankees games. During off season, it is an economic dead zone not just to the community, but nothing happens there. Nothing happens. We are just looking at closed garages and an empty stadium.



Mr. Kucinich. The gentleman's time is expired.

Mr. Davis.

Mr. Davis of Illinois. Thank you very much, Mr. Chairman. I want to thank you for calling this important hearing.

In my congressional district, I live in Chicago. We have actually built three complexes in the last several years, all in my district. In the 1980's, what is now Cellular Field, Sox Park, the home of the Bulls, the stadium where the championships were won and a new McCormick Place.

In each instance, there were proposals that community residents and civic groups were not in favor of. For example, the first one at Sox Stadium or Cellular Field, there was great fear that Wentworth Gardens, a public housing development, would be totally wiped out. However, as a result of community interaction and action and protest and demonstration and negotiation, Wentworth was left intact. Lots of negotiation took place around the building of the stadium and concessions were made.

My question is how impactful have community protests or community positions been in each one of the instances in which you have been involved?

Ms. Hogi. I would like to go first on this one because in our case, we have a time line that shows how quickly our parks were alienated before the community knew about it. There was no community involvement. Our previous borough president had a plan for a Yankee Village that included a new or renovated stadium, numerous business ventures that no one even looked at. So had we had the chance to interact, we could have provided a lot of good input that would have minimized the opposition to that project.

Mr. Davis of Illinois. Yes.

Mr. Rashid. We appeared to have some success in delaying a stadium project over time, and in fact the mayor of Detroit once said that we had helped by not getting a bad stadium project built. However, in retrospect, I think that no matter how much we did, the fact that we now have two stadiums in downtown Detroit absorbing huge amounts of public revenue or public resources shows that we really didn't have tremendous effect and that when the powerful interests wanted to collaborate on a stadium project got together, it really didn't matter how much the citizens could do.

The citizens really, in our final campaign, we had about \$25,000 to run against a \$600,000 or more public relations campaign. There was no way we could effectively get our word out against that.

Mr. Licata. To the extent that communities can get involved, then the stadiums or arenas that are built will probably include some amenities to the immediate communities in that vicinity of those institutions, but they will not, in the long run, be able to forestall or stop the stadiums or arenas from being built.

Generally, what I have seen is that those in favor of those construction projects cherry-pick the leaders of what they want to represent the various communities. So it is I don't want to say a stacked deck, but it is definitely marked.

Mr. Davis of Illinois. Let me just ask finally, are you opposed to public financing in part or do you think that there is room for public-private partnerships in the building of these kinds of facilities?

Ms. Hogi. Public-private partnerships, definitely.

Mr. Rashid. I think that each project has to be looked at very carefully and really independently analyzed, and that is the problem. Right now, there is no independent analysis. I think if there were, we would see considerably fewer publicly funded stadiums and a lot more money from the private sector in those projects.

What happens now is there is a real interest. There is a whole set of powerful interests that can control the debate. What really needs to happen and where I think Federal enforcement would be very valuable is in establishing requirements that there be real solid and verifiable analysis for each project, and that is not done.

Mr. Kucinich. The gentleman's time is expired.

Mr. Davis of Illinois. Thank you very much, Mr. Chairman.

Mr. Kucinich. Thanks, Mr. Davis.

[The prepared statement of Hon. Danny K. Davis follows:]  
[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Mr. Issa.

Mr. Issa. Thank you, Mr. Chairman.

In my opening statements, I think I made it clear that San Diego views itself as an exception, not an exception to lawsuits that tried to delay, perhaps an exception in that many of the people who were involved in the suit simply wanted more money for a warehouse than they had paid for it a few years earlier which sounds like many of your opening statements and the chairman's opening statements about professional sports teams. So I think when there is an opportunity, there is no question. There are people who are opportunists.

But for this committee, even though we don't have the prime jurisdiction over taxes to say the least, a lot of what we have in Congress is tax authority, the ability to evaluate and to tighten up the standards or, candidly, loosen the standards on what gets tax-exempt bonds which, as you all know, makes a big difference in whether a city will go forward. If we don't grant a tax-exempt bond for a new sewer system, it increases the price of the sewer system. If we do provide tax-exempt status for a baseball park, it reduces the cost through a Federal subsidy.

For each of you who have both obviously the public participation at the city level but the Federal Government contributed to these projects, what conditions would you say we should look at insisting on before we grant the tax-exempt category which is our primary authority here in Congress for these projects?

In other words, when we say to a city, county or State, yes or no, we will grant, what should these projects have to do in your opinions?

Mr. Licata. I will kick off.

I think the bottom line is that the public wants to be put in the same position as the business investors. They want a fair rate of return. If there is some way that the Federal Government can say that in order to get tax-exempt status on these bonds, we have to see a definable, measurable benefit to the public.

I am not sure how you go about doing that, but I think that would certainly go a long way to solving this problem.

Mr. Issa. Would the first step be a positive tax revenue to at least a combination of city, State and Federal Government?

Mr. Licata. That would be a good first step.

Mr. Issa. Mr. Rashid.

Mr. Rashid. I am not certainly an expert in this.

Mr. Issa. Nor are we; we just got elected to do it.

[Laughter.]

Mr. Rashid. I do believe that every project has to be absolutely independently verified. What happens in projects, the way they are sold both to local politicians and to the public is by creating studies that ignore most of the information that is relevant to the project. I would insist that in doing, in creating these studies and providing this analysis, that it be done independently, that it be verified independently and that alternative uses for moneys for these projects be a part of whatever study is done, and that is not done.

I also think that the campaigns that are used to sell these projects have to be looked at carefully. There is almost a need for some kind of campaign finance reform at the local level in the way that those projects and those campaigns are funded.

Mr. Kucinich. Would the gentleman yield?

Mr. Issa. I would be happy to yield to the chairman.

Mr. Kucinich. The witness raised a point which I think may be worth the committee looking at as a followup, and that is the campaigns to pass these issues. What do they promise? It might be interesting to collect information from all the cities we are hearing from plus others to see how the promises correspond to the reality.

I thank the gentleman.

Mr. Issa. That is excellent.

I might mention that we do have two other pieces of jurisdiction for the final answers before my time expires. One is we do have campaign finance. We could consider that if it lobbies for what would ultimately be tax-exempt bonds, that we could put it under the Federal limit of \$2,300 rather than, in some States, unlimited, and that would be our jurisdiction.

Last but not least, you might remember that we, in the previous Congress, had professional sports up here to talk about steroids. We do have the jurisdiction, and perhaps the chairman would consider having as a followup to this, professional sports teams talking about this growing competition that makes these projects so expensive because I think you have victimized in your local cities in many of the things you have said.

But we also have the concern that there is a race to go higher and higher. Are we racing to where your cities will lose what you have unless, as you said, ante up another \$800 million?

I want to leave time for you to answer on any other ideas that would help us here on the dais.

Ms. Hogi. The project should benefit all. As I said, Yankee Stadium is an economic dead zone during off season. So I don't think my taxes should go to supplement this team that can't benefit me year-round.

Mr. Issa. Thank you.

Thank you, Mr. Chairman.

Mr. Kucinich. I thank the gentleman. It may be, Mr. Issa, that tax-exempt financing for these sports projects may be a financial equivalent of steroids.

So, let us continue. Mr. Tierney, do you have any questions?

Mr. Tierney. No, I have no questions, Mr. Chairman. I thank the witnesses for testifying and yield back.

Mr. Kucinich. I thank Mr. Tierney.

We will all thank the witnesses for their appearances. You are now excused, and we will call the second panel forward consisting of Brad Humphreys and Dennis Zimmerman.

[Witnesses sworn.]

Mr. Kucinich. Let the record show that the witnesses answered in the affirmative.

Dr. Brad Humphreys is an economist who teaches at the University of Illinois, Urbana-Champaign. His research interests in sports economics include the economic impact of professional sports on urban economics. His most recent research on the economic impact of professional sports teams is entitled, ``Caught Stealing: Debunking the Economic Case for D.C. Baseball,`` and this was published by the Cato Institute.

Mr. Dennis Zimmerman is the director of projects at the American Tax Policy Institute. The American Tax Policy Institute's primary purpose is to promote and facilitate non-partisan scholarly research analysis and discussion of U.S. Federal, State and local tax policy issues. Formerly, Mr. Zimmerman was an analyst with the CRS for 21 years and with the CBO, Congressional Budget Office, for 7 years.

Mr. Zimmerman's published work includes, ``Private Use of Tax-Exempt Bonds: Controlling Public Subsidy of Private Activity.``

I want to thank the gentlemen for being here.

Mr. Humphreys, you may proceed with your testimony.

I would ask the witnesses to limit your testimony to 5 minutes. Anything that is not spoken will, of course, be included in the complete record of the committee. Thank you.

STATEMENTS OF DR. BRAD HUMPHREYS, ECONOMIST, UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN, CHAMPAIGN, IL; AND DENNIS ZIMMERMAN, DIRECTOR OF PROJECTS, AMERICAN TAX POLICY INSTITUTE, FALLS CHURCH, VA

STATEMENT OF DR. BRAD HUMPHREYS

Mr. Humphreys. Thank you very much for the opportunity to testify here, Chairman Kucinich and other committee members.

I am an economist who does research on the economic impact of professional sports teams and facilities on the local economy. I have, in my own research, gone back and looked at the economic performance of every city in the United States that had a professional football, basketball or baseball franchise from 1970 until the present, looking for evidence that professional sports are somehow engines of economic development in cities, and I have not found any evidence whatsoever suggesting that professional sports stadiums create jobs, raise income or raise local tax revenues.

There is no doubt in my mind that professional sports stadiums concentrate economic activity in the area approximate to those facilities, but we need to look at the entire economy of cities and not just what is going on within 2 miles of a professional sports stadium. When we look at the entire cities' economies, there is just no evidence supporting the idea that professional sports facilities are engines of economic growth.

So, over the last 15 years, we have subsidized construction only of professional sports facilities by about \$15 billion in inflation adjusted terms.

Why do we continue to subsidize that construction with

Government money? Well, it is undeniable that professional sports provide some non-economic benefits to communities: a sense of community, world class city status, these sorts of things. We hear this all the time, and that is important. It might be that could justify our subsidies, but I want to point out that the evidence of economic benefit is just not there.

There is a second reason that we might still continue to subsidize professional sports facility construction, and that is the subsidies are the product of a long negotiation between a number of people: taxpayers, local politicians, the teams, people like that. We have the Congress, by extending special anti-trust status to professional sports leagues, has given the team owners the upper hand in that process. A team owner can always threaten to leave for another market which is there because sports leagues have this anti-trust protection that you, the Congress, have given them.

I urge you to think about and consider carefully whether or not we should extend this anti-trust protection to sports leagues so that they can extract these subsidies from local governments because I think this is a root cause of a lot of these problems of subsidizing sports facilities that don't provide economic benefits.

I also want to point out for people who are trying to decide on these subsidies, that there are two types of evidence that we have about what the economic impact of professional sports facilities are. One are these promotional studies or economic impact studies that are generated by proponents of these subsidies, and they typically find huge economic benefits. This other type of evidence that we have is scholarly, peer-reviewed academic research, the kind that I do.

Often in the court of public opinion, these two types of evidence are treated equally, and I would argue that is a very bad public policy idea, to treat them equally.

One of the previous panelists said that we need to have independent oversight to see if these benefits ever turn up. That is what peer-reviewed academic research is. It goes through the peer review process.

We don't make policy about drugs and things like that just based on what pharmaceutical companies say. We have research that is peer-reviewed, that tells us about those things. We should have the same sort of standards when we are considering whether or not there is economic benefit to be gained from professional sports.

[The prepared statement of Mr. Humphreys follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Thank you very much, Mr. Humphreys.  
Mr. Zimmerman.

#### STATEMENT OF DENNIS ZIMMERMAN

Mr. Zimmerman. Mr. Chairman, ranking member and members, thank you for this opportunity to appear before the committee. I have submitted written testimony for the record.

Professional sports stadiums have been subjected to three different sets of tax-exempt bond rules since 1968. Until 1968, most stadiums were financed with tax-exempt industrial development bonds, with debt service paid primarily from stadium related revenue even though they also could be financed with governmental bonds whose debt service was paid by local



taxpayers.

In 1986, stadiums were removed from the list of private activities that could use industrial development bonds which the 1986 act renamed private activity bonds. Since local taxpayers were expected to be reluctant to use general obligation debt to pay for stadium debt service, stadium bonds would wither. Unfortunately, that expectation was overwhelmed by the combination of the monopoly power of professional sports leagues that maintains excess demand for franchises and stadium proponents' use of pseudo-economic studies showing that stadiums pay for themselves.

Then in 2006, the Internal Revenue Service issued a letter ruling that effectively restores private activity bond financing of stadiums. It reclassified stadium-related revenue as general taxes called payments in lieu of taxes, PILOTs, converting private activity bonds into governmental bonds.

Whether the PILOT ruling is good or bad policy depends on the policy goal one is trying to achieve. If the goal is to eliminate Federal subsidy of professional sports stadiums, it is poor policy. Local taxpayer resistance to publicly financed stadiums is reduced because PILOTs substitute stadium-related revenue for general taxes paid by local taxpayers.

Even worse, renaming business-related revenue as PILOTs might open the door for widespread tax-exempt governmental bond financing of private investment projects not currently eligible for private activity bond financing. It invites local elected officials to become commercial bankers.

Senator Daniel Moynihan tried to eliminate tax-exempt stadium financing more directly in 1996 with the Stop Tax-Exempt Arena Debt Issuance Act [STADIA]. If the 10 percent security interest test for stadiums is eliminated, in other words, wiped off the books, professional sports stadiums would always be classified as taxable private activity bonds because they use more than 10 percent of the bond proceeds. Such a prohibition is also good economic policy because the Federal taxpayer receives no benefit from a bond-financed stadium.

The budget's effect on jobs and tax revenue is determined by the budget resolution. What that money is spent on makes little difference unless it is for a spending program that reduces the natural rate of unemployment such as job training. These taxes and bonds do not accomplish that objective.

In contrast to eliminating the Federal subsidy, one's objective might be to implement the benefit principle of taxation that requires those who receive the benefit to pay its cost. PILOTs might be beneficial. PILOTs would allow stadium-related revenue to be used to pay debt service and would reduce the pressure to finance stadiums with general revenue. Stadium-related revenue is generally paid by those receiving direct benefits from the stadiums where as general taxes such as income, property and sales taxes are poorly related to stadium usage and receipt of benefits. The costs and benefits of the dominant political coalition that promotes the stadium would be better balanced, thereby rationalizing prices and reducing over-investment.

But the PILOT policy has a problem. As mentioned above, it might lead to a significant conversion of taxable private activity bonds and to tax-exempt Government bonds, therefore increasing revenue loss.

A three step compromise is available that could advance both policy objectives.

First, add stadiums to the list of private activities eligible for tax-exempt financing. That would encourage local governments to use the benefit principle of taxation to finance the stadiums.

Second, subject stadium bonds to the private activity bond volume cap. That would require stadium projects to compete for scarce volume cap with other eligible private activities such as mortgage revenue bonds and would minimize the Federal revenue loss.

Third, wipe the PILOT precedent off the books. That would prevent its indiscriminate application to a broad range of private activities and control elected officials' role of commercial banker.

Thank you.

[The prepared statement of Mr. Zimmerman follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. I thank Mr. Zimmerman.

We are going to go to questions in the second, and at the conclusion of that, we will go to the third panel of the Internal Revenue Service.

Dennis Zimmerman, you are a former Congressional Research Service and CBO analyst, is that correct?

Mr. Zimmerman. Correct.

Mr. Kucinich. In your opinion, what is the public purpose fulfilled by tax-exempt financing of the construction of Yankee Stadium?

Mr. Zimmerman. Well, if you go by the structure of the bond rules prior to the PILOT, it would not have been allowed. In general, since these things provide no Federal benefit, no benefit to Federal taxpayers, it is not clear why one would want to subsidize these things.

Mr. Kucinich. So are you saying then that it is inconsistent with the law's treatment of public financing for sports stadiums?

Mr. Zimmerman. Yes, prior to the PILOTs act, they would have been classified as private activity bonds which would have been taxable.

Mr. Kucinich. Mr. Zimmerman, has the IRS in its rulings for the Yankees and the Mets adhered to the meaning and intent of the law?

Mr. Zimmerman. The meaning and intent of the law is sort of in the eye of the beholder frequently. As I read the law, prior to the PILOTs ruling, it is not consistent. These would have been counted as stadium-related revenues, they would have violated the 10 percent rule, and they would have not have been eligible for tax-exempt status.

Mr. Kucinich. Now in your testimony, you assert that the IRS proposed rulemaking, which will be discussed in our next panel, creates a way around the restriction on tax-exempt private activity bonds for use in sports stadium construction, is that right?

Mr. Zimmerman. Correct.

Mr. Kucinich. So, in your opinion, how would you characterize the impact of the IRS rulemaking on the 1986 law with respect to public financing of sports stadium construction?

Mr. Zimmerman. It circumvents what the 1986 tax act rules say because it reclassifies stadium-related revenue which clearly should be counted against the 10 percent security interest test. It reclassified it as generally applicable taxes



and converted these things from private activity bonds which are taxable into governmental bonds which are tax-exempt.

Mr. Kucinich. I thank Mr. Zimmerman.

Mr. Issa.

Mr. Issa. Thank you, Mr. Chairman.

I would like to followup on each of your opening statements.

Dr. Humphreys, I am a little confused on one thing. Your testimony was that this is sort of a zero sum game, that if it wasn't spent in the downtown area in San Diego, Washington, Detroit, Chicago, wherever, it would be spent in the suburbs. Isn't that the nature of redevelopment though? Isn't that what center city projects do?

I am a Clevelander, the same as the chairman. Isn't it, in fact, the problem in Cleveland is my brother in Shaker Heights, he is doing a little better, and by the time you get to Beechwood, they are doing just fine while Cleveland itself, a great city, has a constant problem of converting from the river and lakefront of the steel and coal era into a desirable place?

Why in the world, economically, wouldn't you consider that shifting from, if you will, the place where there is plenty of money to the place where there isn't enough money and as a result not enough money to run the Cleveland City Schools as an economic benefit and give full credit to that, not saying that it changes your model in any way except how can you not give credit for that shift?

Mr. Humphreys. Well, I don't understand why we should spend hundreds of millions of dollars to subsidize a downtown business to attract entertainment spending. Why is it that a business owner somewhere in the suburbs, who is losing customers, shouldn't be extremely upset at us using public dollars to subsidize a competitor for him to move that business elsewhere?

I mean I think that long run economic growth is related to fundamental factors like worker productivity and education and things like that.

Mr. Issa. OK, I get it. You like the macro, and I like the micro. It is tomato-tomato. I guess I have a difference of opinion, having been to Jacobs Field, having been to the Rock and Roll Hall of Fame and so on, that it is worth for the overall benefit of the city not to have a blighted area, crime-ridden, with kids who don't have enough money to go to school, but maybe I am wrong on some of these counts.

Mr. Zimmerman, coming over to you.

Mr. Zimmerman. Could I comment on the question?

Mr. Issa. Please, in my limited time, I would love to hear.

Mr. Zimmerman. OK, the one other aspect of this, of the question is I can see why one can conceive of that as being a benefit for the local and maybe the State taxpayers. It is not clear to me why that is a benefit to the Federal taxpayers.

Mr. Issa. No, no. I understand.

Mr. Zimmerman. And therefore why the interest in subsidies.

Mr. Issa. Thank you, and that follows up on what I was going to ask you.

You have held this opinion since at least 1986 when you testified before Congress. So this opinion that you gave us here today is not new. This has been consistent since when you testified in 1986 when Congress removed stadiums from the list of activities, and that is good because it is nice once in a while to have people who don't change their opinions from one

election to another, not that this would happen in this town.

But I have to get back to in your opinion, spreading it beyond baseball, I figured we would take on apple pie, baseball and mother. We should shift to a broader arena. Museums or how about the Cleveland Symphony, should it enjoy any tax benefits such as the fact that contributions to the symphony are tax-exempt or tax free? They are donations.

Now that is where rich people go, right, normally to the symphony and the opera and so on?

Mr. Zimmerman. That is right.

Mr. Issa. Isn't there, in fact, to a certain extent, when you look at the economic hierarchy, if you are going to take away stadiums--and I use stadiums as a euphemism for baseball or football or sports in general--then don't you have to treat equally by taking away the symphony, the museums, the opera?

Is one culture more valuable to another and isn't your stand against stadiums, which are necessary if you are going to have professional baseball, inconsistent unless you are also calling on elimination of similar treatment for any and all redevelopments but particularly if they involve the other alternatives to what people would like to do with maybe less limited resources?

Mr. Zimmerman. All these things, of course, have some value in terms of intangible benefits. But, no, I don't think they are comparable, and they are not comparable because these stadiums are private, privately owned business operations.----

Mr. Issa. OK, well, I want to followup. I am on a yellow. I am on a yellow light.

Mr. Zimmerman [continuing]. Whereas museums and cultural opportunities are non-profit organizations.

Mr. Issa. Well, no. Let me go back again.

What if a city wants to build a stadium and own it like they build a symphony facility and they build museums and own them? Now, first of all, a lot of symphonies and museums are not publicly owned, but notwithstanding that, is your point public ownership versus private or, in fact, when we build facilities for other cultural and athletic and other activities, don't they all fit into the same gambit?

If we are going to take on baseball, motherhood and apple pie, and I am happy to do it, don't we have to take on all levels of these kinds of activities?

Mr. Zimmerman. No. Again, I think the distinction is in the instance where these things are privately owned, then essentially what is happening is you are providing windfall gains to the owners. That is the example of the Texas Rangers stadium. Most of the benefits of the Federal tax subsidy ended up increasing the capital value and went into the pockets of the owners whereas whether it is a publicly owned symphony or a non-profit owned symphony, there are non-distribution constraints and unless there is corruption present, the value of these Federal tax benefits are not being absorbed into a higher rate of return for the private owners.

Mr. Issa. I guess I missed something at the Who concert the other day, but please, Mr. Chairman.

Mr. Kucinich. The gentleman's time is expired.

I would just like to interject here, and that is that I appreciate the gentleman's interest in the city of Cleveland, his home city--we miss you--and that the economy of San Diego may be a little bit different than the economy of the city of Cleveland where we have the highest poverty level despite

spending close to \$1 billion for these tax supported facilities.

Mr. Tierney.

Mr. Tierney. Thank you. I was a little amused to listen to my colleague, Mr. Issa, make a great argument for the redistribution of wealth from the suburb into the urban area which was sort of interesting.

Mr. Issa. Would the gentleman join in that with me? You know we could work on this together. You just have to take on the big structures everywhere on this.

Mr. Kucinich. You can address your remarks through the Chair. Continue.

Mr. Tierney. Reclaiming my time, I am glad you made the distinctions in some of your remarks about the nature of public policy for non-profit institutions versus those that are going to get private gain from a tax break on the Federal Government. Whether or not the city holds the stadium or not, the individual that is running the ball teams in there is still going to make a considerable profit because it was built. I don't know whether that is what we want our public policy to lean toward.

Can I concentrate back? There are two things I want to do. I want to talk a little bit about the 10 percent rule. Mr. Zimmerman, will you explain that to those that might not fully understand every little bit, every little detail?

Mr. Zimmerman. Right, bonds are taxable or tax-exempt depending upon two tests. One is whether more than 10 percent of the bond proceeds are used by a private business, and the second is whether more than 10 percent of the debt service is secured by property used in the trade and business.

Mr. Tierney. Either one of those things would exclude you being able to be exempt?

Mr. Zimmerman. Right, you have to fail. You have to exceed the 10 percent for both of those. So for a stadium, obviously more than 10 percent of the bond proceeds are being used by a private entity.

So the question when they cannot be used with private activity bonds is can you structure the deal so that no more than 10 percent of the debt service is paid for by stadium-related revenue? That is the property being used in the trade or business.

The 1986 act basically said if you don't satisfy that 10 percent security interest test, then the only way, then you can't issue a stadium bond. So it would have to essentially be a governmental bond which forces you to finance it with general tax revenues.

Mr. Tierney. My question, I guess, would be the IRS rulemaking letter, was that an interpretation or a change in law?

Mr. Zimmerman. Well, I am not a lawyer. I can only tell you what the effect was.

Mr. Tierney. The effect was to do the reverse of what we thought the statute did.

Mr. Zimmerman. The effect was it converted what, absent the PILOTs ruling, would have been considered stadium-related revenue, and---

Mr. Tierney. I don't want to cut into you, but it just sounds to me like it was created out of thin air.

Mr. Zimmerman [continuing]. Therefore would have classified it as a taxable private activity bond. It would not have been

eligible for tax-exempt financing.

Mr. Tierney. Thank you.

Would each of you expound a little bit on the monopoly issue here, how that affects the situation because both of you mentioned it in the course of your remarks?

What I think is important to note is what about the anti-trust issue on this, how would that change things? Do you think it is wise to continue the anti-trust exemptions and how might we change them and what would be the effect if we did?

Mr. Humphreys. Well, the effect of the anti-trust ruling is that leagues restrict the number of franchises that there are. I mean ask Ms. Watson why there is no NFL franchise in Los Angeles. The reason is that they are operating as a monopoly or a cartel and they want to keep that market open so that if another team wants to threaten to move if they don't get a new stadium built, then they have that option to move. So that is restriction.

Why are they allowed to do that? Well, because they enjoy some anti-trust protection.

If that was removed, there would be an NFL franchise in Los Angeles instantaneously almost because it is clearly going to support an NFL franchise. So this just gives. As team owners and local politicians bargain over subsidies, it gives the owners the ultimate threat and the ultimate power in the process, and that is how they get the subsidies as I see it. So I don't know.

Mr. Zimmerman. Effectively, when you have a monopoly, you maintain excess demand, and it is that excess demand which creates the need for local governments to compete to get franchises.

Mr. Tierney. Can either of you make a case?

Mr. Zimmerman. And how do they compete? They compete with larger and larger subsidies of the capital costs of the franchises.

Mr. Tierney. Can either of you make a case for continuing the anti-trust exemptions?

OK, I yield back, Mr. Chairman.

Mr. Kucinich. I thank Mr. Tierney.

Mr. Turner.

Mr. Turner. Thank you. Thank you, Mr. Chairman, for holding this hearing. I greatly appreciate your look into this issue, having shared with you the background of having been a former mayor and having been a mayor at a time when our city undertook the construction of a Minor League Baseball stadium which had a huge effect on transforming out downtown.

Mr. Chairman, as you know, so many times because of our background, we agree upon the issues that are identified but not necessarily on the specific resolution of those issues.

I want to thank you for panel one because the most important thing that we have in local government are people who get involved and who are activists to hold Government accountable and to look at where their taxpayer funds are going and what the direction and the vision of the community should be. It is not always that we will all agree, but if we don't have people at the table who are willing to dive into the facts and the details and hold the community accountable for what they are undertaking, you can get bad deals.

What is interesting in the information that we have today is clearly there are some bad deals in stadiums--I have seen them in our State--and there are also some really good deals.

We had a really good deal in our community because we capped our exposure and liability so the taxpayers had a limit at the amount that they were investing in the stadium. Cost overruns were to the team. Management of the construction was to the team. When we entered into it as a community, we knew exactly what the subsidy was going to be and what we expected the result of economic development in the area would also be.

Now, on the second panel, there are a couple of things that you have said that I find very interesting. One is your description of a monopoly with respect to anti-trust laws because what have you just stated is actually what I believe is backward from the economic model is in monopoly. You say that we should get rid of the anti-trust exemption because they are maintaining excess demand and making local governments compete.

Well, the reality is if we took off the anti-trust exemption, you wouldn't have less stadiums. You would have more stadiums and more teams and more communities endeavoring to do it. So it would have the exact reverse impact of what you are arguing. You would have more communities having access to teams and seeking to undertake construction of teams for their communities.

Second, the issue of looking at the stadiums as an amenity and the statement that has been made of a consensory conclusion that has emerged from peer-reviewed literature, except for the fact that the externalities that are not currently qualified and that appears that residential property values may be higher in cities with sports teams, but the conclusion starts with there is a consensus that they are not an engine of economic growth.

There is a significant amount of peer literature that does show that the amenities that a community has significantly impact economic development. Richard Florida, who, as you know, is the author of *The Creative Class*, goes into an incredible analysis. In one article entitled, "The Economic Geography of Talent," he actually correlates a community's success based upon their ability to attract a highly educated, highly skilled, highly qualified, competitive work force to the amenities in the community and indicates that the success level of a community is based upon the amenities that are provided and being able to attract people who have degrees and young folk.

Interestingly enough, he has a little graph here that says Coolness Index, and it says Pittsburgh, Seattle, Atlanta, Denver, San Francisco, Boston, Chicago, Los Angeles, all of which, I think we could all in this room name their teams.

As an indication, it goes on to say that median housing values are higher in those communities that have these amenities where there is a coolness associated with attracting new talent, an item that Dr. Humphreys, you indicated that it appears that residential properties values may be higher in cities with sports teams.

I think it is very important that we distinguish a broad policy such as do we provide a tax benefit to stadium construction? Do we provide it, as Mr. Issa said, to other amenities and activities of a community as a holistic approach to regional economic development?

It is not suburbs versus urban because the reality is the stadium is an economic engine for suburbs also. You have no suburbs that exist without an urban core. It doesn't happen. So you have to have a regional approach to what are the amenities



you are going to have in a community, how you are going to use public funds for those, and that is a local government discussion and a local government distinction.

My question for both of you is to go back to the issue that Mr. Issa had raised of if you are going to say that stadiums.

Mr. Kucinich. The gentleman's time is expired.

Mr. Turner. Can I finish my question, Mr. Chairman? It is a quick question.

Mr. Kucinich. I will agree to that, but your time is expired. Go ahead.

Mr. Turner. Thank you.

If you are going to have a policy where you look at stadiums only as being subsidized by the taxpayers, don't you have to put on the board all of the amenities that are used by other for profits such as rock concerts and other types of venues that are considered amenities that tend to attract that type of spirit or life that a city points to for its identity?

Mr. Kucinich. You can make your answers very brief.

Mr. Humphreys. I don't understand the question very well actually. We should consider? We should consider rock concerts as amenities and subsidization?

Mr. Turner. You have to have a venue, and certainly you are not saying that the music community must sustain construction of its own venue and/or they should not come into a community and host an event.

Mr. Humphreys. And where does it end? So we have to have restaurants too. Do we need to subsidize what restaurant construction and other amenities like that? I mean some of those things are privately provided goods. If we are talking about subsidies, why is it that we should, you know, I don't know where that list of things ends.

Apparently, you are in favor of subsidization of all sorts of construction projects.

Mr. Turner. My point is should we include them all if we are going to pick on one?

Mr. Humphreys. No.

Mr. Kucinich. The gentleman's time is expired.

[The prepared statement of Hon. Michael R. Turner follows:]  
[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. I want to thank this panel for their testimony.

We are going to move to the third panel, the IRS. Testifying will be Donald Korb, the Chief Counsel of the Internal Revenue Service.

This is kind of a Cleveland reunion because Mr. Korb is a former Cleveland area resident, a graduate of Brush High. We are very proud of your success and your presence here.

But let us move quickly. I would ask, Mr. Korb, if you would remain standing.

[Witness sworn.]

Mr. Kucinich. Let the record show that the witness responded in the affirmative.

Mr. Korb, you may proceed.

STATEMENT OF DONALD KORB, CHIEF COUNSEL, INTERNAL REVENUE SERVICE, WASHINGTON, DC

Mr. Korb. Thank you, Mr. Chairman, Ranking Member Issa, other members of the subcommittee.

I would suggest we had this hearing in the wrong place. We

probably should have held this hearing in Cleveland, so next time we get together.

Mr. Kucinich. We may have a followup, but for now we are in Washington, and we are so happy to have you here.

Mr. Korb. Mr. Chairman, I appreciate the courtesy of letting me speak now and also the conversation we had the other day on the timing.

Mr. Kucinich. We understand your time constraints. You may proceed.

Mr. Korb. I very much appreciate it.

I am the Chief Counsel for the Internal Revenue Service, and the Chief Counsel is the legal advisor to the Commissioner of the IRS on all matters pertaining to the interpretation, administration and enforcement of the tax law.

Before discussing some of the specific issues that are the focus of this hearing, it is important for me to emphasize that although the Office of Chief Counsel assists and advises the IRS in administering our Nation's tax system, neither our office nor the IRS itself develops proposals on tax policy or takes a position as part of the legislative process. Questions on tax policy issues are better addressed to the Secretary of the Treasury or the Assistant Secretary for Tax Policy in the Treasury Department.

In the tax policy area, our role is limited to advising on administrative issues that may arise from proposed tax legislation.

Now, let me turn to the subject of this hearing. The Internal Revenue Code provides an exclusion from income for interest paid on bonds issued by the State and local governments. Tax-exempt bond financing plays an important role as a source of financing to State and local governments for public infrastructure and other significant public projects. In essence, the interest income exclusion provides a Federal subsidy to enable State and local governments to obtain low cost financing for traditional governmental functions such as schools, roads, libraries and firehouses.

In addition to these types of projects, the Tax Code also permits State and local governments to use tax-exempt financing to subsidize certain activities of private businesses. Here again, the State and local government may have a valid governmental purpose for providing this subsidy. However, over time, Congress has put limits on State and local governments subsidizing private business activities with tax-exempt bonds.

Currently, a bond that subsidizes a private business may not benefit from the tax-exemption unless the proceeds of the bond are used for certain specified purposes, and if you look on page 3 and 4 of my written testimony, you will see the list there.

As we have discussed this morning, there are two basic types of tax-exempt bonds, what we call governmental bonds and what are called private activity bonds. Bonds are classified as governmental bonds if the proceeds are used to carry out governmental purposes and the bonds are repaid from governmental funds. On the other hand, bonds are classified as private activity bonds if, for example, the bond-financed facility is to be used entirely by private parties and the debt service on the bonds is paid from private sources.

The current private activity bond regime was enacted as part of the tax reform of 1986 as discussed earlier and was designed to limit the ability of State and local governments to



act as conduit issuers in financing projects for the use and benefit of private businesses.

Now, prior to the tax reform of 1986, as you know, stadiums and convention centers were listed as eligible facilities that could be financed with tax-exempt private activity bonds. In 1986, however, Congress eliminated these projects from the list and, at the same time, tightened the private activity bond tests across the board. This means, as discussed this morning, under current law, bonds that finance stadiums and convention centers now must be governmental bonds to be tax-exempt.

Consequently, if a State and local government wants to issue tax-exempt governmental bonds to finance a stadium that a professional sports team would use, it can do so provided that the issuer, the State or local government, receives no private payments from the team or other private parties for use of the stadium that in the aggregate exceeds generally 10 percent of the bonds, of the debt service on the bonds.

Therefore, even if the bonds finance a project that is 100 percent used for private business use, that private business use will not cause the bonds to be private activity bonds so long as the issuer pays the debt service on the bonds with either its general governmental funds or generally applicable taxes, both of which are not treated as private payments.

So now, let us talk about what we mean by the concept of generally applicable taxes. Congress indicated in the legislative history of the Tax Reform Act of 1986 that revenues from generally applicable taxes should not be treated as private payments for the purpose of the private payments test.

In 1997, the Clinton Treasury Department provided regulatory guidance on the definition of what are generally applicable taxes for purposes of these tax-exempt bond provisions including guidance which treats certain payments in lieu of taxes [PILOTs], as, in substance, general taxes. These 1997 Treasury regulations were based on longstanding general Federal income tax principles dating back to the 1970's dealing with the deductibility of taxes.

Those 1997 regulations generally define generally applicable taxes as an enforced contribution imposed under the taxing power that is imposed and collected for the purpose of raising revenue to be used for a governmental purpose. It must have a uniform tax rate that is applied equally to everyone in the same class subject to the tax and which has a generally applicable manner of determination and collection.

Although taxes must be determined and collected in a generally applicable manner, the 1997 Treasury regulations permit certain agreements to be made with respect to those taxes. An agreement to reduce or limit the amount of taxes collected to further a bona fide governmental purpose is such a permissible agreement.

In addition, the 1997 regulations treat PILOTs in the same manner as generally applicable taxes. Under the 1997 regulations, a PILOT is treated as a generally applicable tax if the payment is "commensurate with and not greater than the amounts imposed by a statute for a tax of general application." For example, if the payment is in lieu of a property tax on the bond-financed facility, it may not be greater in any given year than what the actual property tax would be on the property.

As I previously mentioned, the Tax Reform Act of 1986 eliminated the ability to finance stadiums and convention

centers among other facilities with tax-exempt private activity bonds. As a result, State and local governments seeking to finance stadiums must now issue tax-exempt governmental bonds and must subsidize repayment of those bonds from governmental sources including the generally applicable taxes. So, in layman's terms, this means that a State or local government may only issue tax-exempt governmental bonds to finance a stadium if it does not require the professional sports team to pay for the use of the stadium.

Very difficult interpretive issues arise, however, when a payment purporting to be a generally applicable tax is imposed in a customized fashion on a private business use that finances bond-financed property. In these cases, the Office of Chief Counsel must decide whether a payment is a generally applicable tax within the exception from the private payments test or instead is more like a lease or other payment which would be an impermissible private payment.

This past July, the Office of Chief Counsel issued two favorable Private Letter Rulings for tax-exempt governmental bond financings for two stadiums. The facts in these rulings involved professional teams that were going to use the stadiums, so the private business use was met. The question presented in the rulings was whether the payments to be made by the teams and to be used for the debt service on the bonds would constitute PILOTs treated as generally applicable taxes or instead would be treated as private payments.

Although we had serious concerns about whether the PILOTs in those two rulings sufficiently resembled generally applicable taxes, we nevertheless concluded that the 1997 Clinton Treasury Department regulations led to a favorable response to the taxpayer. Basically, we felt the 1997 Treasury regulations compelled the result.

But, more importantly, the two Private Letter Rulings served to focus our attention on how broadly the 1997 Treasury regulations could be interpreted to permit PILOTs to be used to pay debt service on tax-exempt bonds in situation where PILOTs did not bear an insufficient link to an otherwise generally applicable tax.

To address these concerns, we promptly published proposed regulations to provide new rules explaining when PILOTs would be considered to be commensurate with generally applicable taxes. The basic purpose of these proposed regulations was to tighten the standards for PILOTs as generally applicable taxes to assure a closer relationship between the eligible PILOT payments and the generally applicable taxes. In other words, we spotted a flaw in the 1997 Treasury regulations, and we moved expeditiously to fix it.

I want to thank you for the opportunity to appear this morning and try to clear up the mis-impression and confusion that sounds like it has surrounded this issue. Thank you, Mr. Chairman.

Mr. Kucinich. I want to thank Mr. Korb. Of course, because of the complexity of this, we have given you close to 10 minutes to testify.

Mr. Korb. And I appreciate that.

Mr. Kucinich. You are welcome.

When we come back, we will go to rounds of questions, without objection, of 10 minutes each so each member of the panel here will have the opportunity to indulge in that complexity as well.

[The prepared statement of Mr. Korb follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. This committee will be in recess for 10 minutes, and then we will return. Thank you.

[Recess.]

Mr. Kucinich. The committee will come to order.

Just an announcement and that is that the full committee will require the use of this room, and we will therefore go into recess at a quarter after 1. We will come back in at 3. This is something that in the flow of business here, we have to go with the flow.

So, again, a quarter after 1, we recess; at 3, we come back to this room. I appreciate the cooperation of all the witnesses, and I ask that all the witnesses be back here at 3 including the IRS.

I am going to question Donald Korb, without objection.

Mr. Issa. Mr. Chairman, a point of inquiry, the IRS is going to have to leave around 1:15. At least, Mr. Korb will. When you said IRS, you mean back-up personnel?

You have to leave right after this?

Mr. Korb. Unfortunately, I have a meeting that was scheduled beginning at 1. I have sent a message back now to move it backward. I will do whatever you want, but it will be a problem for me.

Mr. Issa. Mr. Chairman, if we do 10 minutes a side, would that be sufficient to conclude with this witness and then pick up the new panel at 3?

Mr. Kucinich. No, it would not.

Mr. Issa. OK.

Mr. Kucinich. I think it is important that the gentleman remain, and I think as we get into the questions, you will understand why it is important from your perspective. I think you will want to stay.

Mr. Korb. OK, whatever you want.

Mr. Kucinich. I appreciate the gentleman's cooperation.

I would like to first turn to the subject of Private Letter Rulings for the New York Yankees and Mets. The regulations existing at the time in 2006 were very specific, that payments in lieu of taxes [PILOTs], ``made in consideration for the use of property financed with tax-exempt bonds '' were ``special charges.'' Special charges are not equivalent to generally applicable taxes.

The Yankees wanted to make these payments in lieu of taxes for the use of property, the new Yankee Stadium, which would be financed with tax-exempt bonds. As such, in the case of the Yankees deal, were the Yankees right to be concerned with tax-exempt financing of their stadium?

Were they concerned that the tax-exempt financing of their stadium would not be allowed, Mr. Korb?

Mr. Korb. Excuse me?

Mr. Kucinich. Were the Yankees right to be concerned that the tax-exempt financing of their new stadium would not be allowed?

Mr. Korb. Well, the Yankees--remember, I didn't personally work on the ruling. If you use generally applicable taxes, as I testified, right, governmental funds, under the law that was passed in 1986, the Yankees, the city--the city owns the stadium, I think--could use governmental bonds.

Mr. Kucinich. If the IRS had not granted the Private Letter Ruling, then would the Yankees and the city of New York have

been compelled to do things significantly differently? Their bonds would have to be private activity bonds, isn't that right?

Mr. Korb. Mr. Chairman, you are absolutely right, and that is why we moved very quickly to eliminate the loophole created in 1987. That is exact. You are exactly right.

Mr. Kucinich. So if taxable bonds would have been used, what would that do to the cost of building the new stadium?

Mr. Korb. They could have used taxable bonds--you are right--and I assume the interest. I am not a municipal bond expert, but I assume the interest would have been higher, yes.

Mr. Kucinich. But let us review what this Private Letter Ruling did. One, it allowed the Yankee Stadium project to avoid issuing taxable bonds and, two, it entitled the Yankees to a reduced interest rate for construction of a stadium and thereby reduced the cost to the Yankees for building a new stadium, isn't that right?

Mr. Korb. Yes. We were following the law as it was written in the regulations that were enacted in 1997. We feel compelled to follow the rules, and that is why we moved to change them.

Mr. Kucinich. Is it logical that the Yankees wanted to use tax-exempt bonds to retain a greater share of the profits for Yankee ownership and that the Private Letter Ruling enables the Yankee ownership to keep a greater share of the revenues which the Yankees will earn in the new stadium?

Mr. Korb. Well, you know, I am really not an expert on baseball law, so I can't answer that question.

Mr. Kucinich. In other cases, as our previous witnesses have testified, building a new stadium increased the value of a team franchise. What does the building of a new stadium do to the value of the Yankees and would this not make the owner in a more profitable condition?

Mr. Korb. Again, Mr. Chairman, I am not a baseball economist. I am just a tax lawyer, so I don't really feel qualified to answer that question.

Mr. Kucinich. OK, fine. Well, let us go back to the Private Letter Ruling which you issued for the Yankees.

Mr. Korb. Yes.

Mr. Kucinich. Can you tell the committee the circumstances in which you came to learn about the facts of this case?

Mr. Korb. Well, let us be a little careful here. You will notice.

Mr. Kucinich. Excuse me?

Mr. Korb. No. I am just going to say I have to be a little careful with the answers I give here because I am constrained by the law. I don't want to be carted off and go to jail here. There is a code section called 6103.

Mr. Kucinich. Well, you are under oath.

Mr. Korb. I understand. I understand.

Mr. Kucinich. OK, continue.

Mr. Korb. But I am trying to explain to you. There is a code section called 6103 which prevents me from discussing specific taxpayer matters. So I have to be very careful. You would not want me to go out on the street and talk about your tax affairs with somebody out there. That is why that law exists.

So I will have to be, you will have to bear with me. In other words, I can't acknowledge that it is the Yankees.

So if you could restate the question and let me try to

answer with those legal restrictions in mind.

Mr. Kucinich. Can you tell this committee if the parties in the case met with you or your staff at the IRS?

Mr. Korb. No one met with me. I do not know about the staff.

Mr. Kucinich. Can you tell whether or not? Do you have anybody here from staff to say if there was a meeting?

Mr. Korb. No, but we could answer questions for the record on those kind of details.

Mr. Kucinich. Do you know if any certain representations were made by the Yankees in regards to this?

Mr. Korb. Well, again, well, the way the Private Letter Ruling process works, it is not an examination, OK. The way it works is somebody comes in with a transaction and tries to get, wants to get the IRS to approve it before it is done, OK. You don't send out revenue agents to check out the facts. What you rely on are the representations under oath, under penalties of perjury, by the taxpayers.

So I am sure in this case there were representations made that then our lawyers relied on in giving the Private Letter Rulings. That is the way it is done.

Mr. Kucinich. Is this a form of lobbying?

Mr. Korb. No, no, no. This is, no.

Mr. Kucinich. I mean there is no lobbying of the IRS going on?

Mr. Korb. No.

Mr. Kucinich. No one lobbied you?

Mr. Korb. No. This is the way the process works.

Mr. Kucinich. Since the parties felt that they needed a Private Letter Ruling, they obviously felt they were doing something that was, in some sense, unprecedented, isn't that right?

Mr. Korb. No, that is not true at all. A lot of people come in on very routine transactions. It is just when you do a major transaction, you want to make sure that you have crossed all the Ts and dotted all the Is. So it is very, very common for even in the most mundane to fix a problem for us. Because of our limited budget resources, we often times try to figure out ways where people want to come in.

Also, keep in mind, the issuer submits a ruling request for the bonds. It is not private party. So, in other words, it would have been the issuer of the bonds that actually came in for the ruling.

Mr. Kucinich. But they were trying to enable a private revenue source to pay debt service on governmental bond in excess of the legal limits, isn't that right?

Mr. Korb. That is exactly why we moved to close, to change the regulation.

Mr. Kucinich. So, in your mind, weren't they asking for special treatment from you and you gave them that special treatment?

Mr. Korb. No, no, that is not true at all.

I took an oath of office when I came here, and everyone who works for me did the same thing, but we swear to follow the laws, OK, and the laws are the statutes that you guys pass, the regulations. The fact is when you come into office, you are bound by the regulations of your predecessors, and we were just fortunate, to be honest with you, that this came up so we could correct the regs.

Mr. Kucinich. Could you tell us what is the connection



between the Private Letter Rulings the IRS did for the Yankees and the city of New York in July 2006, and this proposed rulemaking that you spoke of published in October?

Mr. Korb. Oh yes, yes, yes. The timing is they came in, the issuer. Remember, I can't talk about specific taxpayers, but the issuer came in and sought a Private Letter Ruling on the bonds. We, our lawyers dealt with that, felt compelled by the regulations that had been enacted in 1997 to give the ruling.

We immediately decided that we had to take a look at that and try to fix it, and so we did. We put out proposed regulations that deal with the problem that you are talking about here.

Mr. Kucinich. Mr. Korb, it was the testimony of Mr. Dennis Zimmerman that IRS Private Letter Rulings for the Yankees and the Mets and its proposed rulemaking pertaining to PILOTs violate the intent of the 1986 Tax Reform Act. Now, Mr. Zimmerman has some authority in this area. He is the author of numerous studies and articles, even a book on tax-exempt financing including a legislative history.

What I want to know for the record is that is your testimony today that your Private Letter Rulings for the Yankees and the Mets and the subsequent proposed rulemaking are consistent with the prohibition on tax-exempt financing for sports stadiums?

Mr. Korb. We felt at the time we issued this ruling, based on the regulations that were left behind by the last administration, that we had to issue this ruling. We moved expeditiously to change that result.

Mr. Tierney. Would the gentleman yield?

Mr. Kucinich. Yes, I will yield.

Mr. Tierney. I am not going to be able to stay around much longer, but I would like one clarification if I could, sir.

It seems that the issue that we might have a question about would be the regulation that came out in 1997 or the interpretation of that.

Mr. Korb. You are right.

Mr. Tierney. I know from your testimony that came during the Clinton administration because I heard you say it 74 times, and I thought that was interesting because I don't really care if it came under the Eisenhower administration and I suspect that nobody up here does.

So that is where I think we want to focus. That regulatory issue right there, you felt or your people felt it required them to come to the conclusion that was reached.

Mr. Korb. We felt compelled. We felt our hands were tied.

Mr. Tierney. Can I just ask in your legal interpretation, was there any prospect that there was room for interpretation of that regulation?

Mr. Korb. We wouldn't be sitting here today. We felt constrained.

Mr. Tierney. OK.

Mr. Kucinich. Reclaiming my time, Mr. Korb, the committee has received a memo this morning from the Congressional Research Service on the public purpose of sports stadiums for purpose of the private activity bond security test. I would like to direct committee staff to distribute the memo to the members of this committee and give a copy of the memo to Mr. Korb and his staff.

As they are distributing it, I would like to read from this memo, Mr. Korb, starting on page 3: ``To satisfy part (ii), the

requirement that PILOTs are designated for public purpose, the PLRs"--which you issued for the Yankees and the Mets--`rely on the stated purpose that the payments are for `economic development and recreational opportunities in the City' that would be generated by using these PILOTs to retire the bonds used to build professional sports stadiums.''

`Aside from the extensive academic literature maintaining that stadiums do not generate economic development, commentators might challenge the implicit expansion of `public purpose' to include not only the facility itself but any activity indirectly associated with the facility. An argument might be made that the conclusions in the PLRs are at odds with the intent of Congress to rein in the expanding use of tax-exempt bonds for private activities.''

`Enacted tax-exempt bond legislation culminating in the 1986 Act, have sought to curb the use of federally subsidized public debt for what would otherwise be considered private activity.''

Now, let me remind you, Mr. Korb, that building sports stadiums was specifically removed from the list of eligible activities.

A little bit further on page 3, CRS makes the additional point that taxpayer bond financing for sports stadiums and private parking garages to serve those sports stadiums represent what economists call an opportunity cost meaning that the money could have been used for alternative purposes that are of greater public benefit.

What this says is `The inefficient allocation of capital contention arises from the economic finding that additional investment in tax-favored private activities'--I might add, such as building a sports stadium and parking garages--`will necessarily come from investment in other public projects. For example, if bonds issued for mass commuting facilities did not receive special tax treatment, the bond funds could be used for other government projects such as schools or other public infrastructure.''

Mr. Korb, I think that this memo raises questions as to whether the IRS complied with the intent of the 1986 Tax Reform Act in awarding tax-exempt bonds for sports stadium construction and whether the IRS has, through this decision, frustrated other public purposes from being achieved, namely school construction and other public infrastructure.

Mr. Korb. Is that a question?

Mr. Kucinich. Yes. Do you have any comment?

Mr. Korb. Oh, the comment would be that I don't see the regulations cited in here in what you just read.

There was a very interesting question, I think Congressman Tierney asked that I thought was very perceptive. Is this an interpretation of the law or is it the law itself? That goes to what the chairman, you, just talked about. There could be varying interpretations.

Our lawyers who are well meaning, public spirited people, who serve us at a great personal sacrifice in terms of compensation, reached that conclusion, OK.

Mr. Kucinich. My time is expired. I am going to go to the gentlemen.

Mr. Issa.

Mr. Issa. I am going to pick right up on the same subject. I think it is a good one.

Private Letters are simply insurance policies that your



interpretation and their interpretation is the same thing? Is that roughly right?

Mr. Korb. Yes, because it avoids a controversy later on down the road.

Mr. Issa. Right. It is only different in that it is a legal opinion from a Government agency rather than your accountants or lawyers telling you this is OK but then saying we can't guarantee the IRS. This brings the IRS in.

Mr. Korb. That is right.

Mr. Issa. When you are dealing with hundreds of millions of dollars of the people's money in the case of New York City, this is prudent on both sides, right?

Mr. Korb. Yes.

Mr. Issa. Who owns, who will own the new New York Yankee Stadium when it is completed?

Mr. Korb. You know, I don't know if I answered. The city of New York will.

Mr. Issa. OK, the city of New York is going to sell off their old stadium. They are buying a new stadium. You inherited, from a combination of Reagan and Clinton, a rather bizarre set of laws that says if you pay for the whole thing out of the city's coffers, it is OK. It is only if you want to collect revenue from that entity, that it is a problem because of this 10 percent rule.

The fact is they could build a stadium; collect nothing and just let somebody play in it--one day, a Minor League team; 1 day, a high school team; and the next day, the New York Yankees--and they could pay for everything and it would be OK under Federal law, right?

Mr. Korb. That is exact. That is exactly what they did in 1986.

Mr. Issa. So, in 1986, and I always think of President Reagan fondly because he lowered taxes but did revenue enhancement. This law was intended to be a revenue enhancement. It tended to tighten up a little bit.

Mr. Korb. The 1986 law took a series of project off the list. You are exactly right.

Mr. Issa. Revenue enhancement; now, without a new act of Congress, in 1997, the Clinton administration, and this is a partisan body so I will use it more freely than you would. The Clinton administration, which had done the largest tax increase in American history, passed through a ruling which I understand had public hearings. They passed something that loosened this or at least created the opportunity for smart lawyers and accountants to take advantage of this loosening, is that correct, roughly?

Mr. Korb. Well, you are right. It is an interesting story because in 1994 when the regulation was proposed is very similar to now what we are proposing to do. So, in other words, it was originally proposed as a tough rule. For whatever reason, in 1997, they made it a lenient rule, and now we are trying to bring it back where we believe it belongs.

Mr. Issa. Mistakes get made, and I appreciate the fact that you have acted quickly when you discovered it.

But I want to go back because the chairman's effort here, rightfully so, is we are looking at cities, decaying cities, problems in getting people to cities and the wealth and education and capability of cities.

Let me run through some quick questions for you, and I realize that you are not the economist that we had up here

earlier, but the fact is that if that stadium had been built with post-tax rather than pre-tax money, so to speak, it would have cost more to do. The city would have ended up with a higher total cost if they chose to build it anyway.

Mr. Korb. Well, again, I am not a sports economist or a municipal bond expert, but I think I did respond to a question from the chairman that probably would be true.

Mr. Issa. Right, so the city who is the owner----

Mr. Korb. Right.

Mr. Issa [continuing]. Ultimately takes advantage of a lower cost of ownership on the replacement for a stadium which was built before anyone on the days was born. Babe Ruth may have built it, but he built it a long time ago.

OK, so this is a loophole somewhat created in 1997, not intentionally perhaps but created that in your rulemaking, you are trying to close it again, but the bottom line is it did save the city of New York money. It serves that purpose.

We can all have an argument about whether baseball or museums or anything else are good, but the law as it was written in 1986 and not changed in 1997 allows cities to do something like the Big Dig. You can spend as much money as you want, and if you are just using general revenue, you can keep spending until you run out of money, and it is all bond tax deductible, right?

Mr. Korb. That is exactly right.

Mr. Issa. We are trying to understand the flaws in the system, and that seems to be one of the flaws, that if it is a revenue bond, as we used to know them, then it is limited in its tax deduction, but if it is going to just be the Big Dig, so to speak, it is OK.

Mr. Kucinich. Excuse me, Mr. Issa. I apologize for interrupting you. I have just been notified by the chairman of the committee that they are requesting the use of this room now.

Mr. Issa. Our rent is not paid in full yet.

Mr. Kucinich. I don't know. We probably would have benefited from a tax-exempt approach, but I will stay this.

Mr. Issa. Wouldn't we all?

Mr. Kucinich. Excuse me, Mr. Korb.

So what I would like to do is to continue at 3 with your questioning and to provide you with an additional minute for this exchange here.

Mr. Issa. Thank you, Mr. Chairman.

Mr. Kucinich. This committee is in recess until 3, and thank you very much.

[Recess.]

Mr. Kucinich. The committee will come to order.

Before we begin, I want to thank all the witnesses who have been very patient with their time. The Congress is in kind of a wind-up session here before break, so it is required that we go to the floor for votes.

Now that we are back here, we have had some intervening matters that I want to call to the attention of the committee, and I am going to ask Mr. Korb if he would be so patient as to indulge us one more time.

At the request of Mr. Turner, we ask unanimous consent that Mr. Murphy be permitted to speak out of order for a period of 5 minutes and 5 minutes only, at which time we would revert immediately back to Mr. Korb. If I have the concurrence of the members of the committee, then at Mr. Turner's request we will

proceed.

Mr. Korb, thank you for your patience.

Mr. Murphy, if you would like to come forward? I would ask you to be sworn.

[Witness sworn.]

Mr. Kucinich. Let the record show that the witness has answered in the affirmative.

I would ask, Mr. Turner, do you want to introduce Mr. Murphy briefly?

Mr. Turner. Mr. Chairman, I greatly appreciate that.

Mr. Kucinich. He could go into this 5 minute testimony.

Mr. Turner. Thank you.

Mr. Murphy has a plane to catch, and that is why I appreciate the chairman's accommodation here.

As the chairman is aware, in Dayton where I was mayor, we built a Minor League Baseball stadium. Mandalay Entertainment, of which Bob is the president for the Dayton Dragons, has been a great experience for us. We know certainly some communities have had difficulty. We have had a good experience, and Bob is going to tell us something about that experience and what we have seen in our community from the transaction that we put together which was a regional package.

So, with that, it is my privilege to introduce Mr. Murphy.

Mr. Kucinich. Thank you very much, Mr. Turner.

Mr. Murphy, you may proceed, and it would be very important for you to draw that mic a little bit closer so we can hear you.

STATEMENT OF BOB MURPHY, PRESIDENT, DAYTON DRAGONS, DAYTON, OH

Mr. Murphy. Thank you very much.

Thank you very much for this opportunity to be here today to share with you the story about a partnership that has been and continues to be an amazing success. This partnership exists between a Single A baseball team, the Dayton Dragons, and the city of Dayton. This amazing success story demonstrates that a city with the proper tools and an engaged partner and with the right economic deal can create something that can not only be a benefit to a community. It can be a force that can change the community forever.

Our Congressman, Mike Turner, was mayor at the time and was very involved in this entire project.

In 1998-1999, the city of Dayton was at a crossroads. The city was in decline. There was an overwhelming public perception that downtown was dead and that the hub of the region was no longer a viable city. The prevailing opinion of the entire region was that people would not come downtown and, in fact, had not been downtown for 20 years and that there was nothing that would get them to do so.

People believed crime was everywhere. Streets were impossible to navigate. Parking was an impossible situation. That was the view of downtown. That view got worse when you looked to the future site of Fifth Third Field, the home of the Dayton Dragons--deserted lots, deserted buildings, knocked down factories, graffiti and garbage everywhere. It was a classic brownfield situation.

The city made a decision to fight. They believed that Minor League Baseball would make a difference. They also believed that Mandalay Sports Entertainment was the partner that they needed to succeed.

The city of Dayton under the leadership of then Mayor Mike Turner and Mandalay Sports Entertainment reached an agreement that the cost to the city for this project would be capped. There would be no risk for the city on construction costs. Mandalay would contribute \$4 million to the project. Mandalay would also capitalized the stadium to a minimum of \$1.5 million, having an equity stake of \$5.5 million.

Mandalay would assume all construction cost overruns. Mandalay would be responsible for repair and maintenance and utilities for the entire 20 year term of this agreement. In summary, the city would make a known investment with no risk of exceeding the agreed upon level of investment.

What has the city of Dayton accomplished? The Dayton Dragons have created jobs in the city of Dayton. Other companies benefit economically from Dayton baseball including cleaning companies, electrical companies, transportation companies, hotels, printing companies, office suppliers, food suppliers and a whole host of others. Since 2001, the number of market rate housing units almost doubled from 485 units to 929.

Dayton baseball has had the intended impact of being a stimulant for economic development in and around the area. Bars, restaurants, markets and building renovations have all occurred. WorkflowOne, a \$1 billion company with 500 employees, located its headquarters adjacent to the baseball stadium due to the excitement of Dayton baseball. The CareSource Management Group is building a \$55 million office building near the stadium. The city of Dayton is moving forward on Tech Town, a \$25 million project created in the early stages of the baseball project to target technology companies.

Other amenities have been successful due to the changed perception of downtown including the \$120 million Schuster Performing Arts Center and the \$32 million recreational development along the Miami River known as RiverScape. Each year, more than 500,000 come to downtown to enjoy the Dayton Dragons, also enjoying downtown's offerings of restaurants and entertainment options.

Buildings have been renovated to include apartments, condos and loft living. Additional condos are being planned in and around the stadium. Minor League Baseball attracts fans throughout the region, helping to dispel those negative perceptions of downtown. Now, the Ballpark District, a \$230 million major mixed use development is being proposed around Fifth Third Field, capitalizing on the success of baseball.

What have the Dayton Dragons accomplished? They have set the all-time Single A attendance record on three occasions. They have averaged over 580,000 fans each year. They have sold every single seat before the season's first pitch for 8 consecutive years. That has never been done in over 100 years of Minor League Baseball history once. They have a sellout streak totaling 496 games which will grow to 566 games this year, our eighth season.

Dayton has been in the top 10 in attendance in all classes of Minor League Baseball which includes 160 teams. Fifth Third Field has been selected as one of the top 10 ballparks, and the team has received sports industry awards recognizing the franchise as the best in minor league sports.

So did the city achieve its goal? Did the team achieve its goal? The answer to both of these questions is yes.

Baseball has an effect on people too. Non-profit organizations work at the stadium and have raised well over \$2

million for youth organizations. The Dragon's Hometown Heroes Program is designed to thank and take care of families of deployed personnel at the Wright Patterson Air Force Base.

Also, the Dragons have introduced a program known as the Dragons MVP Program, a tool for teachers. This program is an incentive and award system for fourth and fifth graders. This program will be in 850 classrooms and will impact 25,000 students in our area.

Just finally, if I may, the city of Dayton and the Dayton Dragons are proud of what has been accomplished and believe that the proper foundation has been built for future growth, economic development and have truly created a city that has the quality of life that will allow the city to compete for people, companies and economically well into the future.

Thank you very much, Mr. Chairman.

Mr. Kucinich. I thank the gentleman. By agreement, the gentleman is free to go right now, and we are going to move on to Mr. Issa's 6 minutes of questioning of Mr. Korb.

I want to thank the gentleman for traveling here from Dayton and thank Mr. Turner for making sure his testimony was available.

Thank you, Mr. Turner.

Mr. Turner. Mr. Chairman, I greatly appreciate your allowing him to testify.

Mr. Kucinich. Absolutely.

We will continue with Mr. Korb's testimony. Again, Mr. Korb, thank you very much for your generous agreement to remain here so that you can answer the questions. Also, we will look forward to joining our next panel momentarily.

Mr. Issa, please proceed.

Mr. Issa. Thank you.

Mr. Korb. Yes, I do want to extend my appreciation to you for permitting me to testify.

Mr. Kucinich. Thank you very much, Mr. Korb.

OK, Mr. Issa.

Mr. Issa. Thank you, Mr. Chairman.

Can we put up the paragraph from the memo we were handed earlier today? Is that as large as it can be?

Mr. Korb, do you have a copy of this memo? Were you given it?

Mr. Korb. Yes, I do.

Mr. Issa. My understanding, having read it, is that on the first page, the major paragraph which is actually the third paragraph makes it clear, as I see it, that in fact what you did was consistent with the public law and the precedent, and that is really what this says, notwithstanding page 3. Have you had a chance to read that?

Mr. Korb. Yes, I agree with you.

Mr. Issa. That is good that CRS, current CRS agrees that notwithstanding what might be right or wrong in a given city, that you made the ruling that was the only ruling you could make under the current IRS, non-changed.

Let me go back through just one more thing because I want to understand. You have really done your work to be an expert on the history of this, but I want us to understand it too. In 1971, the revenue ruling made it clear, if I understand, that the PILOTs were considered general revenue.

Mr. Korb. Yes, I alluded to that in my opening statement.

Mr. Issa. The bottom line is if you do a PILOT right, under current law, you are turning private money through this process



into general revenue just like it was anything, and when it is spent, it is spent under the current congressional guidance to you and IRS rulings. You are turning it into general ruling for the city as though the city paid the whole thing directly.

Mr. Korb. That is exactly right.

Mr. Issa. It may be a loophole, but 1971 makes it a pretty old loophole.

More importantly, not only is this specific and allowed, but it appears as though in 1986 when the House and the Senate each passed competing versions of the legislation that, in fact, governs today, that the House saw much closer to what Mr. Kucinich's first witnesses said, the majority witnesses said. They passed and said you shouldn't be able to have stadiums financed with these revenues, period, while the Senate allowed for the continuation of what you are faced with today. Is that your understanding?

Mr. Korb. Yes. It is interesting; the last time I served, did public service with the IRS was 20 years ago, and I actually worked on the 1986 Tax Reform Act as the Assistant to the Commissioner, and you are exactly right.

Mr. Issa. Faced with our decision from the House in 1986, our decision appears to be similar today, but it wasn't what prevailed in conference.

When it comes to changing what you can change which you have now noticed, do you believe that you should be successful in at least going back to a pre-1997 standard?

Mr. Korb. Yes, as I said earlier, the proposed reg in 1994 is very similar to what the standard we used in our proposed regulation.

Mr. Issa. If this body wants to explicitly stop the financing of stadiums, not stadiums and other things like it, museums, etc., but specifically stadiums, will we have to give you new legislation in order for you to explicitly stop that?

Mr. Korb. Oh, absolutely, yes.

Mr. Issa. OK, well, that is what I wanted to achieve more than anything else is an understanding of your hands are tied as I understand. Beyond what you are trying to do through rulemaking, your hands are tied unless both the House and the Senate this time agree on a change, and that change would have to name stadiums in some way that would make them different than other public service entities that have a public-private performance.

Mr. Korb. Yes, that is right.

Mr. Issa. I guess we have been unfair with our time in many ways for you. Are there things that we should know beyond that here today, things that you think we haven't made clear in understanding what your limits are and how you have to treat these and equities that maybe we could change that exist in the law?

Mr. Korb. Again, remember, we administer the Tax Law at the Internal Revenue Service. We do not establish the policy. That is up to the Treasury Department to recommend changes and for you all to enact that.

As you just said, the law is very clear that if a city or State wants to use governmental funds, it is perfectly free to do so under the law, and we are obligated in following the law when we act. We found this flaw in the regulation. We moved quickly to correct it. We cannot go any further than that.

Mr. Issa. OK.

Mr. Korb. At this point forward, that is all we can do.

Mr. Issa. Good. I know you are not going to be able to give us an exact number, but when we talk about all the stadiums and ballpark expenses as a percentage of the moneys which cities spend, cities, counties, States spend and invest in various public works projects and as a percentage even of what private philanthropy gets a similar tax exclusion for, aren't we talking today at a fraction of a fraction of 1 percent?

Mr. Korb. I would think so. I don't have any personal knowledge. It just makes common sense that is probably true.

Mr. Issa. That is, as one member, what I would say. Although it is important to look at every issue, I would hope that we look with the same vigor at the 2, 5 and 10 percent of budget areas of cities, States and even private philanthropy as well as we look at this small part that I, as somebody who enjoys a baseball game, Major and Minor--and I have Minor League in my district proper--hope that we continue to find ways to make these things happen.

Mr. Chairman, I appreciate your understanding in bringing this and your indulgence in the extended questions, and I yield back.

Mr. Kucinich. I thank you very much.

Pursuant to the earlier order, we now return to the 5-minute rule.

Mr. Korb, there seems to be a confusion about the 1986 law. Isn't it true that the 1986 Act, that under that, sports stadiums were removed from the list of eligible activities for tax-exempt private activity bonds that exceeded 10 percent security interest test? Wasn't that the law?

Mr. Korb. What happened, Congressman, as I said earlier, they were removed as private activities.

Mr. Kucinich. Yes or no? I mean I just need that in order to understand this.

Mr. Korb. You can still finance stadiums from general tax revenue even under the 1986 Act. That is the law.

Mr. Kucinich. So you are saying that was the law?

Mr. Korb. That is the law as of 1986.

Mr. Kucinich. Was it the law for private revenue, and PILOTs are private, right?

Mr. Korb. PILOTs are a substitute for taxes.

Mr. Kucinich. Payment in lieu of taxes.

Mr. Korb. Payments in lieu of taxes are substitutes for taxes. That is the whole idea.

Mr. Kucinich. But that is the change that you made. That wasn't the way it was before you made the change, right?

Mr. Korb. No, no. PILOTs, as Congressman Issa said, go back to 1971. The IRS, when you and I were both in school still, the IRS indicated that PILOTs are general.

Mr. Kucinich. Here is what I don't understand then if that is true.

Mr. Korb. This is very confusing. I can understand you are confused.

Mr. Kucinich. Wait. No, I am not confused about this. What I am wondering is if that is true, why did the Yankees need a Private Letter? If what you say is true and Mr. Issa pointed out back to 1971, help me understand then what circumstances arose that required that the Yankees have a Private Letter?

Mr. Korb. Well, these have to be governmental bonds, so they only can be paid out of generally applicable taxes. So the Yankees wanted the IRS to confirm under the 1997 regulations that these payments are going to be treated as generally



applicable taxes.

Mr. Kucinich. Have you done this before or did you have to make a special ruling that changed the nature of payment in lieu of taxes for this particular case?

Mr. Korb. No. This is the law from the 1997 regulations.

Mr. Issa. Mr. Chairman, I would ask unanimous consent that the 1971 ruling that makes this the case be entered into the record. I think it may help clarify.

Mr. Kucinich. So ordered.

Mr. Issa. Thank you.

Mr. Kucinich. We will put this in the record.

Mr. Korb, if an applicant seeks a Private Letter Ruling, must the IRS give it or does the IRS have discretion?

Mr. Korb. To give a Private Letter Ruling? Unless it is a no ruling area, we generally give the Private Letter Rulings.

Mr. Kucinich. In your earlier testimony, you stated that while attorneys you work with at the IRS interpreted the law in the 1997 regulation in one way, other attorneys may have interpreted it differently. Now a central element of the Private Letter Ruling you granted the Yankees was tax-exempt bonds to finance the new Yankee Stadium would fulfill a public purpose.

I want to quote from your Private Letter Ruling. ``Here, the payments in lieu of taxes are designated for a public purpose. The PILOTs, or payments in lieu of taxes, are being used to pay the debt service on the bonds which were issued specifically for the purpose of financing the stadium to promote and encourage economic development and recreational opportunities in the city.''

That is from your Private Letter Ruling.

Now, as you have heard, there is a consensus among the economists that stadium construction does not lead to economic growth. So my question to you is did the IRS simply accept at face value the claims of stadium financing applicants that the stadium would achieve economic development or did you try to verify the representations?

Does the IRS consult academic literature? How do you come to that frame of mind that says, OK, we are going to have a Private Letter Ruling here, and this is the way it is going to go?

Mr. Korb. Well, that is a good question. Let me point out the law here because we always need to follow the law here. Under the 1997 regulations, the PILOTs are treated as generally applicable taxes if the payment is, one, commensurate with and not greater than the amounts imposed by tax of general application and, two--I am waiting for him to finish.

Mr. Kucinich. Go ahead. I am listening.

Mr. Korb. And, two, designated for a public purpose and not a special charge.

And so, as our lawyers look at the law, we have to apply the law as it is set forth in the 1997 regulations. The PILOTs were based on generally applicable tax. It was a real property tax, and the stadium was for a public purpose.

Mr. Kucinich. How do you determine that the financing would fulfill a public purpose? What did you describe as that public purpose?

Mr. Korb. Well, it is kind of interesting there because the regulations specifically contemplate a stadium being financed with the generally applicable ticket tax. I would have your assistant look at example 11 in the regulations there and ask

himself the question, how can we treat a stadium different for purposes of the public purpose standard and the PILOT rules? It is a law that was written by the Clinton Treasury and had an example in there that said that a stadium qualified.

We have to follow the law. We have no choice.

Mr. Kucinich. And no discretion?

Mr. Korb. On that point, no, we really don't.

Mr. Kucinich. Mr. Souder.

Mr. Souder. Mr. Chairman, I want to ask a question about the process. Doesn't Mr. Issa get a regular five now as well?

Mr. Kucinich. Yes. I am sorry. Of course.

Mr. Issa.

Mr. Souder. I appreciate going to me first, but I have a slightly different angle, but if Mr. Issa would like to take his five.

Mr. Issa. OK, then I will take my first.

Following up, I heard the economist-settled question, but it wasn't settled in my mind.

Your standard for whether it benefited a region was determined by the people of New York and particularly the area surrounding the baseball park. They felt, the city of New York in granting all the eminent domain and everything else, they felt that this was a qualified redevelopment. They felt that this would benefit the economy of their city.

So when we heard earlier from an economist, we heard that on a macro sense the world was not better off because moneys were spent in New York. It didn't help people in Kabul or Islamabad or, for that matter, perhaps in California. But that was a macro statement. There was no statement that it didn't help the local areas. Just the opposite, I believe I heard that it may help a local economy, but it had no net effect, and that was what was being given to us.

Is that what you heard and is that the basis that you have to go on of an economic benefit? The city thought there was an economic benefit for that region, right?

Mr. Korb. Well, we have an easier time of it because we just look at regulation and our past rulings, and we have to follow the precedent. That is what we have to do, and the law was laid out very clearly.

There was a 1972 ruling that permitted deductions for amounts paid by sponsors of a steeplechase race to promote tourism, and they said that money was expended by a State, and promoting tourism in the State is for exclusively a public purpose.

We just can't make it up as we go along as much as you might want to do that. We really have to follow the law as it is written, and that is one of the reasons, Mr. Chairman, we decided that it made sense here to propose a change in the law so that our successors in this job, the job I have right now, will be able to apply that rule.

Mr. Issa. Excellent.

Mr. Chairman, I would also like to put into the record an economist's study from the Robert A. Woods professor of economics at Smith College in Massachusetts. It is from May 1, 2004, and it specifically deals with Atlantic Yards, estimating that the total of \$2.93 billion over 30 years or a net present value of \$1.08 billion would be the advantage for that operation. Although it may not be the one that is going to carry the day, it certainly seems that independent bodies such as a university economist very much believe that there can be a

net economic benefit, and I ask that be placed in the record.

Mr. Kucinich. Without objection, so ordered.

Mr. Issa. Thank you.

As we wind this thing down, first of all, I want to thank you for being here and for representing so well the obligations of the IRS. As I understand it, you are one of the least stocked with political appointee bodies there is.

Mr. Korb. There is only two of us, the commissioner and me. That is it.

Mr. Issa. Right, you and the Commissioner.

Unlike other organizations, and we oversight a lot of these in which we hope that administrative appointees get in there and beat up the bureaucracy, you essentially work for an organization that is the most apolitical organization that there is, from what I can see.

Mr. Korb. And the organization is very proud of that.

Mr. Issa. We are proud, too, to know that what we pay to the IRS stays at the IRS, so to speak, and they do a great job of revenue collection. I think that is my closing question. Essentially, isn't it your job and your organization's job, every person at the IRS, to collect every possible nickel on behalf of the American people that public law allows?

I don't mean to twist and turn, but I mean that given a bias, your bias is toward revenue collection, isn't that true?

Mr. Korb. People don't like to hear this, but one of our important jobs is to protect the fisc. That is exactly right.

Mr. Issa. In a sense, if we had given you some ability and if that ability would allow you to say, no, please go issue those bonds but we want our cut of it, you would have done that.

Mr. Korb. Exactly.

Mr. Issa. And you would have done it in 1971, in 1986, in 1997 and in this millennium. So over Republican and Democratic Congresses, Republican and Democratic administrations, your body has been tied by two things: one, the law and, two, the continued will of the Congress not to change that law. Even when we overhauled in 1986, we ultimately did and then undid the guidance because of the very nature of what these stadiums represent to communities and to our cultures, isn't that right?

Mr. Korb. That is correct. That was a bipartisan effort at that time too. People forget that, but the other body was Republican in those days.

Mr. Issa. Thank you and thank you for your being here today.

Thank you, Mr. Chairman.

Mr. Kucinich. I thank the gentleman.

Mr. Souder.

Mr. Souder. Thank you, Mr. Chairman.

I wanted to make a few general comments because I haven't had much opportunity to participate in the hearing for a variety of reasons, not the least being chopped up with votes on the floor and then a committee markup.

I have a couple of frustrations. I know that the chairman is generally very fair person, but I was very concerned that there really hasn't been debate in the panels and had you not so generously allowed the gentleman from Dayton to come up here, we would have never heard debate during this.

I came in more receptive to your position, and as I listened to the earlier panels and then read the testimony, I am less convinced now of the problem than I was when I came in

because when you only hear witnesses stacked one direction, and most of the last panel is, you wonder what they are hiding. I felt that there were a number of appalling gaps in the presentations in the first and second panel. For example, what would have happened had a stadium not been in downtown Detroit, Seattle or in New York?

If you take an undervalued property in a brownfield in an urban center and then instead of doing it there, go out to the suburbs at an interstate exit, the displaced property values. In other words, part of the reason there are public incentives on downtown properties is because in these brownfields, for a variety of reasons--environmental, crime, transportation systems--the private sector isn't investing in those.

But if we put the stadiums out and made it a pure profit venture, they would go out and displace because the basic assumption in these financial analyses that we heard beforehand is that there is a lost dollar value to the community.

But if you put a less return property that doesn't generate--if indeed you accept the premise that they don't generate a lot of other revenue around them--in an area that is a high value value-added to the area, for example, at interstate exits and others, you would have to have a whole different financial calculation. In other words, there are huge gaps in just trying to present this as an almost anti-capitalist venture because if the capitalists did a pure market, they would have a different pattern. There is a secondary agenda, and that is to revitalize certain areas.

Also, and this disturbs me because, under oath, one of the witnesses said that all of these sports areas had failed to achieve their community goals. That is a very broad sweep, and it was under oath. In particular, what I think is important to ask, and I have to head to the airport like the other members and maybe it will come up in the last panel or hopefully if any of the witnesses want to respond in writing to the hearing record.

Is this true of Minor League Baseball? What about Dayton? That was a very compelling case. Minor League Baseball teams have a different challenge than many of these major urban areas and the question of have some of them worked, some of them not worked.

Can you make a uniform statement and what kind of responses are there to Dayton, to other areas that have had more mid size and smaller size city efforts? This is a debate going on in my hometown of Fort Wayne, IN. It is a debate that goes on in smaller and mid size cities all over the country, and the challenges of many of our really hard hit urban centers are substantially different than the challenges, similar, may rhyme but substantially different than the challenges faced in small town America or mid size city America.

By having a hearing that implies that any public bonding of any type of sports franchise always fails and lets that stand undebated until mid to late afternoon and when most of the press corps has left is just, I believe, not fair. We should have had this debate on the first panel, and I hope in the future the chairman realizes that his own cause can be furthered by letting members, who may start receptive, hear some cross-correlation and debate in the panels.

I yield back.

Mr. Kucinich. To my good friend, Mr. Souder, our majority staff had worked with the minority staff and offered them the

opportunity to choose witnesses. They chose two witnesses for this hearing. One was the gentleman from the Dayton Dragons, Mr. Murphy, who asked to testify earlier, and the other one is Michael Decker who is the senior managing editor of the research and public policy of the Securities Industry and Financial Markets Association.

In addition to that, we made an effort to have Major League Baseball come and testify. They have refused.

The representative of the IRS, Mr. Korb, certainly represents a point of view that is, I would say, vastly different than some of the witnesses that we asked to come forward.

So I think that anyone who was watching this would feel that they have been able to get both sides of the question because there are two sides, and I want to make sure that they are presented here.

I thank the gentleman for expressing his concerns.

We are going to go to just a final round of questions for Mr. Korb, and then we are going to go to the fourth panel. I appreciate continuing appreciation for your presence.

I want to address the issue of the decision to cancel a public hearing and begin by asking you what is the status of the rule change now?

Mr. Korb. That is a good question. I meant to cover that in my opening statement. Where we are right now is we are in the process of reviewing the public comments on the proposed regs, and we anticipate receiving more, and we will be making a decision as to whether to finalized the proposed regulation in the form proposed hopefully before the end of the summer.

I don't have the facts on this particular hearing. We could followup for the record. Often times, nobody requests to come in, and so if nobody requests to come in, then we will cancel the hearing. I don't know the facts of this particular one, and we can submit that for you later. I can tell you exactly what happened here.

Mr. Kucinich. Well, are you aware? You are saying that rule, it still is in the proposal level and that it is has not gone into effect?

Mr. Korb. Oh, right, it is still proposed, absolutely.

Mr. Kucinich. In your Notice of Proposed Rulemaking, you notice a public hearing on this proposed rule change. It was set to occur on February 13, 2007. Did this public hearing occur?

Mr. Korb. No one asked to attend.

Mr. Kucinich. That was the reason for the cancelation?

Mr. Korb. Right. We don't, we have to pay for the room, so if nobody is going to attend, we are not going to hold the hearing.

Mr. Kucinich. Are you aware that you did, in fact, receive a comment from a Mr. Daniel Steinberg of an organization known as Good Jobs New York? In it, he presents an argument based in large part on testimony given by the New York City's Department of Finance that payments in lieu of taxes are not equivalent to generally applicable taxes.

I want to quote from a copy of a letter that was sent, I believe, to your office on April 25, 2005: ``New York City's Corporate Counsel, Michael Cardozo argued that PILOTs, payments in lieu of taxes, are not the same as taxes.''

This is in inner quotes: ``Contractual rights to receive payments in lieu of taxes in the future directed by the mayor



pursuant to economic development agreements are not revenues of the city. They are, instead, contract rights that can be transferred or otherwise disposed of by the mayor.'

It goes on to say: ``And they are therefore not subject to payment into the general fund and subsequent appropriation.''

Do you think that Mr. Cardozo, who was representing the city of New York at a public hearing of a committee of the New York City Council, made a valid point about the distinction between tax revenue and payments in lieu of taxes, if you could answer that question?

Mr. Korb. Sure. At this point in time, since we have a notice and comment process, I don't want to prejudge where we are going to come out in this regulation, and so when I testify at hearings like that, that is the answer I give. We are in the middle of a process. It is best to wait until all the comments are in.

When did you say we received this?

Mr. Kucinich. The staff could make a copy of this for you.

Mr. Korb. I am just wanting the date.

Mr. Kucinich. January 16, 2007, and that was the closing day.

Mr. Korb. So it is one of the comments. All right, fine, that will be taken into account, clearly, as part of this process. Our people review all the comments. I think there were just a handful, a couple. This is a thoughtful process. We take our responsibilities very seriously.

Mr. Kucinich. Are you familiar with those comments when they come in?

Mr. Korb. No, no, no, I do not, no. Remember, we have hundreds of regulations projects going on at any on time.

Mr. Kucinich. In reading your proposed rulemaking, I am looking for evidence that you made a distinction between tax revenue and payments in lieu of taxes. Have you made that distinction?

Mr. Korb. In the proposed regulation?

Mr. Kucinich. I am just saying from my reading of the proposed rulemaking, there is no evidence.

Mr. Korb. I have it right here. The thing that we put in the Federal Register on October 19, 2006, that defines the commensurate standard. Is that what you are looking at?

There is a Section 1.141-4, Private Security Payment Test, E5, Payments in Lieu of Taxes. Is that what you are referring to?

Mr. Kucinich. Right.

Mr. Korb. What is the question?

Mr. Kucinich. The question is where is the evidence that you considered the distinction between tax revenue and payments in lieu of taxes?

Mr. Korb. Well, when you look at the rule here, remember, what we are trying to define here is the first part of that test. Remember, I talked about that two-part test, the commensurate, we will call it the commensurate with generally only applicable taxes. The way this rule, what we do is we have a series of rules here, and again there is a real misunderstanding of what we did, OK, and maybe you ought to have your guys go back and look at it.

Mr. Kucinich. Actually, you and I are looking at it right now, sir.

Mr. Korb. OK, but what we have done here is we have tied payments in lieu of taxes in a way so they tie into taxes. What

are generally applicable taxes? The 1997 regs were much looser.

So now, if you look at the rules we have set out here, basically, the way you would comply with this is you would value the property.

You should know, Mr. Chairman, Ohio, we have a very unusual situation based on a 1948 case dealing with the Cleveland Municipal Stadium. Even though that was a city-owned property, that was a taxable property on the real estate rolls. I don't know if you knew that or not. McBride, the guy who owned the Browns, lost the case where he claimed that since the city owned it, he didn't have to pay real estate taxes, OK.

So the way this would work--if you think about this, it makes sense--is that you would value the property----

Mr. Kucinich. You can continue, really. I can walk and chew gum at the same time, and you can continue.

Mr. Korb. All right, that is fine.

You value the property as you would any other commercial property. You have an assessment rate, and you apply the tax rate. So they are trying to equate. That is the way you would want to do this, it seems to me, if you want to figure out what is a generally applicable tax, and that is what these rules do.

Mr. Kucinich. Well, as the flow of this hearing goes and I saw this letter from Steinberg, I was wondering if there was just a coincidence that he provided comment to the IRS on a proposed rulemaking, and IRS canceled its public hearing.

Mr. Korb. He wasn't the only one who commented. We had other comments as well.

Mr. Kucinich. So then why wasn't there an effort?

Mr. Korb. He must not have asked for a hearing. If he had asked for a hearing, we would have had a hearing.

Mr. Kucinich. We have this correspondence that shows that he was making a distinction between the tax revenue and payments in lieu of taxes, and what I am wondering is as he was making that distinction that seemed to run a little bit contrary to the IRS' rulemaking on this. So what I am asking you is after hearing this discussion in this committee today, do you have any interest in a public hearing?

Mr. Korb. We will go back and take a look at it. I mean I don't know why not, but I will go back and look. We would have to go through I don't know what the legal process is.

Mr. Kucinich. Do you have the discretion to?

Mr. Korb. I don't know. I would assume I would. I am the Chief Counsel, right. So we will figure it out. We will figure it out.

And let me tell you it is not uncommon. I have had experience in the past when I was here before where Members of Congress have actually come and testified at the hearing. So we would welcome that. This is an open process, OK. This is a very open process, and so we welcome comments. We want to know this from all sides. We welcome that.

And I think you would want me. I will be one of the two decisionmakers here basically along with the Assistant Secretary. You would want me to have an open mind at this point until all is said and done, I would hope.

Mr. Kucinich. I appreciate you describing it as an open process, but I would guess that until we have had this open discussion, there have been elements of this process that have been lacking in transparency. Private Letter Rulings are, by their nature, as you indicated at one point, limited in how much is able to be disclosed when you are talking, and I



understand that.

Mr. Korb. There is a reason for that. Remember the tax law, yes.

Mr. Kucinich. I understand that much. On the other hand, when you get from tax policy that goes from an individual taxpayer following the tax laws of this country to an applicant for a particular privilege where they transit from private to a public interest, it puts it in realm that is somewhat unique.

Therefore, the purpose of this hearing, which is to delve deeply into issues of the circumstances under which tax-exempt financing is offered, has its relevancy in raising the questions, not only about transparency but as Chief Counsel how do you make these distinctions. If that is not very clear coming out of this hearing, then the public may still have some lingering questions as to whether or not some people received some benefits that maybe under the circumstances they shouldn't have received.

Mr. Korb. Can I respond to that?

Mr. Kucinich. Yes, sir.

Mr. Korb. All right, three things: No. 1, as part of our comment process, when we put out the final reg, we detail comments. We discuss the comments, and we explain why we don't adopt comments or why we would adopt the comments, totally transparent. You can send one of your aides down to our reading room right now and get a copy of every single letter that is filed on comments for our regulations, totally open.

I just want to reiterate again. You make it sound like we somehow closed this guy out. No one requested a hearing, and we do not hold hearings if they don't, people don't request them. If somebody had requested a hearing.

Mr. Kucinich. If I may, that is an interesting point. I mean you are saying under no circumstances would you ever hold a hearing unless somebody requested it, no matter what the level of public policy was involved.

Mr. Korb. What would be the purpose of the hearing if nobody showed up?

Mr. Kucinich. It seems to me, going back to my days in city council, that there are certain requirements in the public interest for even a zoning matter, that people receive a notice, on a liquor permit, that people receive a notice so that they have an opportunity to be able to testify. Some of these hearings took place whether people showed up or not.

The question is, as a matter of public policy, do you see any reason to go forth and hold public hearings and demonstrate in good faith, bringing out these issues in a transparent way?

Mr. Korb. I am not an expert in administrative law, but I would be quite concerned if we are not following the administrative procedure act or whatever it is. We will take a look. We will take a look. We could have a hearing.

Mr. Kucinich. Well, I think this hearing would prove to you there is an interest in payments in lieu of taxes as a matter of policy.

Mr. Korb. Well, it may now with this publicity. Sure, that is possible. But I am saying nobody asked. I am being honest with you. Like you, I am a guy from the Middle West here. I am telling you, nobody requested a hearing, OK. Nobody requested a hearing.

If somebody had requested a hearing, we would have had a hearing.

Mr. Kucinich. On matters of tax policy like this, the

general public may not have access to the policy implications of the kind of rulemaking that you are talking about, and as a result of publicity related to this, it seems to me there may be a higher degree of interest.

Mr. Korb. All right, there might be. Don't get me wrong; we have hearings all the time. All the time, we have hearings. We have hundreds of regulations that we are working on at any one point in time.

I will tell you, though, it is not uncommon either for nobody to request a hearing. It is expensive to come to Washington, all sorts of things. That is why I think the APA uses the public.

You know anybody can write in, and I will tell you from my experience, our people, the people at Treasury take that very seriously. They compile a list of all the comments that come in. They go through and digest them. It is amazing, the effort that goes into this, and that is what you would want, you would expect, you would demand, and that is done.

Mr. Kucinich. Again, transparency has symmetry if you have a transparent process where you are able to determine the distinction between tax revenues and payments in lieu of taxes on the one hand and whether you are holding public hearings or not. This committee is interested in how the process that you are involved is able to be determined by the public so that in the event that people want to participate.

I am interested in how you arrive at reaching out to the public to let them know what you are doing because we are not just talking about an ordinary tax matter here as you well understand which is one of the reasons why we needed to hear from you at length, and you testified as to the complexity of this.

Mr. Korb. It is very complicated.

Mr. Kucinich. But at the same time, the complexity of it would seem to put a higher standard upon the IRS to reach out and let the public know about the implications of this. You make a lot of efforts, gratefully, to simplify tax forms. It would seem to be in the public interest for you to make an effort to simplify a discussion of a complex tax matter as a matter of public policy.

I want to thank the gentleman for his presence here, for his being with this committee process for the better part of this day. You have absolutely made a good faith effort to describe the policy, to communicate your position to this committee, and the committee is grateful for that, and I thank you.

Mr. Korb. Thank you. I appreciate it.

Mr. Kucinich. I am going to call the final panel now.

Will the witnesses rise, please?

[Witnesses sworn.]

Mr. Kucinich. Let the record show that the witnesses answered in the affirmative.

We are fortunate to have an outstanding group of witnesses on this panel.

We have Mr. Neil deMause, a native New Yorker who has written for the Village Voice sports section, New York Newsday, Sports Jones, and the Guardian Newsweekly. He is a regular contributor to several progressive publications including Z Magazine. His book, Field of Schemes: How the Great Stadium Swindle Turns Public Money into Private Profit, casts a critical eye on the use of public funds to build new sports

stadiums.

The next witness, Dr. Heywood Sanders, is a professor in the Department of Public Administration at the University of Texas, San Antonio. Dr. Sanders is among the best known independent critics of publicly financed convention centers. He served as a Senior Program Analyst at the Office of Evaluation, Community Planning and Development of the U.S. Department of Housing and Development. His publications include Convention Myths and Markets: A Critical Review of Convention Center Feasibility Studies and Challenging conventional Wisdom: Hard Facts about the Proposed Boston Convention Center.

Finally, the third witness, Michael Decker is a senior managing director of research and public policy for the Securities Industry and Financial Markets Association which promotes policies and practices designed to expand and perfect markets, foster development of new products and services and create efficiencies for member firms. The Industry and Financial Markets Association seeks to preserve the public's trust and confidence in markets and industry and was created as a result of the 2006 merger of the Bond Market Association and the Security Industries Association.

Gentlemen, thank you for your presence.

Mr. deMause, you may proceed with your testimony.

STATEMENTS OF NEIL DEMAUSE, AUTHOR, BROOKLYN, NY; HEYWOOD SANDERS, PROFESSOR, DEPARTMENT OF PUBLIC ADMINISTRATION, UNIVERSITY OF TEXAS, SAN ANTONIO, TX; AND MICHAEL DECKER, SENIOR MANAGING DIRECTOR, RESEARCH AND PUBLIC POLICY, THE SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, WASHINGTON, DC

STATEMENT OF NEIL DEMAUSE

Mr. deMause. Good afternoon. I would like to thank Chairman Kucinich and the other members of the committee for holding this important hearing.

My name is Neil deMause. I am co-author of the book, Field of Schemes, as well as a business of baseball writer for Baseball Prospectus and other publications.

In the nearly 12 years I have been researching this topic, sports stadiums and arena deals have cost local, State and Federal Governments more than \$10 billion in taxpayer money, and this is on the rise with government spending on sports facilities now costing more than \$2 billion every year. Advocates of these subsidies insist they are a good use of public money even as schools, transportation and other public necessities go underfunded.

Let us examine the arguments. First, stadium boosters claim they provide a shot in the arm to local economies. I have yet to find any independent economists who see any significant positive impact from stadiums. It is not just the people testifying here today. Studies with cities with new stadiums have found no sign of increased per capita income. In terms of job creation, they typically cost as much as \$250,000 per each new job which is simply a terrible bang for the buck.

While stadiums are often built to take advantage of already rebounding districts like Baltimore's Inner Harbor, there is no sign they can create new development by themselves. As Chairman Kucinich is no doubt aware, a block or two away from Jacobs Field in Cleveland, you see the same shuttered stores as

before.

Team owners often claim they will move if their demands are not met, but most often they are just crying wolf to shake loose a few more taxpayer dollars. Both the Chicago White Sox threatened to move to Tampa Bay and the Minnesota Twins to North Carolina. It turned out to have been ideas hatched in Governors' offices to scare locals into coughing up funds for new stadiums at home. White Sox owner, Jerry Reinsdorf, later admitted he would never leave the Nation's third largest media market for one of the smallest, but he explained ``A savvy negotiator creates leverage.''

Yet, even when there is no viable move threat, we still see cities bidding against themselves. Washington, DC's \$611 million gift to the Nationals was even more incredible considering no other city made a viable offer to build a stadium.

Team owners say their current homes are economically obsolete. In other words, they can make more money with a new one so long as they didn't have to pay for it. As places to watch sporting events, though, new facilities are often worse than the old buildings they replaced. Cheap seats are fewer and farther from the action thanks to layers of corporate seats pushing upper decks skywards, and fans can expect to pay more for the privilege. Baseball teams moving into new parks raised ticket prices by an average of 41 percent their first year alone.

The latest edition to the stadium playbook is hidden subsidies such as free rent, tax breaks and infrastructure expenses. New York City Mayor Michael Bloomberg promised new Yankees and Mets stadiums would cost taxpayers nothing. In fact, as you will see in my written testimony, after tax and rent kickbacks, the public share was almost \$800 million, more than the teams themselves end up spending.

Harvard researcher, Judith Grant Long, has found that once hidden subsidies are accounted for, the average stadium now costs 40 percent more than publicly reported, and that figure is on the rise.

As someone who writes critically about public spending on sports facilities, I am often asked, do you hate all stadium deals? Now, certainly there is a price deal where it would make sense for cities to contribute a small share for stadiums, but in reality there are very, very few examples of good deals for the public. I think if we grant the argument that Dayton's stadium is a good one, for every Dayton, there are a hundred Aberdeens where we are seeing the State of Maryland being asked to bail out a money-losing stadium.

This points to the sports industry's dirty little secret. New stadiums don't make money. While teams are quick to paint new buildings as cash cows, the new revenues are almost never enough to pay for all the land and construction costs.

This is important. Teams don't want new stadiums because they make money. Teams want new stadiums because of the public subsidies that come with them.

Now, there are several ways that Congress can act to stop wasteful spending on sports facilities. First, close the loophole we have been talking about today that allows sports teams to use Federal tax-exempt bonds. Kansas City Royals fans would no doubt not be pleased to learn that their tax dollars are going to help make the New York Yankees and Mets even richer, and I think no one would be pleased to learn that the

New York Yankees and Mets were able to go before the New York City Council and argue that these were stadiums being built entirely with private funds and then go to the IRS and say, no, no, no, all this money is actually tax dollars.

Second, drastically restrict the business retainment deduction for luxury box and club seat purchases. Take away tax subsidies for businesses to buy tickets to sporting events, and you will reduce the demand for new stadiums and leave more tickets for the average fan who can't take a tax deduction on spending a day at the ballpark.

Finally, put the brakes on for all industries holding cities hostage for tax subsidies with legislation such as that proposed by your former colleague, David Minge, which would have taxed all direct and indirect subsidies to corporations as income. A team owner asking for \$500 million stadium subsidy might think twice if he was going to face a \$150 million IRS bill as a result.

In the rush to build new sports stadiums, we have lost historic ballparks such as Tiger Stadium and soon Yankee Stadium. We have seen public parks destroyed and thriving neighborhoods disrupted. We have hastened the transformation of sports fandom from an experience that brought together people from all walks of life into one that is affordable only to the well heeled, and we have cost local, State and Federal Governments billions of dollars.

In polls and referendums, voters across the political spectrum are consistently opposed to spending sorely needed tax dollars just to make rich sports teams even richer. To our elected officials, I say the ball is now in your court. Thank you.

Mr. Kucinich. Thank you, sir.

[The prepared statement of Mr. deMause follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Dr. Sanders.

#### STATEMENT OF HEYWOOD SANDERS

Mr. Sanders. Thank you, Mr. Kucinich. It is a pleasure to join you and your committee colleagues here this afternoon.

If we look at the title of this hearing, it is really quite striking. I get to be the Tail End Charlie in dealing with convention centers and publicly financed hotels. The title poses the question, do these facilities deliver as promised? To that, we can give a fairly clear answer. With only the rarest of exceptions, absolutely no.

Why? Why are convention centers such a modestly productive public investment? In part, because so many cities have chosen to invest in these same facilities in recent decades. From about 32.5 million square feet of exhibit hall space in 1986, the best count we have is now in excess of 66 million. We have more than doubled the stock of exhibit hall space in this country, adding new convention centers and expanded ones in cities across the country. I note, however, Cleveland is an intriguing exception as is Dayton, as I understand it.

With this incredible development of convention centers at public expense has come a situation of over-supply and increased competition with relatively modest growth in the demand for convention facilities. Out of town visitors that cities expect and anticipate, the visitors that are forecast to come to these convention centers, come in far more modest



numbers than expected and in recent years in even fewer numbers as the years go on.

The result is a situation where from one end of the country to the other, cities of all sizes are offering a variety of incentives and discounts and giveaways in order to try and lure convention events and their attendees to their communities. I note that St. Louis offers folks their convention center rent-free this year if you feel like going to St. Louis with some of your friends and colleagues.

The promises inherent in these forecast are equally intriguing. I recall the case that you actually alluded to in a study I did in 1997, the proposed Boston convention center. I was quite struck that the consultant for the Commonwealth of Massachusetts forecast that with a new convention center, Boston would add in excess of 750,000 hotel room nights. That is one room in a hotel occupied for one night each year, a total that would grow and remain fairly stable.

I was rather more pessimistic, given my assessment of the market. I concluded that their hotel room night generation would be rather on the order of half that figure. It turned out that for last year, it came to about 340,000, a bit shy of the 770,000 anticipated.

It is also presumed that every convention and trade show attendee will spend in excess of \$1,000 in a city and stay 3\1/2\ days, and we have a great deal of evidence including the Boston case but a great many others, that simply doesn't occur.

The expectation of a convention center, that at the very least it will bring visitors from out of town and yield a great deal of new private investment, precisely the kind of private investment and development Mr. Murphy was talking about in the Dayton case, we should see that were we to look. Private investors should flock to build hotels adjacent or nearby new and expanded convention centers.

Instead, we see a rather different pattern in recent years. Increasingly, cities are going into the convention center hotel business, using tax-exempt municipal bonds to build hotels that are fully publicly owned. In two cases, St. Louis and my own community of San Antonio, cities have made use of Federal empowerment zone bonds in a similar fashion to build and finance hotel development.

Publicly owned hotels in Austin and Houston, TX, Omaha, Bay City and even one being discussed as a potential for Cleveland present us with an intriguing case. Cities are trading, going into a business where private investors have simply perceived far too great a risk and uncertainty. At the same time, these publicly owned hotels are directly competing with privately owned and privately financed hotels directly across the street in some cases, hotels that do not have the advantage of tax-exempt municipal bond financing and lower interest rates.

The result has often been to seriously impact the local hotel market, reduce rates, reduce returns and intriguingly, in the case of Houston, force a Hyatt Hotel in the downtown area to foreclosure.

So we, in essence, have a situation where having made an investment that has proven remarkably modest in terms of its economic impact and productivity, cities now pour even more money into the hotels that were supposed to be generated privately.

Thank you.

Mr. Kucinich. Thank you very much, Dr. Sanders.

[The prepared statement of Mr. Sanders follows:]  
[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]  
Mr. Kucinich. Mr. Decker, thank you. Proceed.

## STATEMENT OF MICHAEL DECKER

Mr. Decker. Thank you, Chairman Kucinich. I appreciate the opportunity to be here today.

The Securities Industry and Financial Markets Association represents securities firms, banks and asset managers active in the global securities markets. Our members include all major dealers in State and local government bonds issued to finance a wide variety of public infrastructure. In short, SIFMA's members serve as the conduits between State and local governments and the capital markets. We take an active interest in Federal policy that affects the ability to States and localities to tap the capital markets to finance new investment.

The Federal tax exemption on the interest earned by investors on most municipal bonds gives State and local governments that borrow in the capital markets a significant break on their interest rates. In fact, the tax exemption is one of the most important sources of Federal aid to States and localities. It saves State and local governments tens of billions of dollars a year. It requires very little Federal bureaucracy to oversee and allows State and local communities to make their own decisions about competing priorities for capital investment.

The tax exemption represents an ideal Federal-State-local financial partnership.

Local communities have a long history of using bonds to finance stadiums and arenas for professional sports teams as well as convention centers and other projects designed to jump start economic development and enhance the quality of life including the 1930 Cleveland voters' approval of \$2.5 million of city bonds to build Cleveland Municipal Stadium which became the longtime home of the Indians and Browns.

Before 1986, many bonds sold to finance stadiums were backed directly or indirectly by the professional teams that used the stadiums as we have learned throughout the day today. With the enactment of the Tax Reform Act of 1986, Congress prohibited these kinds of bonds known as private activity bonds from being used for stadiums and arenas, convention centers and hotels. At the same time, Congress left the door open for communities to commit public resources to finance stadiums and the like.

Since 1986, if a local government wants to use tax-exempt bonds to finance a stadium, that community has to pledge some public source of funds such as taxes or other dedicated revenue to back the bonds. The tax code includes a two-part test for determining whether a bond issued by a State or local government is for a public purpose or private activity. Basically, a bond is a private activity bond if the facility being financed is used mainly by a private business and the repayment of principle and interest on the bond is secured by a private business. If a bond meets those tests, it cannot be federally tax-exempt unless it meets an explicit exception which does not include stadiums.

However, if a tax-exempt bond for a stadium or any other project is backed by a public source of funds, that fund is



deemed to be a public purpose bond. In that case, there are relatively few tax code restrictions on what the bond may be used for.

In devising a two-part test for private activity, Congress clearly foresaw that local communities may want to commit public resources to finance facilities used principally by businesses like sports teams. The two-part test wisely recognizes that decisions on where and how direct public resources are best made by local communities themselves, not Congress or the Federal Government, and local communities shouldn't lose the ability to use tax-exempt financing for projects that might benefit a private business in addition to the community overall.

I point out a couple of observations regarding the use of tax-exempt bonds for sports stadiums in particular. The tax exemption is important, and it reduces the cost of developing a sports stadium but only by a little bit compared to the overall cost of the project. If you take a \$400 million stadium deal, the tax exemption doesn't reduce the \$400 million construction cost of the project at all, and it doesn't eliminate the requirement to pay interest on the bonds.

It does reduce the interest rate on the bonds and would save the public developer of the project millions of dollars, but there still would be a considerable demand on public resources regardless of whether the stadium were financed with taxable or tax-exempt bonds.

In addition, if you eliminated the tax exemption on public purpose bonds used to finance stadiums, you wouldn't reduce the pressure that sports team owners sometimes place on public officials to build stadiums using public resources. You would raise the cost to local governments and actually put a great demand on resources that local governments would have to meet in order to finance stadiums and meet team owners' demands.

The debate over whether the economic benefits of stadiums, arenas, convention centers and hotels justifies the use of public resources is a controversial one. There is evidence on both sides of the debate.

SIFMA believes strongly that the decision can only be made efficiently at the State and local level by the citizens and policymakers closest to the issues involved. We also believe that Congress should not disrupt a decades old statute defining which types of governmental projects should qualify for tax-exempt financing.

Thank you for the opportunity to be here today. I look forward to your questions.

Mr. Kucinich. I thank the gentleman. We are pleased that you are here as we are pleased that all the witnesses are here.

[The prepared statement of Mr. Decker follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Kucinich. Mr. deMause, you said something in your testimony. Among the things you said that caught my attention, you said that in New York the city government would have a case presented to it that said that the project involves private money, and then the same project would go to the IRS and it would be said that this is a publicly financed project. Could you go over that again?

Mr. deMause. Sure. I was present at the New York City Council Finance Committee hearing where the Yankees testified repeatedly that the City Council should approve this project because all construction was being paid for with private money.

This is the exact same money that they then called PILOTs and said were generated.

Mr. Kucinich. Payments in lieu of taxes.

Mr. deMause. Payments in lieu of taxes and told the IRS in their request for Private Letter Ruling were substituting for generally applicable taxes.

Mr. Kucinich. And the implications of that? That led to what?

Mr. deMause. The implications are that they got the Private Letter Ruling and that they were able to get, to sell the bonds, and they are now building the stadiums right now.

Mr. Kucinich. Explain this for someone who may have just come into this discussion, what this implications of this are. Let us try to take this more into layman's terms.

Mr. deMause. Sure, sure, absolutely. What happened here was that the Yankees and the Mets decided that it was not politically feasible to ask for public money for the stadium construction. They asked for a lot of public money for land and infrastructure. They asked for tax breaks. They asked for other things.

But they were building these stadiums that were in one case about \$600 million and in the other case about \$1 billion, and they decided that it was not politically feasible to go to the City Council and say, we want public money. So they said we are building it all with private money.

However, they did not want to have to use taxable bonds because those are expensive. So they said, we have this tax deal worked out. We think it is going to fly with the IRS where we can use tax-exempt bonds, lower our costs by passing off some of the costs to Federal taxpayers by calling these private payments. We are not going to call them rent because if we call them rent, we are going to trip the private activity trigger and we are not going to be able to use tax-exempt bonds. We are going to call them PILOTs, and therefore the IRS will say OK.

Mr. Kucinich. Have you quantified what that means in terms of how much Federal tax dollars end up going to subsidize this project?

Mr. deMause. The numbers--I believe these are city numbers which I think are a little bit low, but this is the best numbers that we have--are that the Yankees stadium is subsidized by \$44 million by the Federal Government in foregone taxes that otherwise they would get from bond holders, and the Mets stadium, about \$32 million.

Mr. Kucinich. It is presented as privately financed, but the taxpayer subsidy ends up being somewhat hidden because of these private letters.

Mr. deMause. That is just the Federal tax subsidy, mind you. That is the amount that their costs are reduced by using this Private Letter Ruling. There are, again, other tax breaks and other subsidies that raise the public, the State and city costs.

Mr. Kucinich. Mr. deMause and Dr. Sanders, would you comment on the concept of public purpose? What does that mean to you?

It is obviously a euphemism. How does it work out?

Mr. deMause. Yes, to me, a public purpose is something that has a broad public benefit. You know the primary beneficiary of the new Yankee Stadium--let us just take that as an example--are the New York Yankees. They are going to be reaping all the revenue from it, and the public will get to go to games there,

but they will be paying at the box office for that.

There was a lot of discussion on the previous panels about comparing stadiums and, for example, you know, orchestras or museums, and my feeling is that if the Yankees were owned by a non-profit corporation and tickets were free on Wednesdays to the public, there would be a much stronger case for a public purpose here.

But these are fundamentally private buildings. The lease with the Yankees and the Mets says they get all the revenues from the buildings. The city will not have access to them to use them for other purposes. So they will be owned by the public in name, but the public will have no use of it other than being able to buy a ticket and go in.

Mr. Kucinich. Dr. Sanders.

Mr. Sanders. Yankee Stadium is very clearly what it says it is. It is a baseball stadium that serves the purposes and whose financial rewards return to the New York Yankees Baseball Club. That is a private entity. It is a mechanism for allowing that private entity to make rather more money.

If the city of New York chooses to build a multipurpose facility and operate that facility as a true multipurpose facility, making it available for a variety of tenants and a variety of activities, then we could see a case where that might be that we would be talking about a multipurpose facility. We are not here. We are talking about a baseball stadium.

The issue raised in the material from the New York Corporation Council goes immediately to the point of whether a payment in lieu of tax is, in fact, a general purpose tax revenue or amounts to a short term arrangement, particularly given the way PILOT payment are defined contractually in New York City.

Mr. Kucinich. Thank you. Thank you, Dr. Sanders.

Mr. Turner.

Mr. Turner. Thank you, Mr. Chairman.

Mr. deMause, Dr. Sanders, I want to state what I said in the beginning concerning the chairman's interest in this and his holding this hearing.

I greatly appreciate your issue identification and what you are saying as a framework from which communities should look to in making these decisions. I mean what you are highlighting, which I think is incredibly important, is that there are many communities that undertake these types of projects that do so with inflated expectations and structures and deals that do not deliver, and they should be very cautious in undertaking them.

When the city of Dayton undertook building the stadium which we have built, they had first considered a deal for building a stadium that I was opposed to and voted against. Ultimately, the deal did unwind that would have been a blank check by the community and would have resulted in a stadium that there would have been speculative performance and the community could have gotten stuck.

The stadium that we did build, it was a different deal as you heard Bob Murphy talk about. He spoke about the cap that we put on the expenses to the city. In other words, the team took the risk, not the community. The community had sources and uses on a regional basis that they agreed to.

The community does have access to the stadium. The city has a certain amount of days in which they have access to the stadium. When John Kerry came campaigning for President of the

United States, he campaigned at the stadium, and the community came in and assembled in the stadium.

I tell you the story about the first deal to let you know I am not a fan of these, and when I served as mayor, I was not a fan of the convention center. But there is an aspect which we miss if we look at them solely as a subsidy for the team. There is a much broader impact on the community in having these amenities that it is very difficult to capture. I notice in both of your testimonies and reviews, you don't have.

One of the symbols for Rome when we look at tourist posters is the Coliseum, and there is a reason. It is because it is a view of the spirit and the way that people came together in Rome in a very public way.

Mr. deMause, you say that this is just a substitution effect in economics, that you are cannibalizing from elsewhere in town entertainment dollars. Clearly, we don't have any studies that would show in towns where there are stadiums and sports facilities, that there is any displacement spending, that their movie theaters somehow sell less or the performing arts centers or the others somehow have less.

What was important for my community was we did not have any sports facility. We did not have any place for the community to congregate. There was no cannibalization because people were actually taking those dollars and leaving town. They were going to Columbus. They were going to Cincinnati. They were going to Chicago. They were going to other places that had an entertainment sports option.

So the one thing I would just like to challenge you with is that looking beyond just as you said, Mr. deMause, of there is no broad public benefit. I mean you just blanketly stated that. That really is not true, and it is not the experience of every community.

Your warnings of what communities should be concerned about are important, but to go to the next step without real data that can establish that none of the benefits that communities say they have are there or that the down sides, as you have characterized them, are only present really sells the whole thing short as we look to a Federal policy. Mr. Decker was saying certainly if you look to communities and what their needs are and the ability to make these decisions, that is really where we need to look.

So if you can speak on that, I would really appreciate it.

Mr. deMause. OK, there are several questions there. Again, it is a hearing.

As to whether there are studies on the substitution effect, it is obviously difficult to measure because there is a lot of noise in the data. There have been many attempts to do so, and I am happy to.

Mr. Turner. Which is hard to just to say that it exists.

Mr. deMause. I am sorry?

Mr. Turner. Which is hard then to conclude that it just exists.

Mr. deMause. We can definitely conclude that the substitution effect exists because there is a finite amount of money.

Mr. Turner. You can conclude it is something to be concerned about, but you cannot conclude its impact.

Mr. deMause. I am sorry?

Mr. Turner. You cannot conclude that it has an impact.

Mr. deMause. You can measure its impact, yes.

Mr. Turner. I thought you just said that it was not measurable.

Mr. deMause. No, I did not say it was not measurable.

Mr. Turner. Well, what did you say?

Mr. deMause. I said it was difficult to measure, but there have been attempts to measure it.

Mr. Turner. Attempts does not mean that it has been.

Mr. deMause. There have been attempts. I am not going to tell you how to decide how successful they have been, but I will give you an example if you will allow me.

Mr. Turner. Please.

Mr. deMause. OK, in Toronto in 1994, when there was a baseball strike, all of a sudden people were not spending money on baseball games. There was an absolute rush in other industries such as video rentals, comedy clubs. Everyone else reported enormous increases in their business.

Mr. Turner. Wait a minute. That is when something is closed. You can't show by that, that it would have been sustained or that it had been taking moneys from those venues previously.

Mr. deMause. The assumption is that if people, when given a choice to spend money on baseball are spending it on baseball and when they are not given a choice to spend money on baseball, they are spending it on something else. The assumption is, and it seems a valid assumption to me.

Mr. Turner. When it reopened, did it go down?

Mr. deMause. May I finish?

Mr. Turner. Did it go down when it reopened?

Mr. deMause. May I finish?

Mr. Turner. Please.

Mr. deMause. The assumption is yes, it did go down when it reopened to my knowledge.

Mr. Kucinich. I didn't hear that. The assumption is what?

Mr. deMause. I am sorry. The assumption is that people are choosing to spend their money in one of two places, and I am happy to send you studies. I don't have them on me, but I have them at home. I am happy to send you studies looking at the substitution effect.

I will absolutely agree with you that it is different in a city like Dayton than it is in a city like Toronto or a city like Washington, DC or New York. If you can cannibalize spending from somewhere else, then that is good for you and it is bad for Columbus. I am not sure that is a public interest from the Federal perspective, but it might be good for Dayton.

However, I would caution you and other cities that the impact is dramatically less than is claimed. So the quote by Allen Sanderson, the University of Chicago economist who has looked at this, is that you could do better by taking the money, the same amount of money up in a helicopter and throwing it out the window over your city, and I think that is a point well made. Not that you would be going up in a helicopter, but that what else could you be doing with this money and what else could you be doing to improve Dayton and could you get a better bang for your buck?

Mr. Turner. Mr. Chairman, I know it is just the two of us if you could humor me for just a moment.

The difference, in effect, as you heard in the testimony, is there is a \$250 million development that is planned around the baseball stadium in an area where there was nothing in addition to two corporate headquarters that have moved in where



there was nothing. Even if you took the amount of money that was spent on the baseball stadium and the amount of public money that was spent on the baseball stadium and offered that as a subsidy to all the businesses and to the development that is there, you would not have attracted this development.

The people are coming to this development not because of the subsidy that could have been offered to them instead of the stadium but because of the people that are coming down, the hundreds of thousands of people who were not there in this area before that are now foot traffic and are there.

Mr. deMause. If that is true and if you are really leveraging the money to create this other development, I think that is a great deal. But I think that baseball stadiums and football stadiums in particular are terrible catalysts for these purposes because of what Joyce Hogi mentioned in her testimony earlier. They are dark most of the year.

So if you were to take the money and put it into something, even an arena which can at least be used 365 days a year if you have to do something sports, that is generally a better investment, if not something else like, you know, new street lights or better schools or something else that can be used all 365 days a year.

Mr. Turner. Mr. Chairman, as I was saying before to both of them and to you, I agree with everything that they say as to why we should be concerned and how these deals can be a problem and, to some extent, not deliver.

My concern is in trying to making the points with them, and I appreciate, Mr. deMause, your concession of that. It is not necessarily true of every deal of every community. There really are some, and Dayton could have done a bad deal and it could have resulted in a bad community. There are communities that do it. There are those who do well.

Taking a broad brush and then trying to do Federal policy is the problem because some are good and some are bad.

Thank you, Mr. Chairman.

Mr. Kucinich. In the interest of providing as much time for both sides, I have provided my friend with an extra 5 minutes because I think that he has a point of view that needs to be heard.

Mr. Turner. Thank you.

Mr. Kucinich. I want to thank the gentlemen for being here to answer these questions.

I think that what we have done today is we have opened up a broad discussion of public policy with respect to taxpayer-financed sports stadiums, convention centers and hotels.

I think it would be useful for this committee to have some followup work that would quantify city by city, project by project, the amount of money the project involved, how much was taxpayer-financed, how much private financing was in it, what the measurable economic benefit was in the community in terms of jobs created. Perhaps rank it by the local economies, starting with the dates that the projects started and ending the construction phase with a general commercial phase afterwards.

I think it would be helpful if we could start to really look at some numbers down the road. I know perhaps some of you have already done that. We will gather the information and take it to a second step.

Then Mr. Issa, I believe, had raised the issue about the campaigns that are presented to the public which assert that

there will be certain benefits if the public will agree to support the plan. So I am interested in acquiring that information as well.

This has been a hearing of the Domestic Policy Subcommittee entitled, ``Build It and They Will Come: Do Taxpayer-Financed Sports Stadiums, Convention Centers and Hotels Deliver as Promised for American Cities?''

I want to thank Mr. Turner for his presentation.

Mr. Turner. Mr. Chairman, with your consent, I would like my opening statement to be included in the record.

Mr. Kucinich. Without objection, Mr. Turner's opening statement will be included in the record.

I think that we have had a good discussion here, and we will continue.

Gentlemen, thank you and thanks to everyone who has participated in this hearing. The committee is adjourned.

[Whereupon, at 5:10 p.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Bruce L. Braley and additional information submitted for the hearing record follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]



# EXHIBIT E

# Scenic America

Scenic America

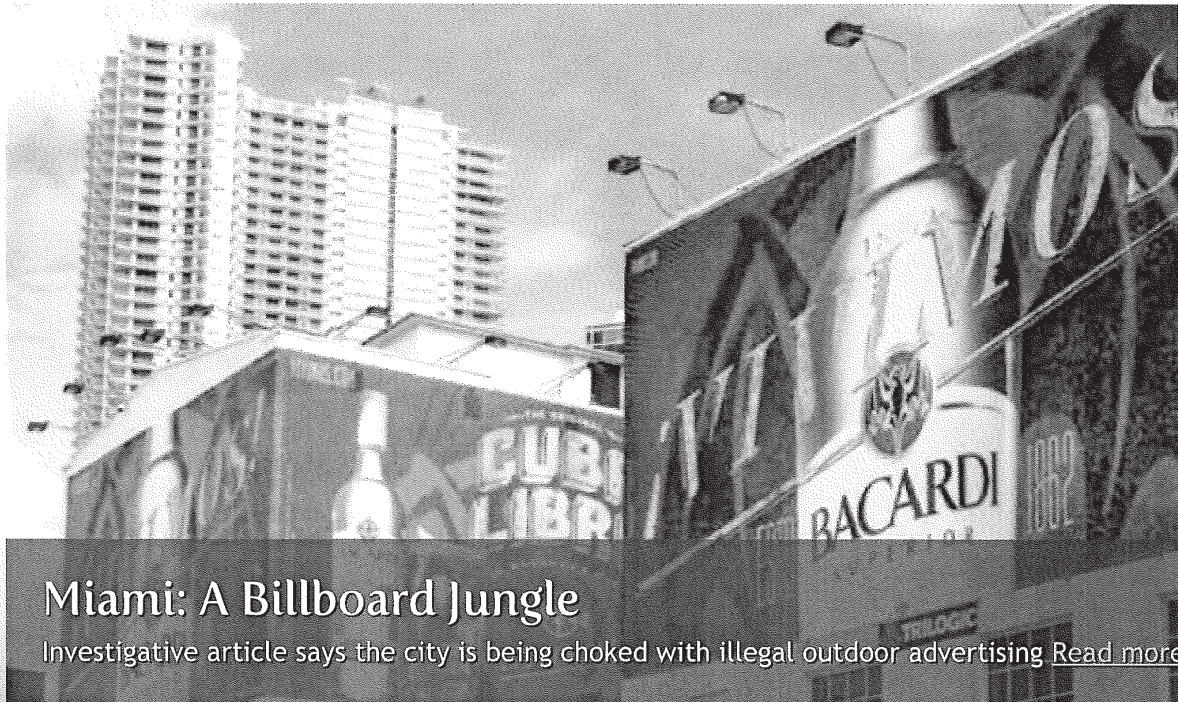
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## Miami: A Billboard Jungle

Investigative article says the city is being choked with illegal outdoor advertising [Read more](#)

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Photo by William Brinton.

## BILLBOARDS *in the* DIGITAL AGE

UNSAFE (AND UNSIGHTLY) AT ANY SPEED

**IMAGINE DRIVING** along a twisting, two-lane Alabama road at night. As you slow for a curve, suddenly an enormous television screen pops into your field of vision, temporarily blinding you before flashing an ad for an insurance company.

The glaring lights of this particular sign, slapped up in suburban Vestavia Hills, blindsided city zoning officials as well. They had unknowingly given entrée to digital billboard technology when they approved what appeared to be a routine application to add lighting to a sign grandfathered in years ago. The application made no mention of changeable messages and gave no indication it would transform an old, static board into a giant vehicle for digital TV-like images.

Police officers immediately complained the board posed a major safety hazard. Neighbors complained about the glaring lights. Lamar Advertising Company, which owns the board, claimed they'd made the changes in "good faith."

Anyone who has been following the digital-billboard movement may recognize that argument as a popular tactic employed by an industry that finds it easier to ask localities for forgiveness than permission. It's one of many strategies being used to bring digital technology to as many cities and towns as possible, before localities have a chance to explore the implications of the new technology, update their sign ordinances, or ban digital signs outright.

"There's a full-court press going on at the national, state, and local level, being waged by Lamar, Clear Channel, and CBS Outdoor," said Bill Brinton, an attorney specializing in sign law and a member of the board of Scenic America. Lobbyists are pushing state legislators to pass bills that clear the way for LED (light-emitting diode) signs on state and federal roads, and the industry is pressuring state departments of transportation to rewrite regulations to allow them to transform static signs into digital boards. And in cities and counties across America, they are pressing for looser sign ordinances or simply installing the new technology without permission to do so.

*"For in-your-face results that won't end in a restraining order, out-of-home is the only way to go."*

[www.lamaroutdoor.com](http://www.lamaroutdoor.com)

Digital signs are far more of a threat than their predecessors, said Kevin Fry, president of Scenic America. They're brighter, which makes them visible from far greater distances; they're much more distracting, because of their brightness and because the messages are constantly changing; they're often taller than regular boards, giving the appearance of large, plasma-screen TVs; and they're substantially more expensive to remove, so localities without amortization laws could find themselves unable to afford taking them down. This would be especially true for signs along federal-aid highways where the use of amortization is prohibited by the Highway Beautification Act.

Despite higher installation costs, the profitability of digital boards provides a powerful incentive for companies to put up as many as possible. Clear Channel Outdoor spent \$3.5 million converting seven static boards to digital in Cleveland, but watched revenue jump from \$300,000 to \$3 million in the network's first year, according to Mark P. Mays, Clear Channel's CEO.

That's because digital boards allow companies to sell ad space to 10 times as many clients as static ones; most signs change messages every six seconds. They also allow advertisers to change content several times a day or week, and unlike the static boards, which require contractors to change messages manually, digital boards allow operators to change content from remote locations in a matter of seconds, with just a click of a mouse.

Lamar Advertising boasts that it has digital billboards in as many as 44 states. Clear Channel, the world's largest outdoor advertising company, is similarly upfront about its goals for spreading digital technology. In a November 2006 press release announcing the launch of multi-sign digital networks in Milwaukee and Tampa, Clear Channel Outdoor Global President Paul Meyer put it bluntly: ▶

SCENIC AMERICA ISSUE ALERT

2

ELECTRONIC  
SIGNS

## BILLBOARDS *in the* DIGITAL AGE

*continued*

"New digital technologies provide us with the capability to execute both general market and targeted advertising campaigns that *consumers can't mute, fast forward or erase,*" he said. [Emphasis added.]

When digital comes to town, local governments are often caught off guard. As was the case in Vestavia Hills, billboard owners are not always upfront about what they are doing, and the technology may be installed without notice.

But in a rare victory for billboard opponents, the Vestavia Hills Board of Zoning Adjustment (BZA) ordered Lamar to turn off the lights and shut its board down—at least until they could hold a hearing for a zoning variance. The board ruled that the switch had been made under "false pretenses." Had Lamar asked for permission to add digital animation, the board likely would have said no, particularly for that location, zoning officials said. *In fact, Vestavia Hills' new sign ordinance, which was under consideration at the time, would outlaw this kind of sign entirely. The BZA later denied the variance request, and the billboard company filed a lawsuit which is now in the county court system. In the meantime, the digital board has been covered with a traditional sign. A permit request to install a digital face on the other side of the sign was denied.*

City officials in several Minnesota communities were likewise surprised last year when digital billboards began to appear on Clear Channel and Lamar sign structures. In most cases, the companies that leased the signs had sought building permits only to upgrade them, omitting from their applications any indication they planned to hang digital displays on those structures after the upgrades. Their chosen locations included communities with some of the strongest billboard prohibitions.

Clear Channel's strategy backfired, especially in Minnetonka, which for more than 41 years has carried a prohibition on illuminated signs that change in color or intensity. The city pulled the plug on the signs, issued stop-work orders, and then defeated an effort by Clear Channel to obtain an injunction. As Judge Lloyd Zimmerman later found, "there is substantial evidence to support Minnetonka's claim that Clear Channel avoided disclosing its plans to deploy LED billboards in the City of Minnetonka, and operated 'under the radar' in order to get the billboards up and running, in order to meet its expansion and profit goals for 2006."

Meanwhile, one Minnesota community after another has adopted a moratorium on digital display devices to temporarily protect themselves against a repeat of the companies' subterfuge.

It's not unusual for billboard operators to erect digital signs even when State-Federal agreements or local ordinances prohibit them, knowing that local enforcement can be difficult due to lax or inefficient enforcement or the prospect of the lengthy and costly litigation that inevitably follows.

The Texas Department of Transportation's State-Federal agreement clearly prohibits digital billboards. In fact, when state transportation officials requested clarification from the Federal Highway Administration (FHWA) to see if they could allow the boards, they were told in no uncertain terms they could not.

"While the technology for LED displays did not exist at the time of the agreement, the wording in the agreement clearly

prohibits such signs," the FHWA wrote to Texas transportation officials in a letter dated March 15, 2006.

Nonetheless, LED signs have gone up in several cities around the state. And in a recent media interview, Clear Channel Communications CEO Mark Mays made it clear his company had big plans for Texas, particularly San Antonio.

"The question becomes how big an opportunity it will be over the next 10 years," he said. "Is it going to be half the signs in San Antonio, is it going to be a quarter of the signs in San Antonio or is it going to be 10 percent?"

"If Texas is going to allow this, the public should be involved," said Margaret Lloyd, policy director for Scenic Texas. "In my judgment, we need at least three things: first, a safety study funded by a neutral, objective party; second, a cost study to determine the taxpayer burden if these signs have to be condemned for highway widenings; and finally, a public opinion survey to determine if citizens want these signs to be erected along their publicly funded highways."



Photo by Leighton Powell.

One state where the industry hasn't been successful in getting what it wants is Kentucky, where state transportation regulations prohibit both Tri-Vision and LED signs.

Tom Fitzgerald, director of the Kentucky Resources Council, said the outdoor advertising industry has tried on several occasions to push through legislation that would allow them to add the new technology, but lawmakers in the House have stood firmly against it. They came closest in 2004, when the industry had someone insert language allowing Tri-Vision signs into a bill that focused on tree-cutting around billboards.

"That bill got through the Senate and into the House before people realized the provision was even in there," Fitzgerald said. But the House leadership killed the bill, as it has done to tree-cutting bills consistently over the years. This year, a bill that would have allowed electronic billboards and Tri-Vision signs was introduced but died in committee.

"We've not really had a toe-to-toe fight on electronic billboards yet," Fitzgerald said. "I believe there are strong public safety issues at stake."

For many outraged citizens, traditional concerns about "litter on a stick," have now been supplanted by the prospect of confronting "PowerPoint on a stick" along their communities' roadways. The advent of digital technology has opened a new front in the battle against blight—with more at stake than ever before.



# ARE THEY SAFE?

**BILLBOARDS ARE ADVERTISEMENTS.** They are designed to grab our attention, and hold it, just like a television or radio commercial or an ad in a magazine. The latest in billboard technology—the digital or electronic sign—tries to hold our attention even longer by changing messages and pictures every few seconds using a series of extremely bright, colorful images produced mainly via LED (light-emitting diode) technologies.

Common sense tells us that if we are looking at a billboard and not at the road when we are driving, that's a dangerous thing. Brightly lit signs that change messages every few seconds compel us to notice them, much the same way our eyes move to the television screen when it's on. They lure our attention away from what's happening on the road and onto the sign. It's just human nature. And it works. That's why these signs are so incredibly lucrative for the billboard industry.

Proponents of digital billboards say nobody has ever proven that they increase traffic accidents. This statement is only partially true. Some studies have shown a link between digital billboards (as well as static boards) and traffic safety problems, while others remained inconclusive. *Importantly, no objective studies have shown them to be safe, nor have studies been conducted since these signs have started to proliferate.*

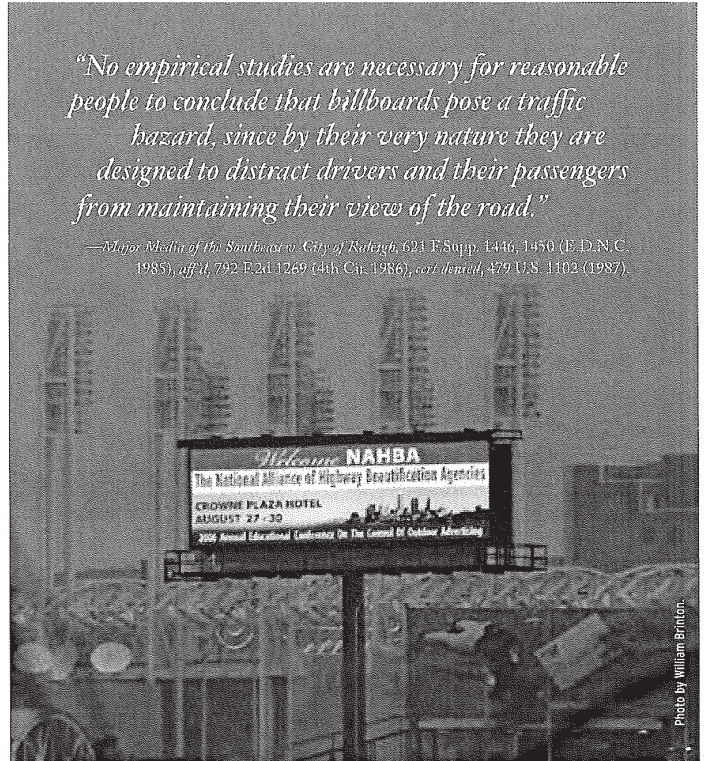
## What does the research currently say?

- A Wisconsin Department of Transportation study conducted in the 1980s examined crash rates on I-94 East and West adjacent to the Milwaukee County stadium, after a variable message sign that showed sports scores and ads had been installed. The study found that *sideswipe and rear-end collisions were up as much as 35 percent where the sign was most visible.*

*The billboard industry often tries to win support for its signs by offering to display public service messages. But no amount of these inducements can compensate for the potential public safety consequences of these devices.*

*"No empirical studies are necessary for reasonable people to conclude that billboards pose a traffic hazard, since by their very nature they are designed to distract drivers and their passengers from maintaining their view of the road."*

*—Major Media of the Southeast v. City of Raleigh, 621 F.Supp. 1446, 1450 (E.D.N.C. 1985), aff'd, 792 F.2d 1269 (4th Cir. 1986), cert. denied, 479 U.S. 1102 (1987).*



## THE TWO SECOND RULE: What Every Community Should Know

An analysis of the *100-Car Naturalistic Driving Study*, conducted by the National Highway Traffic Safety Administration, released in 2006, *showed that taking one's eyes off the road for more than two seconds for any reason not directly related to driving (such as checking the rearview mirror) "significantly increased individual near-crash/crash risk."*

### Are electronic signs especially attention-getting?

*"Nothing's as eye-catching as an electronic LED display. The brightly-lit text and graphics can be seen from hundreds of feet away, drawing the attention of everyone within view."*

Source: Voiceover narration of Trans-Lux promotional video ([www.impactmovie.com/trans-lux](http://www.impactmovie.com/trans-lux))

What factors make drivers likely to look at an electronic sign for more than two seconds at a time, and therefore put themselves and others at risk?

- They are extremely bright and are designed to be visible in bright sunlight and at night. The eye is drawn to them far more strongly than to traditional illuminated billboards. They are designed to be eye-catching, and they are.
- They can be seen from great distances, even as far away as six-tenths of a mile, making them distracting even before they begin to communicate their messages.
- The images rotate every 6–10 seconds and drivers will naturally look at the sign long enough to see what comes up next. There may be as many as 10 messages in the rotation.
- The Florida Department of Transportation's official position is that it takes a minimum of six seconds to comprehend the message on an electronic billboard, which is already three times the safe period for driver distraction.

### Will people stare at a changing sign to see what's next?

*"The reason [electronic] advertising works is because it is impactful. If you see people parked at the stoplight watching it, you see their eyes waiting for it to change."*

Source: Clear Channel Outdoor Des Moines division president Tim Jameson, quoted in the *Des Moines Business Record*, Feb. 4, 2007

- Because the messages change daily or even hourly, even commuters who pass by the signs every day will look to see what's new. Traditional signs become visual background noise for local drivers, and thus have less safety impact; but electronic signs never blend into the background.
- Younger drivers may be more easily distracted by electronic media, and older drivers may require longer viewing times to comprehend often confusing, elaborate, and colorful images.

*See Additional Resources on the back page for links to the studies referenced above.*



- A 1998 FHWA memo noted that digital signs raise “significant highway safety questions because of the potential to be extremely bright, rapidly changing, and distracting to motorists.”
- A 2001 FHWA review of billboard safety studies found that “the safety consequences of distraction from the driving task can be profound.”
- A 2003 report titled External-To-Vehicle Driver Distraction, by the Development Department Research Programme in Scotland, found that “there is overwhelming evidence that advertisements and signs placed near junctions can function as distracters, and that this constitutes a major threat to road safety.” It further noted that, “Young (aged 17–21) drivers are particularly prone to external-to-vehicle driver distraction.”

If other studies have remained inconclusive, there is good reason, researchers say. First, many of the studies have been funded, and directed, by the billboard industry (see sidebar). Second, there are inherent difficulties in conducting traffic safety research.

Jerry Wachtel, an engineering psychologist with 25 years of experience in the field of driver behavior, said too many variables contribute to traffic accidents to make it possible to prove causality from a single source. “Most accidents are not caused by one thing, but multiple things happening at once,” he said.

According to Wachtel, digital billboards undoubtedly contribute to the growing number of distractions that vie for a driver’s attention today. Cell phones, navigational systems, and DVD players constitute in-car distractions, while billboards, especially those that change messages, constitute external distractions. Both, he said, contribute to traffic safety hazards that he believes are growing increasingly worse.

“The outdoor advertising industry in my opinion is one part of the problem, but a significant part,” he said.

Wachtel co-authored a report for the Federal Highway Administration back in the 1980s, updated in 2001, which concluded that “some studies showed a clear relationship between the presence of outdoor signs and driver error or accidents and other studies hadn’t shown anything.” It recommended government-funded research into the issue, but the research was never funded.

The Federal Highway Administration in January 2007, however, announced that it will initiate a study to examine the safety issues related to electronic signs. Details on the scope and timing of the research have not been released, but results are not expected until 2009.

## Court Rules Virginia Tech Billboard Safety Study Lacks Credibility

To overcome the argument that billboards are a distraction to drivers, the outdoor advertising industry often points to a study it says “definitively” shows the signs create no safety risks whatsoever. This study, conducted by Dr. Suzanne Lee of the Virginia Tech Transportation Institute, often pops up in outdoor advertising litigation, or may be given to lawmakers in hopes of persuading them of the supposed safety of highway signs.

This study is not only inherently flawed and biased; its uselessness was noted by a federal district court judge in New York. In *Nichols Media Group v. The Towns of Babylon and Islip*, the court held that “the Lee Study is so infected by industry bias as to lack credibility and reliability.” It based its opinion on several factors:

- “The study was funded by the Foundation for Outdoor Advertising Research and Education, a close affiliate of the Outdoor Advertising Association of America.”
- “Trial testimony revealed that representatives of the OAAA were intimately involved in the design and conduct of the Lee Study.”
- “The Lee Study has been neither widely disseminated nor subject to peer review. Nor have the conclusions of the Lee Study been replicated in any other study.”

Don’t let industry lobbyists use this discredited study as “proof” that billboards are safe. The only thing it proves is how much money the billboard industry is willing to spend making bogus arguments.

*Digital signs are often the brightest objects in the landscape, especially at night. They dominate the field of view and offer dangerous distractions for the traveling public.*



Photo by Leighton Powell.





*Bright electronic signs with complex, changing messages contribute extra distractions to motorists already confronted by visually cluttered environments. How long would it take you to comprehend the messages on this sign? More than two seconds?*

## A Word of Caution for Local and State Governments

Local and state governments should be wary of approving electronic signs, pending the outcome of definitive objective studies regarding their safety. If research proves these signs to be unsafe, governments could face significant liability and negligence issues if accidents occur in the vicinity of the signs. Additionally, if the signs must later be removed because they are deemed a hazard, the cost of compensating sign owners would be enormous, particularly along federal-aid highways where the Highway Beautification Act requires cash compensation and prohibits compensation via amortization.

*There is no objective evidence that these signs are safe. To protect themselves from potentially catastrophic costs in the future, governments at all levels should enact immediate moratoriums on these signs until it is known for sure whether or not they pose a hazard to the motoring public.*

## TALKING POINTS

Studies show drivers who take their eyes off the road for more than two seconds are far more likely to suffer a crash or near crash. Digital billboards often attract drivers' attention for more than two seconds because they are extremely bright and colorful and employ messages that change frequently.

Most images change every six seconds because that's how long it takes to comprehend the message. That's also three times longer than it takes to cause an accident. Motorists stay focused on the sign to see what's next. Many signs have up to 10 different messages in rotation.

Commuters can learn to tune out traditional boards because the message doesn't change. But digital signs change messages frequently, creating fresh, daily distractions. Young and elderly drivers are particularly susceptible to distractions, making these signs especially problematic for drivers already at higher risk.

Local and state governments should enact moratoriums on digital signs until definitive safety research is concluded. Severe liability issues could ensue if governments approve signs that are later proven to be unsafe. The costs of buying out those signs would be enormous.

Many state agreements with the Federal Highway Administration prohibit digital billboards but are not being enforced or are being interpreted to favor the new signs. The FHWA declared in 1996 that if a state agreement bans boards that contain "flashing, intermittent, or moving lights," it effectively bans digital billboards.

Banning digital billboards does not violate the First Amendment right to free speech. Most local jurisdictions have the right to enact strict bans on digital signs in spite of state rules that may permit them.

Digital billboards can often be seen from more than a half-mile away, uselessly and adversely affecting visual quality long before the viewer is close enough to read the sign. This violates the spirit of requirements regarding the spacing of signs along the highway.

State and local governments should reevaluate their rules related to on-premise signs, which often permit electronic signs using highly distracting full-motion video, in spite of being located adjacent to highways. On- and off-premise electronic signs should not be regulated differently when safety is at issue.

Donated ad space and Amber Alerts cannot compensate for the threat to public safety or the aesthetic harm done by digital signs. Alternatives exist for emergency communication along highways.



# ARE THEY LEGAL?

**THE FIRST STEP** in fighting a digital billboard that has been erected or proposed in your locality is to find out whether your state's agreement with the Federal Highway Administration (FHWA) already prohibits them. Many do. While that hasn't stopped the billboard industry from erecting the signs anyway, it can give you some powerful ammunition with which to challenge them and argue for their removal.

## Flashing, Intermittent, or Moving Lights

On July 17, 1996, the FHWA issued a memorandum clarifying the status of "changeable message signs." It noted that many State-Federal agreements would allow for changeable messages such as the Tri-Vision signs that use rotating panels or slats. However, it also noted that, even if Tri-Vision signs were allowed, the agreement probably wouldn't allow LED signs. "In nearly all States, these signs may still not contain flashing, intermittent, or moving lights," the memo states.

A 2006 letter to Texas Department of Transportation officials goes even further. If the state agreement prohibits signs "illuminated by any *flashing, intermittent or moving light* or lights...including any type of screen using animated or scrolling displays, such as LED (light-emitting diode) screen or any other type of video display, *even if the message is stationary*," then "the wording in the agreement clearly prohibits such signs," it states.

## Nonconforming Signs

Another industry trick is to convert a static, nonconforming sign to an LED sign and claim that the change is not an "improvement," and therefore not prohibited. The 1996 FHWA memo clearly states that this is not permitted, as "applying updated technology to nonconforming signs would be considered a substantial change and inconsistent" with federal regulations.

A July 1998 FHWA memo offers further guidance. It declares that signs with animation or scrolling messages should be considered nonconforming signs and notes that they raise "significant highway safety questions because of the potential to be extremely bright, rapidly changing, and distracting to motorists."

Additionally, nonconforming signs on state or local roads not covered by the Highway Beautification Act are often governed by local ordinances that do not allow them to be substantially altered or expanded either. Local jurisdictions have denied permits for conversion to digital technology, although some of those denials have been challenged.

*Local cities, towns or counties may usually impose stricter regulations on outdoor advertising than the state or federal government does.*

## Can Local Governments Prohibit Signs Allowed in State-Federal Agreements?

Yes, in almost all states. Local cities, towns or counties may usually impose stricter regulations on outdoor advertising than the state or federal government does. The State-Federal agreements govern signs on interstate and federal-aid highways. Localities may also create stricter standards for state and local roads.

## The First Amendment

Often, billboard industry representatives try to convince local governments that if they ban billboards, they will be violating the First Amendment right to free speech. *This is not true.*

In almost all states, localities may ban billboards outright, or may restrict the size and types of billboards that are allowed. The only thing they cannot restrict is what they say.

"It's only when you get into banning content that you get into trouble," said Eric Kelly, an attorney and professor of urban planning at Ball State University, who often helps local cities and towns draft or revise their sign ordinances.

Kelly recommends that local governments also make any rules regarding sign technology consistent between on-premise and off-premise signs to avoid potential litigation that might charge they are giving preferential treatment to one type of business over another. But that doesn't mean that you have to allow digital billboards if you allow banks to show the time and temperature, or gas stations to regularly change the prices posted on their signs, he said.

Allowing signs to change messages no more than once per minute, or restricting the size of the sign to no more than 30 square feet, allows for time and temperature signs, gas stations and church message boards but essentially bans Tri-Vision billboards and digital message boards that show new ads every six or eight seconds.

It also helps, said Kelly, to include language in the ordinance explaining why the restrictions are there. If the ordinance states that its mission is to promote safety and aesthetics, and ties this goal back to goals in the local comprehensive plan, it strengthens the ordinance and helps protect it from legal challenges.

*Follow this sign's instructions and you may regret it. By taking extra seconds to watch the sign change (and change and change), drivers place themselves and others in potential danger.*





## WARNING SIGNS: Industry Tactics to Watch Out For

Billboard owners often lament on industry websites that current regulations and public sentiment present their biggest hurdles to mass deployment of digital signs. But in addition to the industry's normal political influence, it frequently employs some common strategies with local officials for overcoming those roadblocks. Here is what your community can expect to encounter if permission is sought for electronic signs:

### Amber Alerts and Other Public Service Announcements

When Clear Channel installed a network of 10 digital billboards in Albuquerque, part of its deal with the state was that it would run Amber Alerts and other emergency messages for free. It made the same deal in Cleveland. "Strategic relationships with the community are important," a company representative told the *Albuquerque Tribune*.

But many cities and states don't need digital billboards to run Amber Alerts. Existing government-operated digital highway signs, which have been in place for many years, as well as television and radio, already provide a system for emergency communication.

Nonprofits and police departments should not allow themselves to be used as justification for the visual degradation of their community. No amount of donated ad space or Amber Alerts can compensate for the aesthetic and safety damage done by these signs.

### Let's Trade

To erect seven digital billboards on highways entering Cleveland, Clear Channel took down several hundred billboards elsewhere in the city.

This might look like a good deal, but the truth is most of the boards taken down in these swaps are nonconforming or unprofitable signs anyway. Billboard companies are willing to make the swap because

the digital boards are so much more profitable, and because they would otherwise be unable to erect them, since many localities have limitations on erecting new boards. And once the digital signs go up, they become cost-prohibitive to remove should the government later need to buy them out due to road improvements, commercial development, or if the signs are proven to be hazardous.

Governments should not fall for offers to take down old signs in exchange for permitting new digital ones. Whatever perceived benefits accrue from such deals don't outweigh the introduction of devices that will potentially lead to traffic deaths and injuries and degrade the visual character of the community. Further, in the absence of a complete moratorium on new signs, the old signs will inevitably be replaced somewhere within the jurisdiction.

### When an Improvement is Not an Improvement

These days, governments should be wary of seemingly innocuous applications to "improve" old signs or "add or upgrade lighting," which may hide a plan by a sign company to replace a static billboard with a digital sign. Installing digital technology over a regular board is not an update or "improvement," but should be treated as construction of an entirely new sign.

Some sign companies, in their eagerness to convert their signs, simply ignore rules and regulations and make changes without permission, hoping to intimidate local governments with the prospect of long and expensive legal battles or counting on a lack of political will to enforce the law.

## What Does the Public Think?

Billboard companies often claim that digital signs are very popular with the public, but never cite data to back up the claim. Perhaps that's because research shows the opposite.

A 2005 survey conducted in Arizona found that by a margin of 73 percent to 21 percent, citizens opposed laws that would allow electronic billboards on the state's highways. When the 21 percent favoring digital signs were then asked if they would still support the signs if they "might distract drivers," the opposition to electronic signs grew to 88 percent.

The survey of 682 adults had a statistical precision of plus or minus 3.8 percent.

## DON'T TAKE OUR WORD FOR IT...

### How Big is the Issue?

Electronics industry analyst, iSuppli, "predicts that by 2010, 75,000, or 15 percent of total billboards in the U.S., will be digital displays, up from a mere 500 digital billboards, or 0.1 percent, of all billboards in 2006."

Source: "Channel Viewpoint: Consumer electronics—just the sideshow to the advertising at CES," *ChannelLine Daily News*, January 9, 2007

### What's Bad for You is Good for Them

"Nobody likes being stuck in a traffic jam, but Clear Channel executives are coming to love them. 'Hey, traffic is a good thing,' quips Clear Channel Communications Inc. CEO Mark Mays. 'People listen to more radio, and they have more time to look at billboards.' Now that's a captive audience."

Source: *Business Week Online*, June 20, 2005

### And You Thought You'd Never Get that Big-Screen TV

"As one drives along Hwy. 101 between San Jose and San Francisco, there are many billboards that vie for your attention. But just as you near San Carlos, it is tough if not impossible to miss one particular two-sided billboard.... Its excellent positioning allows it to be seen by traffic as far

as one kilometer from either side.... But then you couldn't miss a 34 ft. x 19 ft. Hi Definition TV on the side of the road that stands almost 40 feet above the ground, could you? And that's exactly what SiliconView's LED billboard looks like, a giant TV."

Source: *Outdoor Today*, January 2005

### If You Build It, They Will Stare... for More Than Two Seconds

"[Electronic] Billboard scheduling is based on a 'repeating loop' of advertising messages. The SiliconView loop contains six different messages, each displayed for five seconds with a one-second pause between each message. Thus, one message loop lasts approximately 36 seconds. The loop continuously repeats on a 24-hour basis, which gives each advertiser at least 2,880 viewing exposures per day.... A factor that determines dwell time, or the amount of time a commuter sees a billboard, is the vehicle's speed approaching the board. *At 65 mph, a Highway 101 driver sees one full rotation of the SiliconView billboard. During peak hours, when traffic slows, a driver could see three to five loops.*" [emphasis added]

Source: "Pixels and Prints: Outdoor's Future Fusion," *Signs of the Times*, August 2003



## ADDITIONAL RESOURCES

*A definitive study on the safety of electronic billboards has yet to be done, but the following documents contain information that is important to the current debate. The research papers referenced below are available as PDF files at the Scenic America website at [www.scenic.org/billboards/electronic](http://www.scenic.org/billboards/electronic). You will need to have the Adobe Acrobat Reader on your computer to read them.*

### The Impact of Driver Inattention on Near-Crash/ Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data

*April 2006, National Highway Traffic Safety Administration, U.S. Department of Transportation*

A major study of driver inattention, primarily involving distractions inside the car, but finding that any distraction of more than two seconds is a potential cause of crashes and near crashes.

### Traffic Safety Evaluation of Video Advertising Signs

*Transportation Research Record: Journal of the Transportation Research Board, No. 1937, 2005*

A study of electronic signs in Toronto, which finds that "On the basis of the eye fixation study and the public survey data, it is apparent that video advertising can distract drivers inappropriately and lead to individual crashes," but calls for additional research due to other conflicting data.

### Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction

*September 11, 2001, Federal Highway Administration, U.S. Department of Transportation*

A summary of existing research (as of 2001), on the subject of the safety of electronic signs and a call for additional studies.

### Milwaukee County Stadium Variable Message Sign Study: Impacts of an Advertising Variable Message Sign on Freeway Traffic

*December 1994, Wisconsin Department of Transportation*

Study of the dangers posed by an electronic sign in Milwaukee along I-94, that concluded that "It is obvious that the variable message sign has had an effect on traffic, most notably in the increase of the side swipe crash rate."

BE SURE TO VISIT THE SCENIC AMERICA WEBSITE AT [WWW.SCENIC.ORG](http://WWW.SCENIC.ORG)  
FOR ADDITIONAL AND UPDATED INFORMATION ABOUT THIS AND OTHER SIGN CONTROL ISSUES.



Photo by Suzanne Marham

**Scenic America**  
1634 I Street, N.W.  
Suite 510  
Washington, DC 20006

**202.638.0550**  
**202.638.3171 (fax)**

For additional information about this and other issues, visit [www.scenic.org](http://www.scenic.org).

*Kevin E. Fry, President, Scenic America*  
*Laura Williamson McCafferty, Writer*  
*Kristen Argenio, Ideal Design Co., Designer*

*This publication was funded in part by the Richard King Mellon Foundation.*

Scenic America is the only national nonprofit organization dedicated solely to preserving and enhancing the scenic character of America's communities and countryside. Through national advocacy efforts and technical assistance services, local and national projects, and the support of its 11 state affiliates, Scenic America fights to reduce billboard blight and other forms of visual pollution; preserve the scenic character of the nation's highways and byways; promote context-sensitive highway solutions; ensure the mitigation of the visual impact of cell phone towers and other intrusions in the landscape; and promote scenic easements and other strategies to protect open space and preserve irreplaceable scenic resources.

**Change is inevitable. Ugliness is not.**

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# EXHIBIT F



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## About

These 28 acres on the Sacramento's historic waterfront were the site of both tragedy — fire and flood — and triumph — the raising of the streets, the founding of the Transcontinental Railroad, the terminus of the Pony Express, and the home of California's first thriving business district, fueled by gold, agriculture and the river.

Due to past and current efforts by the State of California, private and public museums, individuals, business, the City and County of Sacramento, the Historic Old Sacramento Foundations, scores of volunteers, and many others, Old Sacramento lives on as thriving shopping and entertainment district as well as a global tourist destination.

## Get Here

**By Car:** Take I-5 to Downtown and exit at J St.

**By Bike:** Accessible to miles of scenic trails.

**By Train:** Just a block walk from the Amtrak station.

**By Bus:** RT, Yolo and Placer bus lines all have stops within two blocks.

**By Boat:** Use the public docks on the Old Sacramento waterfront.

## Hours of Operation

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## Museums

### California Military Museum

Housing 33,000 artifacts documenting two centuries of Californian military tradition.

1119 2nd St.

916.442.2883

[www.militarymuseum.org](http://www.militarymuseum.org)

### California State Railroad Museum

North America's finest and most-visited railroad museum.

111 I St.

916.323.9280

[www.csrnf.org](http://www.csrnf.org)

### The Delta King Riverboat

Walk through the lobbies of this floating hotel, restaurant and entertainment fixture to explore the history of river travel between Sacramento and San Francisco and the restoration of this historic vessel.

1000 Front Street

916.444.5464

[www.deltaking.com/index.php?option=com\\_content&view=article&id=132](http://www.deltaking.com/index.php?option=com_content&view=article&id=132)

### Huntington & Hopkins Hardware

Part of the Old Sacramento State Historic Park, this free museum recreates a small town hardware business and displays 19th century tools and machinery.

113 I St.

916.323.7234

[www.csrnf.org/visitor-information/other-california-state-park-sattractions-in-old-sacramento/huntington-hopkins-and-company-hardware-store](http://www.csrnf.org/visitor-information/other-california-state-park-sattractions-in-old-sacramento/huntington-hopkins-and-company-hardware-store)

### Sacramento History Museum

The dramatic and diverse history of Sacramento unfolds in the museum's galleries.

101 I St.

916.264.7057

[www.historicoldsac.org/museum/default.asp](http://www.historicoldsac.org/museum/default.asp)

**Old Sacramento Schoolhouse Museum**

Explore California's early days of education in a living replica of traditional one-room schoolhouse.  
1200 Front St.  
916.483.8818  
[www.scoe.net/oldsacschoolhouse/](http://www.scoe.net/oldsacschoolhouse/)

**Wells Fargo History Museum**

A historically furnished recreation of an old Wells Fargo Agent's office.  
1000 2nd St.  
916.440.4263  
<https://www.wellsfargo.com/about/history/museums/sacramento>

## More...

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## Tours

### Classic Coach

*Carriage Rides departing from 1002 2nd St.*

Available for private booking

916.371.0598

### Ghost Tours

*Presented by the Historic Old Sacramento Foundation in October.*

### Historic Walking Tours

*Presented by the Historic Old Sacramento Foundation.*

To schedule a private tour, call 916.808.4980.

### Hornblower Cruises & Events-River Cruises

Historic river tours, dinner cruises and special events.

1206 Front St.

916-466-1185

[www.hornblowersac.com](http://www.hornblowersac.com)

### Practical Cycle

Bicycle rentals to explore Old Sacramento and surrounding areas.

114 J St.

916.706.0077

[practicalcycle.com](http://practicalcycle.com)

### Old Sacramento Underground Tours

*Operated by the Historic Old Sacramento Foundation.*

Explore excavated foundations and enclosed pathways hidden since Sacramento raised its streets over a century ago.

Sacramento History Museum

101 I St.

916.808-7059

[HistoricOldSac.org](http://HistoricOldSac.org)

**Sacramento Southern Excursion Train**

*Operated by the California State Railroad Museum.*

1050 Front St.

916.322.7112

[www.csrnf.org/train-rides](http://www.csrnf.org/train-rides)

**Top Hand Ranch**

*Departing from 1002 2nd st.*

Available for private booking

916.655.3444

<http://www.tophandranch.com/oldsacramento.htm>

**Wolverton Carriage Co.**

*Departing from 1002 2nd st.*

Available for private booking

916.718.9806

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## Rides

### THE SACRAMENTO SOUTHERN RAILROAD



The California State Railroad Museum’s popular excursion railroad — the Sacramento Southern Railroad operates April through September. Train rides include closed coach cars, open-air gondolas and a first-class observation car pulled by vintage diesel locomotives from the Museum’s collection.

Every hour on the hour, Saturdays and Sundays, April 6-Sept. 29, 2013, from 11 a.m. to 5 p.m. Departs from the Central Pacific Railroad Freight Depot in Old Sacramento (Front Street, between J and K).

Regular coach tickets are \$10 for adults, \$5 for youths (ages 6-17), ages 5 and under ride free. First class El Dorado tickets are \$15 per person, ages 5 and under ride free. For more information, visit the [Railroad Museum website](#).

### CARRIAGE RIDES

Carriage and wagon rides are offered throughout the year in Old Sacramento by private coach operators. Catch a ride on 2nd Street between J and K in front of the Wells Fargo Museum and Old Sacramento Visitors Center. Call ahead to make special arrangements.

**Classic Coach**  
916.371.0598

**Top Hand Ranch**

916.655.3444

**Wolverton Carriage Co.**

916.718.9806

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## Entertainment Spots

\*\*\*\*\*

### **Intense Clouds Hookah Lounge**

1028 2nd St.  
916.321.9225  
[Facebook](#)

### **Laughs Unlimited**

1207 Front St.  
916.446.8128  
[www.laughsunlimited.com](http://www.laughsunlimited.com)

### **Old Sacramento Psychics**

117 J St.  
916.444.5318  
[www.oldsacpsychics.com](http://www.oldsacpsychics.com)

### **River City Shooting Gallery**

131 K St.

### **Tango By the River**

128 J St.  
916.443.7008  
[www.rivertango.com](http://www.rivertango.com)

Many of our restaurant and entertainment venues present live music and dancing throughout the year. Find out more at [Eat](#).

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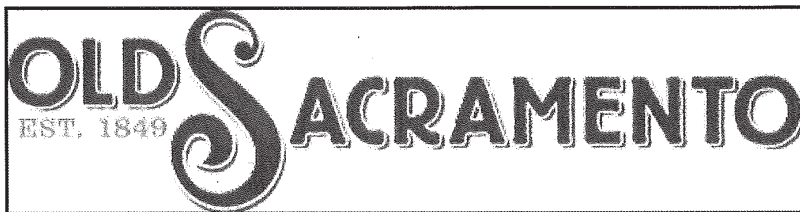
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## Theatres

### Eagle Theatre

925 Front St.

916.323.6343

[www.csrnf.org/visitor-information/other-california-state-park-sattractions-in-old-sacramento/eagle-theatre](http://www.csrnf.org/visitor-information/other-california-state-park-sattractions-in-old-sacramento/eagle-theatre)

### Living History Program

*Presented by the Historic Old Sacramento Foundation.*

Reenactors bring alive Old Sacramento history while entertaining the public on the Streets. Weekends during the warmer months.

[oslhp.net](http://oslhp.net)

### Suspects Dinner Theatre

1000 Front St (Aboard the Delta King.)

916.443.3600

[www.suspectstheater.com/contact.html](http://www.suspectstheater.com/contact.html)

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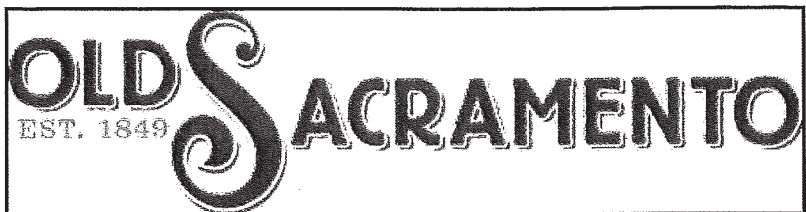
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## St. Patrick's Day Parade



SATURDAY, MARCH 15, 2014

*One of Northern California's Largest and Most Colorful Parades Unites All Cultures*



Hundreds of colorful marchers dressed in green, along with Irish and Highland dancers, pipe and drum bands, historic re-enactors and a variety of cultural organizations, will all join together to be a part of the 18th Annual St. Patrick's Day parade on Saturday, March 15, 2014. Always a free event, the parade steps off promptly at 1:00 p.m. from 2nd & L Streets in Old Sacramento and proceeds throughout the national historic landmark.

Over 60 units with more than 1,000 marchers will be featured. Irish dancers in elaborate Celtic costumes, bagpipers, bands, military regiments, police and fire representatives, costumed marchers and a variety of cultural organizations will bring the luck of the Irish to the event. The parade draws people from all over Northern California, bringing together thousands in the 28-acre historic state park. Last year more than 15,000 people turned out to enjoy the festivities.

“The O’Sacramento parade is a family-centered event that has become a much-anticipated celebration. It is one of Sacramento’s most colorful and fun traditions,” said Chris McSwain, Business District Manager of the Old Sacramento Business Association. “We are proud to host this annual signature event that Northern California residents and their families can enjoy,” McSwain continued.

All Old Sacramento streets will be closed to traffic from noon to 3:00 p.m., as thousands are expected to line the streets and Gold-rush era wooden boardwalks to enjoy the festivities. A reviewing stand will be located at the intersection of Front & K Streets. Increased safety measures will be enforced to provide a safe, secure and family-friendly event, as police officers, firefighters and paramedics will be on-hand during the festivities.



The deadline for entries is TBD. The application to enter the parade will be uploaded shortly.

### **2014 PARADE ROUTE**

Parade forms on 2nd Street between Neasham Circle and O Street (near Crocker Art Museum)

Parade heads North on 2nd Street to J Street

Left (West) on J Street to Front Street

Left (South) on Front Street

Past the reviewing stand on Front & K Streets (in front of the Delta King)

Left (East) on L Street

Right (South) on 2nd Street back to the staging and parking area to disband.

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**Letter O19     The Smith Firm**  
**Response     January 31, 2014**

---

- O19-1            The comment is noted and will be conveyed to the City Council for its consideration.
- O19-2            The comment provides an opinion regarding the legal force and effect of Senate Bill 743 and does not raise any environmental issue related to the project or its potential environmental effects. The City's commitment to the public participation and information disclosure requirements of CEQA is unchanged by Senate Bill 743, and the Draft EIR was prepared in full compliance with CEQA's requirements. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project's relationship to that statute have been forwarded to the City Attorney for consideration. The commenter's specific comments are addressed below.
- O19-3            Please see Response to Comment O19-2.
- O19-4            The comment is incorrect. Section 2.6.1, pages 2-82, of the Draft EIR provides a thorough description of the closure of Sleep Train Arena, including ongoing maintenance and security that would minimize the potential for vandalism or deterioration (blight) of the existing arena and practice facility buildings and grounds. As the owner of the arena and surrounding property, it would be the responsibility of the applicant to pay for ongoing maintenance and security of the Sleep Train Arena property. It should further be noted that it is currently anticipated that, if the project is approved as proposed, the applicant would be prohibited from using the existing Sleep Train Arena building for any arena uses, including "monster truck pulls."
- The discussion under Draft EIR section 2.6.1 and 2.6.2 reflect that there is no current plan for the reuse or demolition of the existing Sleep Train Arena, redevelopment of the site, or development of the approximately 100-acre adjacent City-owned property that as proposed would be transferred to the project applicant. As such, the Draft EIR does not attempt to speculate as to the timeframe of these decisions and later activities. As noted in Section 15145 of the State CEQA Guidelines, if "a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." Thus, speculative analysis of future use or timing of development at the Sleep Train Arena site would be inappropriate under CEQA.
- After stating an opinion about the use of public funds to support professional sports, the comment adds an undefined reference to Exhibits B, C, and D, with no

guidance as to the relevant content of those attachments to the comment letter. A general description of Letter O19, Exhibits B, C, and D is provided below.

- Exhibit B is 15-pages and was downloaded from a website entitled [www.saveoutsidethebox.com](http://www.saveoutsidethebox.com). The exhibit contains a three-page opinion piece entitled *The Age of the Throwaway Stadium*, published on November 14, 2013, and nine pages of reader responses that were posted between November 14 and November 25, 2013. The opinion piece was apparently written by an unnamed author in response to the announced move of the Atlanta Braves from Turner Field in downtown Atlanta to a new stadium proposed for construction in suburban Atlanta. The article includes reference to and a photo of the Kingdome, which was built in Seattle in 1976 as the home of the Seattle Seahawks and was demolished in 2000 after the completion of Centurylink Field. The responses include the opinions of readers about the announced situation in Atlanta and expressions of frustration about other stadium and arena replacements around the country over the last 20 years. There is no reference in the article or the responses to the Proposed Project, and no reference that can be reasonably connected to environmental effects of the Proposed Project or the Draft EIR. No further response is possible or required. The comment is noted and will be conveyed to the City Council for its consideration.
- Exhibit C is a four-page article entitled *Soaring or Crashing? The Challenges of Preserving Thin-Shell Concrete Construction* by Thomas E. Boothby and Charlene K. Roise. The Historic Preservation Education Foundation originally published the article in 2000. The article is exclusively focused on issues associated with the thin-shell design of the Seattle Kingdome, which led to costly maintenance and ultimately to demolition of the structure. There is no reference in the article to the Proposed Project, and no reference that can be reasonably connected to environmental effects of the Proposed Project or the Draft EIR. No further response is possible or required. The comment is noted and will be conveyed to the City Council for its consideration.
- Exhibit D is a 67-page transcript of a March 29, 2007 hearing before the U.S. House of Representatives Committee on Oversight and Government Reform, Subcommittee on Domestic Policy. The hearing was entitled *Build It And They Will Come: Do Taxpayer-Financed Sports Stadiums, Convention Centers and Hotels Deliver As Promised For America's Cities?* The transcript includes recordation of statements from committee members and witnesses, including individuals from New York, Detroit, and Seattle, an economist from the University of Illinois at Urbana Champaign, a representative of the American Tax Policy Institute, the president of a minor league baseball team in Dayton Ohio, a baseball writer from New York, a



professor of public administration from San Antonio, and the managing director of research and public policy at the Securities Industry and Financial Markets Association. All of the testimony and the questioning of witnesses pertain to the economic costs and benefits of publically supported sports stadia. There is no reference in the transcript to Sacramento or the Proposed Project, and no reference that can be reasonably connected to environmental effects of the Proposed Project or the Draft EIR. No further response is possible or required. The comment is noted and will be conveyed to the City Council for its consideration.

O19-5 Please see Response to Comment O19-4.

O19-6 Please see Response to Comment O19-4.

O19-7 CEQA requires that an EIR analyze a reasonable range of alternatives that would lessen project impacts while meeting most of the project objectives, but does not require that every possible alternative or permutation of an alternative be analyzed in an EIR [CEQA Guidelines Section 15126.6(a)].

The Draft EIR considers two alternatives at the Natomas site. Alternative 1, No Project Alternative, assumes the Sleep Train Arena would continue to operate at its current location in Natomas. No improvements beyond standard maintenance and minor upgrades are assumed under the No Project Alternative.

Building a new ESC at the Natomas site, next to the existing arena, is fully analyzed as Alternative 3. Under this alternative, the existing arena would be demolished. Many of the impacts of remodeling the existing arena would be similar to building a new arena at the same site, because attendance and the type of events would be similar. The impacts of demolition would be reduced, but not entirely eliminated because a major overhaul would require removal of some existing materials. The relationship to the project objectives for a remodeled Natomas arena also would be similar to that of a new ESC at the Natomas site. Evaluating an alternative in which the existing Natomas arena is remodeled would not add substantially to the alternatives analysis regardless of the cost of remodeling relative to building a brand new arena in the same location.

O19-8 As is noted on page 2-70 of the Draft EIR, the proposed digital billboards would be constructed to be 40 to 50 feet above the existing grade of the adjacent freeway. Because of the presence of elevated freeway sections at some of the potential billboard locations, the overall height of the billboards could range from 40 to approximately 85 feet above the existing grade. The ultimate owner and operator the future digital billboards has not been determined. Thus, it is not possible at this point to speculate on the businesses that will choose to advertise on the billboards. The comment is noted and will be conveyed to the City Council for its consideration.

O19-9 Existing federal, State, and local statutes and regulations are in place to ensure that digital billboards, and other light emitting displays near highways and roads are not safety hazards. As is noted on page 3-23 of the Draft EIR, provisions of the California Outdoor Advertising Act limit the characteristics of digital billboards to ensure that they are not located or operated in a manner that would be as safety hazard, including prohibiting messages that are in motion or appear to be in motion, establishing minimum distances between digital billboards and between digital and static billboards, as well as establishing a 4-second minimum time for changeable messages. The City Code goes further than State law, restricting messages changes to a minimum of every 8 seconds.

Further, as noted in the Draft EIR, the State Vehicle Code, section 21466.5, states that:

No person shall place or maintain or display, upon or in view of any highway, any light of any color of such brilliance as to impair the vision of drivers upon the highway. A light source shall be considered vision impairing when its brilliance exceeds the values listed below.

The brightness reading of an objectionable light source shall be measured with a 1 1/2-degree photoelectric brightness meter placed at the driver's point of view. The maximum measured brightness of the light source within 10 degrees from the driver's normal line of sight shall not be more than 1,000 times the minimum measured brightness in the driver's field of view, except that when the minimum measured brightness in the field of view is 10 foot-lamberts or less, the measured brightness of the light source in foot-lambert shall not exceed 500 plus 100 times the angle, in degrees, between the driver's line of sight and the light source.

In light of the high level of existing safety-related laws and statutes addressing digital billboards by the City, the State of California, and the Federal Highway Administration, sufficient regulation exists for the City to conclude that the proposed digital billboards would not present a safety hazard.

The comment references Exhibit E, and states the exhibit describes that “accidents increase 35 percent where digital billboards are located.” Exhibit E is an article entitled Billboards in the Digital Age downloaded from the Scenic America website. According to the website, Scenic America is a non-profit organization “dedicated solely to preserving and enhancing the scenic character of America’s communities and countryside.” It further notes that “Scenic America fights to reduce billboard blight and other forms of visual pollution; preserve the scenic character of the nation’s highways and byways; promote context sensitive highway solutions; ensure the mitigation of the visual impact of cell phone towers and other intrusions in the landscape; and promote scenic easements and other strategies to protect open space and preserve irreplaceable scenic resources.” Scenic America

does not appear to possess or claim any expertise in the area of safety or hazard mitigation.

Although unattributed and undated, it appears that the article was written in 2008. The article provides an array of information about safety concerns related to digital billboards, including citing a 1994 study by the Wisconsin Department of Transportation that examined one variable message sign that presented sports scores and ads on I-94 near Milwaukee County Stadium. In the study of this one sign, the “study found that sideswipe and rear-end collisions were up as much as 35 percent where the sign was most visible.” There is no information presented about the sign or the study to provide a comparison to the proposed digital billboards. For example, the type of sign, the rate of change of messages, the brightness of the messages, whether messages were in motion or changeable static images, etc. In Sacramento, all of these are factors that are regulated by state and local laws.

The article does quote a Mr. Jerry Wachtel, “an engineering psychologist with 25 years experience in the field of driver behavior” as stating that “too many variables contribute to traffic accidents to make it possible to prove causality from a single source.” The article goes on to note that Mr. Wachtel co-authored a report for the Federal Highway Administration, “which concluded that ‘some studies showed a clear relationship between the presence of outdoor signs and driver error or accidents and other studies hadn’t showed anything.’”

There is no reference in the article to the Proposed Project, to digital billboards in California, and no reference, information, or analysis that can be reasonably connected to environmental effects of the Proposed Project or the Draft EIR. No further response is possible or required. The comment is noted and will be conveyed to the City Council for its consideration.

- O19-10 Contrary to the comment, the Draft EIR, on page 2-70, provides a detailed description of the physical characteristics of the proposed digital billboards, including the size and height, brightness of digital display, and power requirements. On pages 2-70 and 2-71 the Draft EIR includes a detailed description of the construction process, including materials and equipment used, and the duration of construction phases. A schedule of when individual digital billboards would be constructed is not currently available, and would be determined by economic conditions and financial factors. The content of the digital billboards is not an environmental matter and would be regulated consistent with the City’s sign ordinance. Please also see Chapter 2 for a photo of a typical digital billboard.
- O19-11 An assessment of the cumulative aesthetic impact of the digital billboards is provided on pages 4.1-79 to 4.1-80 of the Draft EIR. In addition, on page 4.1-68, the Draft EIR includes a description of the potential effect of the elimination of relocation requirements associated with new digital billboards, resulting in an

increase in the total number of billboards and square footage of billboard face in Sacramento.

It is incorrect to suggest that the digital billboards would be purple. It is likely that the billboard pole and structure would be a neutral tone. The advertisements that would be broadcast on the billboard faces would vary in type and color, likely including occasional use of purple. The colors used in the advertisements would be determined by companies that purchase advertising time on the billboard and the billboard operator.

Evaluation of the aesthetic impacts of a digital billboard at the I-5 at Water Tank site is included on page 4.1-60 of the Draft EIR.

O19-12           The potential for the project to cause urban decay is addressed in the Draft EIR, Chapter 5, Section 5.5, and in Appendix H, Urban Decay Analysis. In addition to a quantitative analysis examining the potential of the Proposed Project to cause urban decay within the primary market area for the proposed retail uses, the analysis specifically addresses the potential economic effects on K Street (see Draft EIR, Appendix H, pages 53-54). The analysis includes a description of the current retail environment on K Street as well as the City’s recent efforts to promote redevelopment activity on K Street, including specific descriptions of the planned redevelopment projects on the 700 and 800 blocks of K Street, immediately east of the project site. The analysis in Appendix H, and summarized in Chapter 5, concludes that “K Street and other surrounding Downtown streets are expected to experience a surge in private investment improving real estate conditions and expanding the commercial base in order to reap returns from enhanced visibility, pedestrian traffic, and population density that will result from development of the ESC and its companion residential and commercial development.”

O19-13           The urban decay analysis presented in Appendix H and summarized in Chapter 5, Section 5.5, includes an assessment of the urban decay potential under cumulative conditions, as required under CEQA and addressed in section 15130 of the State CEQA Guidelines. The analysis was prepared by ALH Economics, a firm focusing on urban and regional economics with extensive experience in the preparation of urban decay analyses for CEQA documents. In determining the appropriate methodology for the cumulative analysis of urban decay effects of the Proposed Project, the City determined that an analysis based on a “list of past, present, and probable future projects producing relative or cumulative impacts,” as provided for in State CEQA Guidelines, section 15130 (b) was the appropriate method. In the urban decay analysis, existing and past projects are accounted for in the calculation of existing retail sales and spending (demand) in the market area, including Downtown Plaza, Arden Fair Mall, the rest of downtown without Downtown Plaza, Midtown, Old Sacramento, Promenade, and Truxel Marketplace (see Appendix H, Exhibit 18). Summary data for existing retail sales in Sacramento and

West Sacramento (which largely comprise the project primary market area) are presented in Exhibits 20 and 23 of Appendix H.

A list of potential future retail projects is included in Appendix H, Exhibit 29 of the Draft EIR. The following is a description of the development of the list of potential future retail projects, excerpted from Appendix H.

ALH Economics reviewed development pipeline materials maintained by the City of Sacramento to identify cumulative retail projects in the City of Sacramento. Information about these projects was primarily derived from the City's pipeline, but supplemented by additional information from project websites and the Sacramento Business Journal. Through this process ALH Economics identified 27 development projects with retail components that are in the City's pipeline in various stages. These projects are listed in Appendix H, Exhibit 29, and include information on project name or identifier, address, City geo-area, project description, net square feet, planning/development status, distance from the ESC, and anticipated opening/completion date. There are numerous projects, and ALH Economics strived to compile sufficient information for each project to determine its potential development timing relative to the Project. ALH Economics also queried the West Sacramento Planning Department to identify prospective planned new retail development projects in West Sacramento. No active projects were identified through this process.

The 27 projects included in Exhibit 29 total approximately 8.5 million square feet of retail space. Many of these projects are very substantial, with preliminary square footage figures that have not yet been refined or updated. One such example is Project #6, the Railyards project (project number refers to project identifier on Exhibit 29). This project has been on the City's pipeline for a long time, with its plan for 1.4 million square feet of retail space planned and approved prior to the recent Great Recession. This plan has not been revisited of late, and could ultimately change when the project becomes more active. The planned project list also includes an estimated 2.3 million square feet identified in scattered locations throughout Natomas (Project #26), and another 1.3 million square feet for Delta Shores (Project #27), a planned retail project in the South Area of Sacramento. These three projects alone account for almost 60% of the identified planned retail square feet.

ALH Economics reviewed the information on the planned projects, status, and on anticipated timing, and identified the projects most likely to be developed during a timeframe concurrent with the Project, i.e., by 2017. This includes 12 of the projects listed on Exhibit 29, with a total of 995,873 square feet of net new retail space. After review and consideration, all other projects were deemed not likely to occur during the timeframe of the Project's construction

and initial operation. These projects are excluded from subsequent cumulative projects analysis, and are highlighted in light gray in Appendix H, Exhibit 29.

It is typical that EIRs will use cumulative methodologies that are distinct and uniquely applicable to specific environmental resource areas. Section 15130(b)(2) states that when a cumulative analysis is based on a list, “factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type.” As such, the cumulative methodology for transportation analysis (using a horizon year of 2035 as established in SACOG’s regional transportation model) is distinctly different from that used to assess cumulative water demand (typically based on a 20-year horizon as established in the California Water Code requirements for Water Supply Assessments). For the purposes of the urban decay analysis, in light of the uncertain nature of future retail development, the City determined that it would most appropriate to evaluate the cumulative urban decay effects of the Proposed Project in 2017, a time period at which the retail space proposed to be developed in the Proposed Project would be fully absorbed and stabilized. That also provided a timeframe in which cumulative retail developments are known in a degree of specificity that allows their analysis at a level of detail so that conclusions can be drawn about the type of retail supply and demand.

Analysis of full retail development at such projects as the Railyards, Delta Shores, Greenbriar, and others would introduce substantive uncertainty and speculation into the analysis. For example, while the Railyards Specific Plan allows for up to 1.4 million square feet of retail space increasing retail supply, it also allows for up to 12,000 residential units and 2.4 million square feet of office space, thereby increasing retail demand. The plan does not require the development of the maximum amount of either use and largely designates land for mixed uses. Until specific development applications for projects under the Specific Plan are received, it would be speculative and potentially deceptive to include full development of the Railyards in an urban decay analysis.

The approach taken by the Draft EIR urban decay analysis, to assume those reasonably foreseeable projects that would be additive to the retail supply by the time that the Proposed Project retail would be developed, absorbed and stabilized, is reasonable and practical, and avoids unnecessary and inappropriate speculation.

O19-14

Page 4.10-78 of the Draft EIR describes the various roadway network improvements assumed in place under cumulative conditions. Although roadway construction is occurring within the Railyards Specific Plan, this is not currently adversely affecting any existing study roadways. There are no plans to reconstruct the I Street and J Street freeway ramps with I-5. Please also see Response to Comment O10-10.



- O19-15            Contrary to the comment, the Draft EIR did not fail to address the effect of the Proposed Project on the commercial viability of downtown businesses. As addressed in Response to Comment O19-12, the Draft EIR urban decay analysis considered the effects of the project on urban decay potential throughout a primary market area that comprises most of the City of Sacramento (west of Arden Fair Mall) and West Sacramento. The analysis also specifically addressed potential urban decay issues in North Natomas (associated with the closure of Sleep Train Arena), Old Sacramento, K Street, and the Railyards.
- Effects on specific businesses outside of the context of the urban decay analysis would be considered social and economic effects, which are not considered physical environmental effects requiring analysis in an EIR. Please also see Response to Comment O4-17.
- O19-16            Tables 3-1 and 3-2 in the Draft EIR provide a detailed, policy-by-policy discussion of the consistency of the Proposed Project with policies of the 2030 General Plan that relate to land use. Other sections in Chapter 4 of the Draft EIR include discussions of the relationship of the Proposed Project to policies that are relevant to specific environmental resource areas. 2030 General Plan goal LU 2.4, and policies LU 2.4.1 through LU 2.4.5 are each specifically addressed on pages 3-11 and 3-12 of the Draft EIR.
- O19-17            As detailed in the EIR (pages 4.4-6 through 4.4-9, and Impact 4.4-1), the proposed ESC is located within the downtown core, in an area that has been under constant development and redevelopment since the 1850s. As detailed in the Historical Resources Impact Analysis Report (Appendix G), “The project ... does not pose a potential indirect impact to properties on adjacent blocks because the urban context and environment of this area of downtown Sacramento has changed and evolved over time and the current project would continue this pattern. The setting of historical resources on adjacent blocks has been altered previously, including with the demolition of buildings in the 1950s and 1960s for redevelopment and with construction of the K Street Pedestrian Mall and the Downtown Plaza, and consequently additional changes to the setting does not have the potential to cause a substantial adverse change to historical resources on adjacent blocks.” The evolution of the downtown core through the construction and demolition of new structures is a constant progression of the downtown Sacramento area, including those areas on and around the 700 block of K Street. No additional analysis of these resources, beyond that already described, is necessary.
- O19-18            Please see Responses to Comments O9-4 and O9-11.
- O19-19            Old Sacramento was not specifically assessed in the Noise chapter of the Draft EIR based on the substantial distance from construction (800 feet to nearest Old Sacramento building) and operations (over 1,000 feet to nearest Old Sacramento

building to the proposed ESC). In addition, Old Sacramento abuts I-5, which generates substantial noise in the area from on-road traffic and would mask the majority of project-related noise at Old Sacramento. Intervening buildings and structures would also reduce potential noise exposure at Old Sacramento. Finally, Chapter 4.8 of the Draft EIR analyzed noise at the nearest sensitive receptors and applied mitigation based on this worst-case exposure, which would also beneficially reduce noise at noise sensitive areas and receptors located farther away, such as Old Sacramento.

O19-20 The Parks and Recreation subsection of Section 4.9 of the Draft EIR provides a general overview of parks and recreational resources as described in the City of Sacramento Parks and Recreation Master Plan. On page 4.9-18 of the Draft EIR, information is provided on the acreage of different types of parks in the City as a whole, as well as in the Central City. There are numerous parks and recreational facilities in the Central City, including Capitol Park, Cesar Chavez Park, Fremont Park, Southside Park, as well as Old Sacramento State Historic Park. The Draft EIR does not specifically note any particular parks in the Central City because these parks would not be affected by the Proposed Project. As is noted on page 4.9-23, [a]ny increase in use of City parks or recreational facilities resulting from implementation of the Proposed Project would likely be distributed throughout the downtown area, and would not result in a substantial physical deterioration of such facilities.”

As is discussed elsewhere in this Final EIR, the Draft EIR includes substantive analysis of the potential effects of the Proposed Project on Old Sacramento, including assessment of roads and highways serving Old Sacramento, effects on businesses in Old Sacramento and any potential resulting urban decay, effects of noise generated from activities at the Downtown project site, and other issues. The analyses presented in the Draft EIR do not identify evidence to support an argument that there would be substantial adverse physical environmental effects in Old Sacramento.

O19-21 Please see Responses to Comments O9-4 and O9-10.

O19-22 Please see Response to Comment O19-22 regarding noise impacts from project construction and operations on Old Sacramento. Since Old Sacramento is 800 feet or more from the project and vibration levels drop off considerably with distance, project construction vibration would be imperceptible and would not result in any impacts at Old Sacramento.

O19-23 Please see Responses to Comments O9-12 and O9-24. There are no plans to provide reconstructed or new freeway ramps on I-5 through downtown. However, the I-5/Richards Boulevard interchange is planned to be upgraded once funding becomes available.

- O19-24 As is described in Response to Comment O19-23, the Proposed Project would not result in changes to access to the I-5 freeway. Please also see Response to Comment O19-20 for a discussion of the potential for adverse impacts on recreation facilities in Old Sacramento.
- O19-25 Please see Response to Comment O9-3.
- O19-26 The comment cites several sections of the California Public Resources Code and the State CEQA Guidelines. No specific inadequacy is described, but the comment appears to imply a general failure to meet the overall intent of CEQA and the Guidelines. The City prepared the Draft EIR to be fully compliant with the requirements of CEQA and the State CEQA Guidelines. Chapter 2, Project Description, provides a detailed 90-page description of the Proposed Project, including 35 figures and 10 tables. The analyses of environmental impacts of the Proposed Project, including construction and operation, direct and indirect, project-specific and cumulative impacts fully meet the requirements of State CEQA Guideline 15126 and other Guidelines that pertain to the content of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- O19-27 The Draft EIR concluded the project would cause significant impacts at the I-5 Off-Ramps/J Street/3<sup>rd</sup> Street intersection during the AM and pre-event peak hours due to vehicle queuing that spills back from the off-ramps onto the freeway. The City evaluated a series of potential mitigation measures ranging from signal timing modifications to street closures, and even physical capacity improvements.
- Page 4.10-96 mentions a potential capacity-enhancing, physical improvement to the J Street/3<sup>rd</sup> Street intersection. The proposed improvement would have added a right-turn ‘slip’ lane on the northbound I-5 off-ramp (under the L Street braided on-ramp, connecting with 3<sup>rd</sup> Street) just prior to its termination at J Street/3<sup>rd</sup> Street. This improvement would have removed the considerable I-5 northbound off-ramp to southbound 3<sup>rd</sup> Street travel demand from the impacted J Street/3<sup>rd</sup> Street intersection. This design concept was presented to Caltrans for that agency’s review and consultation. Caltrans staff discussed the design concept with their geometricians. Caltrans staff then informed the City that this improvement was infeasible because it required design exceptions associated with minimum vertical clearance, horizontal curvature, deceleration, and/or design speed. Since Caltrans has review and approval authority over such improvements, this improvement was not carried forward as a potential mitigation. The Caltrans Draft EIR comment letter (A4) expresses that agency’s concurrence with Mitigation Measures 4.10-1, 4.10-2, and 4.10-3. Caltrans staff also expressed their concurrence with the language on page 4.10-96 regarding the infeasibility of the above-specified improvement.

There are no known plans to reconstruct the I-5/J Street/I Street interchange, as is suggested by the comment. As such, the secondary effects of such a construction project do not need to be evaluated.

Please also see Responses to Comments O9-4, O9-10, and O9-12.

O19-28 Please see Response to Comment O19-27. The Draft EIR is neither deferring mitigation nor offering unsubstantiated evidence regarding the I-5/J Street interchange. The City consulted with Caltrans on this issue, among others. Caltrans' concurrence in the EIR's approach is supported by that agency's comment letter (see Comment Letter A4), and is further substantiated by the lack of any programmed improvements to this interchange in the Tier 1 project list contained in the SACOG MTP/SCS.



MIWOK United Auburn Indian Community  
MAIDU of the Auburn Rancheria

Gene Whitehouse  
Chairman

John L. Williams  
Vice Chairman

Danny Rey  
Secretary

Brenda Adams  
Treasurer

Calvin Moman  
Council Member

February 12, 2014

Scott Johnson  
City of Sacramento  
300 Richards Blvd., Third Floor  
Sacramento, CA 95811

Subject: Notice of Availability - Draft EIR for the Sacramento Entertainment and Sports Center & Related Development Project (P13-065) (SCH# 2013042031)

Dear Scott Johnson,

Thank you for requesting information regarding the above referenced project The United Auburn Indian Community (UAIC) of the Auburn Rancheria is comprised of Miwok and Southern Maidu (Nisenan) people whose tribal lands are within Placer County and whose service area includes El Dorado, Nevada, Placer, Sacramento, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to comment on this and other projects in your jurisdiction.

In order to ascertain whether or not the project could affect cultural resources that may be of importance to the UAIC, we would like to receive copies of any archaeological reports that have been, or will be, completed for the project. We also request copies of future environmental documents for the proposed project so that we have the opportunity to comment on potential impacts and proposed mitigation measures related to cultural resources. The information gathered will provide us with a better understanding of the project and cultural resources on site and is invaluable for consultation purposes. Please contact us if any Native American cultural resources are in, or found to be within, your project area.

Thank you again for taking these matters into consideration, and for involving the UAIC early in the planning process. We look forward to reviewing the aforementioned documents as requested. Please contact Marcos Guerrero, Cultural Resources Manager, at (530) 883-2364 or email at [mguerrero@auburnrancheria.com](mailto:mguerrero@auburnrancheria.com) if you have any questions.

Sincerely,

Gene Whitehouse,  
Chairman

CC: Marcos Guerrero, CRM

020-1



MIWOK  
MAIDU  
United Auburn Indian Community  
of the Auburn Rancheria

Tribal Office  
10720 Indian Hill Road  
Auburn, CA 95603

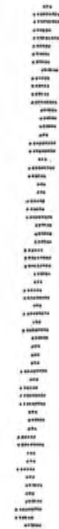


Scott Johnson  
City of Sacramento  
300 Richards Blvd., Third Floor  
Sacramento, CA 95811

COMMUNITY DEVELOPMENT  
DEPARTMENT

FEB 21 2014

RECEIVED



958110218 0060

**Letter O20**      **United Auburn Indian Community of the Auburn Rancheria**  
**Response**      February 12, 2014

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O20-1      The comment notes that the United Auburn Indian Community is concerned with development that occurs within its aboriginal territory that has potential to impact culturally significant resources. The comment requests copies of any archaeological reports and future environmental documents prepared for the Proposed Project and requests notification if any Native American cultural resources are discovered on the Proposed Project sites.

The City has been in regular contact with the UAIC, and other tribal groups including the Shingle Springs Band of Miwok Indians and the Wilton Rancheria. The City will continue to coordinate with the UAIC during project planning and construction and submit relevant reports to the UAIC for review.



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**Scott Johnson**

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**To:** ESC (P13-065) File  
**Subject:** RE: Comment on ESC Draft EIR - Parking & Traffic

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**From:** Chuck Robuck [<mailto:robuckc@live.com>]  
**Sent:** Wednesday, December 18, 2013 9:11 AM  
**To:** Planning  
**Subject:** Comment on ESC Draft EIR - Parking & Traffic

In reviewing the Draft EIR, I noted that the report concludes that there is more than ample parking available in the downtown area (some 13,000 spaces within 1/2 mile).

However, I also noted that these spaces are located in nearly 40 separate parking facilities spread throughout the downtown area.

My concern is HOW patrons, especially those attending events from outside Sacramento, and unfamiliar with Downtown, will know WHERE available parking is available. I envision many of these people driving in circles through downtown, passing many "Lot Full" signs while looking for a parking space. This could not only add to traffic congestion, but could be a significant deterrent to attendance at subsequent ESC events.

I1-1

How specifically will this issue be addressed?

Thanks.

Chuck Robuck  
916 663-2716

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**Letter I1**      **Chuck Robuck**  
**Response**      December 18, 2013

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I1-1      As described on page 4.10-28 and shown on Figure 4.10-9 of the Draft EIR, approximately 6,700 parking spaces are expected to be available within one quarter-mile from the Downtown project site for weekday daytime events. In addition, Figure 4.10-10 displays the estimated available parking supply at off-site locations in the project vicinity for a weekday evening event (i.e., NBA game, family show, concert, etc.). In total, for a weekday evening event at the ESC approximately 7,000 spaces are available within one quarter-mile and 13,500 spaces are available within one half-mile of the Downtown project site.

Table 4.10-10 displays the geographic distribution of expected parking garage/lot usage for a weekday evening Sacramento Kings game. Approximately 38 percent would park south of L Street, east of I-5, and west of 7<sup>th</sup> Street; 26 percent would park east of 7<sup>th</sup> Street, north of Capitol Mall and south of I Street; 20 percent would park north of J Street; and 8 percent would park west of 3<sup>rd</sup> Street (either under I-5 or in Old Sacramento). In addition, it is anticipated that 8 percent of patrons, exclusively VIPs, would park within the onsite ESC parking garage.

The Draft Event Transportation Management Plan includes a required set of communication strategies that include dissemination of information about travel and parking alternatives, as described on page 51 of the Revised Draft Event TMP:

“Ticket purchase confirmation will include the following information:

- For attendees who do not purchase parking in the ESC garage, a statement explaining that parking will not be available at the ESC garage, and detailed information about alternative parking and other options for getting to the ESC, including:
  - List of transit options available, including links to schedules, fare information, and forms of payment
  - Reminder that RT fares will be checked on the street after NBA games, prior to walking up the RT platform; and that RT tickets must be purchased ahead of time.
  - Recommended walking paths to the ESC from transit hubs and other origins.
  - Information on bicycle routes and bicycle valet.

- Alternative parking options near the ESC.”

Given the expected dispersion of vehicles throughout downtown, and with information available on transportation options, it is anticipated ESC patrons would choose to park in lots/garages based on their specific criteria (distance to ESC, ease of access, cost of parking, etc.). The most frequent large ESC events would be basketball games. Based on current data and trends, it is likely that more than half of the attendees would be season ticket holders or multi-game pack purchases. This suggests that many repeat attendees would gain familiarity with their desired parking locations over time. It is possible that parking garages available to the public during ESC events could advertise available parking to patrons via message boards or smartphone applications. Over time, these garages may have the technology to calculate available parking and would need a means to publish it. The Vail Ski Resort in Colorado (<http://m.vail.com/parking-at-vail.html>) provides a good example of a real-time parking supply information system.

**Scott Johnson**

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**From:** Amir Vojdani <amirgayle@hotmail.com>  
**Sent:** Wednesday, December 18, 2013 10:38 AM  
**To:** Scott Johnson  
**Subject:** RE: Sacramento Entertainment and Sports Center

Dear Mr. Scott Johnson,

I do not know your background and experience, but as an experienced designer, urban designer and great researcher, problem solver I have to say:  
This Trojan horse that is not gonna work!

I2-1

End of story!  
Sincerely yours

Vice President of ROCA

---

From: [SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)  
To: [SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)  
CC: [TBuford@cityofsacramento.org](mailto:TBuford@cityofsacramento.org)  
Subject: Sacramento Entertainment and Sports Center  
Date: Wed, 18 Dec 2013 18:32:05 +0000

Attached please find a courtesy notice of the availability of the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center.

Thank you,

Scott Johnson  
City of Sacramento  
Community Development Dept.  
Environmental Planning Services  
300 Richards Blvd., 3<sup>rd</sup> Floor  
Sacramento, CA 95835  
(916) 808-5842

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**Letter I2**      **Amir Vojdani**  
**Response**     December 18, 2013

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I2-1                The comment is noted and will be conveyed to the City Council for its consideration.

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I3-1  
cont.

The project would survive  
just the traffic situation  
review!

I3-2

There's nothing wrong  
with Sleep Train Arena.  
It could be renovated,  
enlarged, remodeled etc  
probably with a CE or  
Mitigated ND. No big deal.  
Flashing message signs  
all over downtown? This  
isn't Las Vegas. Shame  
on the City for pursuing  
this project at the same  
time LIBRARIES are suffering  
over

I3-3

12/17/13

Dear Scott,

I'm a retired California  
Environmental Planner. My  
specialty was Cultural Resources  
but I was a Project Developer  
Team member on major  
city/county/State/Federal  
coordinated projects.

I3-1

The City will receive  
comments from State, local  
and Federal Agencies about  
the Arena Project.

My comments would be  
the same as ~~theirs~~ "theirs"

I3-3  
cont.

*This is disgusting  
to me. Books are  
more important,  
No electricity required!*

This is a replica of one of the cards made by  
Rwandan women who participate in the  
Women for Women International program.

Produced from banana leaves, each card is  
created by hand and sold to help Rwandan women  
earn an income and care for their families.

I3-4

*I don't envy you  
your job. I'm sure  
you do a great job.  
Take care!*

*Sincerely,  
Agathe Proton*  
WOMEN FOR WOMEN  
INTERNATIONAL

*732 2nd St  
WOODLAND, CA 95695*

WFW 13-PC7B



**Letter I3**      **Martha Proctor**  
**Response**      December 18, 2013

---

- I3-1              The comment is noted and will be conveyed to the City Council for its consideration.
- I3-2              The comment is noted and will be conveyed to the City Council for its consideration.
- I3-3              The comment is noted and will be conveyed to the City Council for its consideration.
- I3-4              The comment is noted and will be conveyed to the City Council for its consideration.

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**Scott Johnson**

---

**From:** Elizabeth X. Wong <elizabeth.x.wong@gmail.com>  
**Sent:** Thursday, December 19, 2013 4:12 PM  
**To:** Scott Johnson; Elizabeth X. Wong  
**Subject:** Re: Entertainment & Sports Center Draft EIR  
**Attachments:** 2013Dec\_eWong.sJohnson.040.jpg; HereWeStay\_ChinatownMall.doc

**Hello Mr. Johnson**

It was a pleasure meeting you too! After the introductions, I was compelled to provide my contacts an outline on how the "Sleeping Dragon" needs to wake up and join a revitalizing Downtown Sacramento.

Please open the attached 2-page outline with images. Also, is the photo taken of us in City Hall.

I4-1

"Here We Stay!"  
Elizabeth

--  
**Elizabeth Xiu Wong, RDH-AP**  
**Asian Community Advocate**

office: (916) 392-2038  
cell: (916) 541-5007  
elizabeth.x.wong@gmail.com

-----  
On Thu, Dec 19, 2013 at 10:51 AM, Scott Johnson <[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)> wrote:

Dear Ms. Wong,

It was nice meeting you last night. As we discussed, below is a link to the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center Project.

<http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports/Entertainment%20and%20Sports%20Complex>

Here is a link to our City EIR webpage, that contains links to current project environmental documents:



<http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports>

Scott Johnson

City of Sacramento

Community Development Dept.

Environmental Planning Services

300 Richards Blvd., 3<sup>rd</sup> Floor

Sacramento, CA 95835

(916) 808-5842

**Scott Johnson**

---

**From:** Elizabeth X. Wong <elizabeth.x.wong@gmail.com>  
**Sent:** Thursday, December 19, 2013 7:39 PM  
**To:** Scott Johnson; Roberta Deering; Stacia Cosgrove; Peggy Spatz  
**Cc:** Sam Ong, Ong Family Association; Elizabeth X. Wong  
**Subject:** Re: Entertainment & Sports Center Draft EIR  
**Attachments:** SleepingDragon\_ChinatownMall.pdf; 2013Dec\_eWong\_rDeering\_pSpatz\_046.jpg; 2013Dec\_eWong\_sJohnson.040.jpg

**Hello City of Sacramento**  
**Hello Scott Johnson**  
**Hello, Peggy Spatz**

Last night (Dec 18) was a very informative display of the future **Kings Arena!** I enjoyed talking to all of you. And "Thank You" for listening to my passion to revitalize **Chinatown Mall.**

Capital Public Radio quoted me about the "Sleeping Dragon" needing to wake up and contribute to the cultural resources in the neighborhood. Here is the interview by Bob Moffitt:

<http://www.capradio.org/articles/2013/12/18/dragons-bicycles-and-trees-some-of-the-reaction-to-the-new-arena-eir/>

I4-2

Please open the attached 2-page outline with images. Also, there are 2 photos taken of us in City Hall.

Wake up the Sleeping Dragon!



Elizabeth

--

**Elizabeth Xiu Wong, RDH-AP**  
**Asian Community Advocate**

office: [\(916\) 392-2038](tel:9163922038)  
cell: [\(916\) 541-5007](tel:9165415007)  
[elizabeth.x.wong@gmail.com](mailto:elizabeth.x.wong@gmail.com)

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Scott Johnson

City of Sacramento

Community Development Dept.

Environmental Planning Services

300 Richards Blvd., 3<sup>rd</sup> Floor

Sacramento, CA 95835

[\(916\) 808-5842](tel:(916)808-5842)

**“Here We Stay” ... Sacramento Kings, proud to be in the city!**

**“Here We Stay” ... Chinatown Mall, time to wake up!**

\*\*\*\*\*

*Wake up the “Sleeping Dragon” ... make J STREET beautiful again*

Chinatown has been a cultural resource in the neighborhood for over 150 years.  
Revitalized Chinatown ties together Amtrak/Light Rail + Kings Arena + Old Sacramento.

**WHY???** “Neglected” yet located at the Prime Location:

Sandwiched between Amtrak/Light Rail + Kings Arena + Old Sacramento.  
People should love walking inside (not avoiding) Chinatown Mall.

**WHO:** **Chinese-American Community**

Settled in Sacramento since the Gold Rush in the 1850s.

**WHAT:** **Wake up the “Sleeping Dragon!” (Chinatown Mall)**

2 square blocks of beautiful architecture, but buildings mostly vacant.

**WHERE:** **“I” and “J” STREETS** (between 3<sup>rd</sup> and 5<sup>th</sup>)

Downtown Sacramento. Across the street from the new Kings Arena.

**WHEN:** Chinatown Mall built in the 1970s, when there was a vibrant community.

Now: An empty ghost town full of fallen leaves.

---

**More info ?**

Elizabeth Xiu Wong

(916) 541-5007

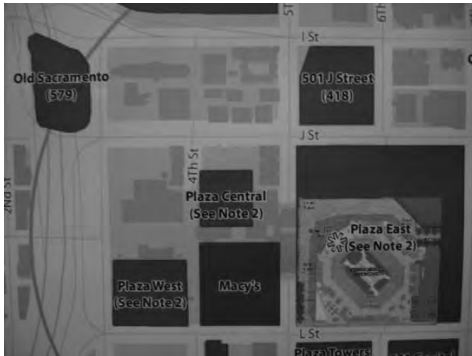
[elizabeth.x.wong@gmail.com](mailto:elizabeth.x.wong@gmail.com)

**PHOTO CREDITS:**

Elizabeth Xiu Wong  
(916) 541-5007  
[elizabeth.x.wong@gmail.com](mailto:elizabeth.x.wong@gmail.com)



Ong Family Association



Chinatown Mall (Old Sac, Kings Arena).



(L) Hotel. (Center) Trains. (R) Chinatown.



“Sleeping Dragon” over Chinatown.



Vacant restaurants on J St, Chinatown.

**Letter I4**      **Elizabeth Xiu Wong**  
**Response**      December 19, 2013

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- I4-1              The comment is noted and will be conveyed to the City Council for its consideration.
- I4-2              The comment is noted and will be conveyed to the City Council for its consideration.

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12-19-13  
 MR. SCOTT JOHNSON, ASSOCIATE PLANNER  
 CITY OF COMMUNITY DEVELOPMENT DEPT.  
 SACRAMENTO, ENVIRONMENTAL PLANNING SERVICES  
 300 RICHARDS BLVD., 3<sup>rd</sup> FLOOR  
 SACRAMENTO, CA 95811  
 EMAIL: SRJOHNSON@CITYOFSACRAMENTO.ORG

William Lowell  
 1537 Pennsylvania Ave.  
 West Sacramento, CA 95691-3930  
 (916) 371-9311 - HOME  
 (916) 743-5525 - CELL AND ANSWERING MACHINE

NOTE (CAUTION: COULD REQUIRE YOLO BUS TO MOVE TO "P" ST. VIOLATE THE A.D.A. FOR ELDERLY & DISABLED?)

I5-3

DEAR MR. JOHNSON:

I AM CONCERNED THAT PART OF YOUR PLANS FOR A DOWNTOWN KINGS STADIUM INCLUDE ELIMINATING YOLO BUS STOPS ON "L" ST., BETWEEN 5<sup>th</sup> ST. & 7<sup>th</sup> ST. (WEST BOUND). THESE STOPS WOULD RELOCATE TO "P" ST., I UNDERSTAND. NO REGIONAL TRANSIT BUSES WOULD BE AFFECTED, RIGHT? SOUNDS LIKE SUCH CHANGES WOULD GREATLY INCONVENIENCE MANY YOLO BUS RIDERS, INCLUDING: 1) REDUCED CONNECTIVITY TO VARIOUS PLACES, INCLUDING RESTROOMS, BUT OF GREATEST CONCERN IS EVEN WORSE CONNECTIONS TO/FROM HOSPITALS FOR WEST SACRAMENTANS, WHERE WE HAVE NO HOSPITALS, WE ARE SERVED BY SACRAMENTO'S.

I5-1

IF IT IS SO IMPORTANT FOR A NEW KINGS STADIUM TO BE BUILT DOWNTOWN, IT SEEMS TIME TO REVIEW THOSE PLANS FOR A BROADWAY-15<sup>th</sup> ST. BRIDGE ACROSS THE SACRAMENTO RIVER. THE ALREADY-NEGATIVES OF THAT PLAN: 1) ON THE EAST SIDE, IT IS ONLY 2 BLOCKS FROM PIONEER BRIDGE; 2) ON THE WEST SIDE, 15<sup>th</sup> ST. IS ONLY 2 LANES AND TRAFFIC WOULD NOT IMPROVE WITH A 15<sup>th</sup> ST. BRIDGE; 3) TRAFFIC FLOW WOULD BE BEST IMPROVED WITH A SOUTHPORT/SOUTH SACRAMENTO BRIDGE, GIVING WEST SACRAMENTO'S SOUTHPORT FOLKS MUCH QUICKER ACCESS TO/FROM HOSPITALS AND WOULD GREATLY REDUCE POLLUTION (& COMMUTING) ON BOTH SIDES, ESPECIALLY FOR LAND PARK RESIDENTS. <sup>CONCERNED,</sup> William A. Lowell

I5-2

A12 The Sacramento Bee | Wednesday, December 18, 2013

# OPINION

## THE SACRAMENTO BEE

CHERYL DELL | Publisher and President  
 JOYCE TERHAAR | Executive Editor and Senior Vice President  
 DAN MORAIN | Editorial Page Editor | (916) 321-1907 for comments on opinion pages

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### EDITORIAL

# Arena traffic study is no reason for complacency

BY THE EDITORIAL BOARD

**A** detailed study should calm fears that Sacramento's proposed downtown arena would create a traffic nightmare.

The draft environmental impact report, released Monday, concludes that the downtown street grid, which accommodates 100,000 weekday commuters, can also handle fans going to Kings games, concerts and other arena events. In addition, 10 percent to 15 percent of patrons are expected to walk or take bus or light rail to the arena at Downtown Plaza.

There are a couple of caution signs, however. For weeknight events, there would be an overlap between workers leaving late from the office and fans arriving early. Also, the arena would worsen a bottleneck at Third and J streets, where vehicles exit Interstate 5.

Officials are working on a traffic management plan that could include closing some streets and intersections and posting police officers to direct traffic. Caltrans may have other proposals. The Kings, who paid for the \$1 million study, are also expected to pay for any measures required by the final EIR.

The report highlights the advantages of a downtown site over the current site in Natomas. Since nearly everyone gets to Sleep Train Arena by car, a downtown arena would mean a 20 percent cut in vehicle miles traveled and a 36 percent reduction in greenhouse gas emissions. That qualifies the project under Senate Bill 743, a new law that would accelerate any court challenges under the California Environmental Quality Act and help keep the arena on track to open in September 2016.

The generally positive assessment, however, should not make officials complacent. To avoid any problems, they need to look for ways to encourage the use of public transit and to shield midtown and other nearby neighborhoods from additional vehicles.

Officials also need to listen closely to the concerns of residents and business owners. The public will have plenty of opportunity to weigh in, starting with a forum at 6 p.m. today at City Hall. Public comment will be received until Jan. 31. Then the Kings and the city will get a chance to respond. The City Council is to vote on whether to approve the environmental impact report in early April, along with the final financing plan and development agreement.

Few problems could sour Sacramento on the arena more quickly than horrendous traffic. While the study is encouraging, officials need to stay vigilant against gridlock.



The Sacramento Bee

Afternoon traffic pulses through downtown Sacramento on Interstate 5. A draft environmental impact report on the proposed downtown arena identified the I-5 ramps to J Street as a bottleneck.

---

**Letter I5**      **William Lowell**  
**Response**      December 20, 2013

---

- I5-1              As part of the project construction and operation, two bus stops on L Street would need to be relocated. Please see Response to Comment A7-4 with an update of the location being considered for relocated bus stops. Please also see Response to Comment A11-9 for a detailed description of the current status of these relocation efforts.
- I5-2              The comment suggests that a new Sacramento River bridge crossing be provided connecting South Sacramento and Southport in West Sacramento. The comment is noted and will be conveyed to the City Council for its consideration.
- I5-3              Please see Response to Comment A7-4 for an update on the potential future replacement of L Street bus stops that would be relocated under the Proposed Project. The relocation of one of the L Street bus stops to P Street is not under consideration. Any replacement bus stops would be required to meet RT's standards for ADA compliance.

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Scott Johnson

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**From:** J A <jjadamsj@gmail.com>  
**Sent:** Wednesday, January 08, 2014 9:25 PM  
**To:** Scott Johnson  
**Subject:** ESC Draft EIR Public Comment

Hello,

Below are my comments related to three sections of the Draft EIR for the proposed ESC development downtown.

Transportation:

- There is not an analysis of impacts to on-street parking during ESC events. Considering current street rates are lower than potential off-street parking rates for ESC events, many patrons will fill up downtown street parking first, then start filling up the off-street spaces.

What is proposed to prevent all the street parking from being taken by ESC patrons? What about the impacts on local business during those times?

I'm thinking that on event nights no one will want to come downtown because there will not be easy-access, inexpensive parking near businesses. I'd hate to cancel dinner plans because there is only \$10 parking off-street blocks from my destination, but that would be the case since that isn't a reasonable charge for simply going out to eat downtown.

I6-1

- Why were intersections at 10<sup>th</sup> and W and 9<sup>th</sup> and W analyzed for impacts? This is the signed gateway to 'Downtown' from Highway 50, so all points south of the American river to the east and south around Hwy. 99 will come through this intersection.

I6-2

Aesthetics:

- The project proposes to remove significant shaded area that exists at the downtown plaza site. We should be requiring shade, not the 'potential for shade'.

The current walkways are generally covered either by the 2<sup>nd</sup> floor walkway or shade structures/roofing further up (with the exception of the east side of 5<sup>th</sup> street between L and J) and the center of the walkways are also mostly shaded despite the open areas in the roofing. L street has several trees that provide needed shade in the area and nearby bus stops. This makes visiting the area in inclement and hot weather much more bearable and welcoming. The ESC proposal does not include anything near replacement shading or planting in relation to the plaza. The draft EIR even notes that L street will only be

I6-3

protected from rain (although I'm not sure they can prevent the runoff from coming off the side of the building), with no shade provided at all (even to replace the large tree at of the NE corner of 6<sup>th</sup> and L, might be an english oak). Similarly, much of the north and west of the ESC area will be without shade, making this part of town unbearable and unwelcoming during the summer. Also, connectivity will be reduced during inclement weather, as people will have a much larger area/distance to cross to reach the rest of the site without being rained on.

I6-3  
cont.

- There is very little discussion of the landscaping of the event plaza. What does the city want to see in such a space? It currently reads like the city just appreciates the space and the developer can do what they want with the area. Since it is city land, can it be more like a park? (albeit over a parking lot)

I6-4

- Can we require removal of the 'clock tower' on K between Macy's and the parking garage? It looks terrible and doesn't function.

I6-5

Biological Resources:

- It seems like much of the requirements related to street trees to be removed for the proposed project are related to city code section 12.56, which leaves it to the director to determine appropriate replacement trees, locations and sizes. I found the following guidance on replacement trees (12.56.090):

I6-6

A. If the city street tree being removed is six inches or larger in diameter, measured four and one-half feet above ground, then the permittee shall cause to be replanted a tree of at least twenty-four (24) inch box size.

B. If the city street tree being removed is smaller than six inches diameter, measured four and one-half feet above ground, then the replacement tree shall be a minimum of fifteen (15) gallon can size. (Prior code § 45.01.009)

- Is it possible to instead require replacement trees for the proposed project replace trees of 6 inches or larger in diameter with a tree of at least 7 feet tall with a canopy of 5 feet in diameter, to better approximate the tree being removed, but still providing for growth and settling.

I6-7

What I'm getting at is I don't want it to take 20 years for the replacement trees to reach the stature of their forbearers, as the design life of the project is not more than 30-40 years. We should have reasonably large trees within 5 years of planting, current policy would seem to take 10 years at least. Perhaps specifying the species of tree to be planted that can reach stature quickly?

For example, the replacement trees put on 12<sup>th</sup> street between R and the S/R alley last year (maybe 2012) were very large at planting and meet the 7 foot/5 foot criteria I indicated above.

- I feel that this project, the proposed centerpiece of our city, should meet slightly stricter requirements than other developments in the city relating to trees. Let's show off our city of trees in this development. I6-8
- The Draft EIR is written to incentivize contractors to remove as many street trees as possible, due to the requirement to use TPZ on retained trees. They will likely only retain the heritage trees as required. The EIR should mandate a certain percentage of mature street trees be maintained and go through the TPZ process, perhaps ones on the periphery of the site to allow maximum flexibility for the developer during design/construction. I6-9

Thank you for your consideration,

Jim Adams

Sacramento, CA



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**Letter I6**      **Jim Adams**  
**Response**      **January 8, 2014**

---

I6-1                      The Draft EIR discusses the effects of ESC construction and operation on on-street parking. Page 4.10-28 of the Draft EIR states that on-street parking in the project vicinity is limited due to the frequency of driveways, block lengths, and no parking zones. While some ESC patrons may use on-street parking, there are many more off-street parking spaces available for use with the advantages of being within close walking distance, secured, and protected from the weather. People who attend events now at Sleep Train Arena are accustomed to paying for parking, and, thus, it is reasonable to assume that they would continue to do so in the future.

While on-street parking supply is part of the existing downtown transportation infrastructure, the Draft EIR focused on the availability of parking that could accommodate a large number of vehicles during a determined amount of time. Within the project vicinity, the supply and availability of off-street parking is substantially greater than the supply of on-street parking. Accordingly, the Draft EIR focused on which garages would most likely be used by ESC patrons. The Draft EIR also acknowledged that on-street parking does exist on some streets and would likely be used, if available, by ESC patrons. The discussion and data provided in the Draft EIR focused on the availability of parking garages because the availability and quantity of available parking spaces is known and the distance from parking garages to various downtown businesses including the ESC is fixed. The discussion in the Draft EIR, beginning on page 4.10-24, demonstrates there are sufficient parking resources available for the Proposed Project, and there is no indication that the Proposed Project would create a demand for new parking facilities. Please also see Response to Comment I33-41.

Some ESC patrons may choose to use on-street parking in the downtown area rather than an off-street parking garage. While there is no evidence that ESC patrons would use all of the available on-street parking in downtown during ESC events, it is possible that on-street parking could be used by ESC patrons. Even if on-street parking resources near the ESC are used by ESC patrons, there are several other parking options available for patrons of other downtown businesses, as demonstrated on Figures 4.10-8 through 4.10-10. The off-street parking supply shown on those figures shows a variety of parking structures available for use by non-ESC patrons during ESC events, which are within a reasonable distance of many downtown businesses and available at a reasonable cost. Paid parking for downtown activities, ESC-related or otherwise, is a common feature of urbanized areas, and the analysis in the Draft EIR demonstrated that sufficient capacity is available to respond to anticipated demand.

The City of Sacramento has an established Residential Permit Parking Program, which regulates parking in residential areas. Parking is typically restricted in location and time, limiting parking by those without a residential permit for that area. Residential Permit Parking is typically appropriate in areas impacted by commuter parking and where off-street parking is seen by neighbors as inadequate. Residential Permit Parking areas range from approximately 80 residential units (6 square blocks) to 3,000 residential units (78 square blocks). There are currently over 25,000 on-street parking spaces regulated by residential permit parking regulations.

The City accepts petitions for new or modified Residential Permit Parking Programs. To the extent to which parking associated with ESC events is viewed as affecting parking in Alkali Flats or Mansion Flats, residents and business owners in these areas may petition the City to establish, modify or expand permit parking.

- I6-2            The comment appears to ask why the intersections of 10<sup>th</sup> Street/W Street and 9<sup>th</sup> Street/W Street were not analyzed in the Draft EIR. The 11<sup>th</sup> Street/W Street intersection was chosen for analysis rather than the nearby 9<sup>th</sup> Street/W Street and 10<sup>th</sup> Street/W Street intersections because it carries greater volumes and has more critical turning movements than those other two intersections. The 11<sup>th</sup> Street/W Street intersection is closer to the U.S.50 westbound off-ramp and also connects to Riverside Boulevard to the south. Previous analyses that were prepared for the Northwest Land Park EIR showed the 9<sup>th</sup> Street/W Street and 10<sup>th</sup> Street/W Street intersections operating at LOS B or better during the existing AM and PM peak hours. In contrast, Table 4.10-2 shows the 11<sup>th</sup> Street/W Street intersection operating at LOS B or C during each of the peak hours. Thus, since the 11<sup>th</sup> Street/W Street intersection carries more volume, has more critical turning movements, and is currently more congested, it was chosen as the study intersection related to the 10<sup>th</sup> Street entrance to downtown.
- I6-3            Since the publication of the Draft EIR, the metal canopy that had previously been considered to accentuate the northern edge of the event plaza has been eliminated from the proposed plaza design. Shade in the plaza area would be largely provided by plantings of agricultural and native landscape trees in landscape planters at each of the plaza entries, in a “bosque” area that would include shaded seating, and by the upper levels of the proposed ESC which would cantilever over the southern edge of the plaza and provide shade as the sun passes in the southern sky. Although specific species of trees have not yet been selected, it is anticipated that the selection of trees would include deciduous species that would provide shade during the warmer months of the year and would allow sunlight during the cooler months.
- I6-4            As is described in the Draft EIR and further refined in Chapter 2 of this Final EIR, the ESC plaza areas would be comprised of hardscape and landscaped planters.

Hardscape areas would feature use of a variety of paving materials and landscape plantings, and would include benches, public art, and water features. Plantings would include agricultural and native species, and may include hydroponic gardens or other micro-scale agricultural features. Plantings would include agricultural and native, drought-tolerant species, and may include hydroponic gardens or other micro-scale agricultural features. In addition, the edge of the proposed ESC would include ten-foot high “green” or “living” walls in which living plants cover that portion of the façade, growing on a medium that provides for water and nutrient distribution.

- I6-5 The comment does not address the physical impacts of the Proposed Project or the Draft EIR analysis. The comment is noted and will be conveyed to the City Council for its consideration.
- I6-6 The comment reiterates Sacramento City Code Section 12.56.090. As described in Mitigation Measure 4.3-4, the project applicant would comply with tree replacement ratios dictated in Sacramento City Code Chapters 12.56 and 12.64, as appropriate, and in consultation with the City’s Director of Public Works.
- I6-7 Please see Response to Comment I6-6. The City formulated the standards in the City Code to adequately provide for tree replacement should tree removal be necessary.
- I6-8 Please see Response to Comment I6-6.
- I6-9 During site design and planning, the project applicant would review existing conditions, including the location of street and heritage trees, and determine which, if any, trees could remain on the Downtown project site. The comment is noted and will be conveyed to the City Council for its consideration.

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**Scott Johnson**

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**From:** Elizabeth X. Wong <elizabeth.x.wong@gmail.com>  
**Sent:** Tuesday, January 14, 2014 1:55 PM  
**To:** Scott Johnson; Elizabeth X. Wong  
**Cc:** Sam Ong, Ong Family Association; Kris Wimberly  
**Subject:** Fwd: Planning and Design Commission Public Hearing for Entertainment and Sports Center Project  
**Attachments:** P13-065\_Public-Notice2\_1-23-14.pdf; 2013Dec\_CityHall+CTown@night 040.jpg; 2013Dec\_CityHall+CTown@night 043.jpg; 2014.SacChinatown\_PhotoTour.jpg

Hello Mr. Scott Johnson,

Thank you for the notification:

**A public hearing on Thursday, January 23 at 5:30 p.m. at Sacramento City Hall.**

I would like to be invited to the podium to serve as a voice for the Asian-American community. Our **Chinatown Mall** is just across the street from the future site of the **KINGS Entertainment and Sports Center**. As neighbors, we can collaborate our resources to enhance Downtown Sacramento.

I7-1

Please read below my "Statement of Interest" in revitalizing Chinatown Mall. In the past 20 years it has been a **Sleeping Dragon**. Don't let the Dragon go into extinction.

Working together for the neighborhood,  
Elizabeth

--  
**City Management Academy Applicant  
District 4**

**Elizabeth Xiu Wong**

office: (916) 392-2038  
cell: (916) 541-5007  
[elizabeth.x.wong@gmail.com](mailto:elizabeth.x.wong@gmail.com)

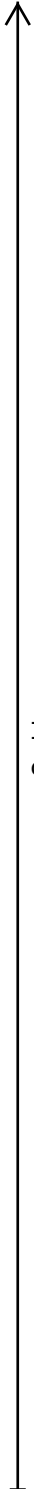
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**STATEMENT OF INTEREST**

**“Wake up the Sleeping Dragon...”**

I7-2

## Then teach him to roar again.”



I7-2  
cont.

The Dragon sleeps within the 2 blocks of Chinatown Mall. The beautiful stone architecture disguises many vacant buildings. You can either walk east down J Street then 5<sup>th</sup> Street, or cut through Chinatown Mall, to get to the train station.

Our Gold Rush pioneers proudly nicknamed Sacramento as “*Yee Fow*,” which translates to “Second City” to San Francisco. This is Sacramento’s own Chinatown since the 1850s.

I want to make the Lead Agency from the **City’s Community Development Department** (for the future KINGS arena, 2016) aware of needed Asian-American community collaboration to address your top agenda issues:

- ✓ Transportation: Chinatown across from train station.
- ✓ Urban decay: Vacant buildings for lease.
- ✓ Cultural resources: Great Wall of China should welcome in walking travelers.

\*\*\*\*\*

LOCATION: Between 3rd-7th Streets and J-L Streets

006-0087-031-0000

District - 4

PROJECT: Proposal to construct a 17,500 seat, indoor multi-use arena.

The project would also establish a vision for future adjacent development on the Downtown Plaza site in the form of 475,000 square feet of office, 350,000 square feet of retail, up to 550 new residential units, and up to 250 hotel rooms.

----- Forwarded message -----

From: **Scott Johnson** <[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)>

Date: Mon, Jan 13, 2014 at 12:57 PM

Subject: Planning and Design Commission Public Hearing for Entertainment and Sports Center Project



To: Scott Johnson <[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)>

**A public hearing will be held at the Sacramento City Planning and Design Commission for the Entertainment and Sports Center project on Thursday, January 23 at 5:30 p.m. at Sacramento City Hall (915 I Street in downtown Sacramento.)**

Please see the attached [notice](#) for more information about the public hearing.

Scott Johnson

City of Sacramento

Community Development Dept.

Environmental Planning Services

300 Richards Blvd., 3<sup>rd</sup> Floor

Sacramento, CA 95835

[\(916\) 808-5842](tel:(916)808-5842)

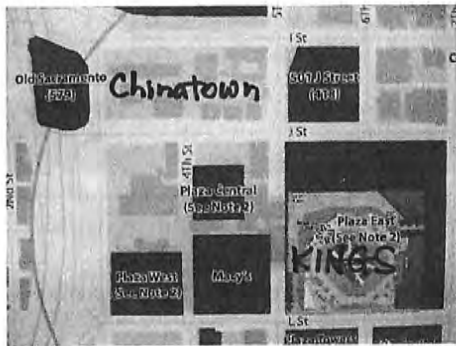


**PHOTO CREDITS:**

Elizabeth Xiu Wong  
(916) 541-5007  
[elizabeth.x.wong@gmail.com](mailto:elizabeth.x.wong@gmail.com)

Ong Family Association

Old  
Sac



Chinatown Mall (Old Sac, Kings Arena).



(L) Hotel. (Center) Trains. (R) Chinatown.



"Sleeping Dragon" over Chinatown.



Vacant restaurants on J St, Chinatown.

Elizabeth Wong  
330 Light House Way  
Sacramento, CA 95831





COMMUNITY  
DEVELOPMENT  
DEPARTMENT

**CITY OF SACRAMENTO**  
CALIFORNIA

300 RICHARDS BOULEVARD  
3rd FLOOR  
SACRAMENTO, CA  
95811-0218

**PUBLIC HEARING**

January 09, 2014

The Community Development Department is notifying all owners of property within 1,000 feet of the proposed project (described below) that the Sacramento City Planning and Design Commission will consider this proposal at a Public Hearing scheduled to begin at 5:30PM AT NEW CITY HALL, 915 I STREET, 1ST FLOOR, SACRAMENTO, CA 95814 ON JANUARY 23, 2014.

**P13-065**

**TITLE:**

**Entertainment and Sports Center**

**LOCATION:**

Between 3rd-7th Streets and J-L Streets

006-0087-031-0000

District - 4

**PROJECT:**

Proposal to construct a 17,500 seat, indoor multi-use arena. The project would also establish a vision for future adjacent development on the Downtown Plaza site in the form of 475,000 square feet of office, 350,000 square feet of retail, up to 550 new residential units, and up to 250 hotel rooms.

Pursuant to Public Resources Code 21168.6.6, the Commission will receive public testimony regarding the Draft Environmental Impact Report (EIR) that is being circulated for public review from December 16, 2013, to January 31, 2014. Comments submitted at the hearing will receive a response in the Final EIR.

The Commission will be asked to rescind the approval on December 12, 2013, of a Statement of Initiation to direct staff to work with the applicant to draft an ESC Special Planning District.

The Commission will also be asked to approve a Statement of Initiation to direct staff to work with the applicant to draft an ESC Special Planning District.

Finally, because there is a dispute over notice under state law, in order to avoid litigation the Commission will be asked to approve, consistent with section 54960.2 of the Brown Act, an unconditional commitment that it will cease, desist from, and not repeat the noticing issue challenged in a January 6, 2014, cease and desist letter from the Miller Star Regalia law firm related to Item #4 (P13-065 Entertainment and Sports Center) involving the initiation of the Special Planning District at the Commission's December 12, 2013 meeting.



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COMMUNITY  
DEVELOPMENT  
DEPARTMENT

CITY OF SACRAMENTO  
CALIFORNIA

300 RICHARDS BOULEVARD  
3rd FLOOR  
SACRAMENTO, CA  
95811-0218

## PUBLIC HEARING

**ENVIRONMENTAL:** An Environmental Impact Report will be prepared.

The City Environmental Planning Services has prepared a Draft Environmental Impact Report (DEIR). A copy of the DEIR and application materials may be reviewed or obtained at the Community Development Department, 300 Richards Boulevard, 3rd floor, Sacramento, CA, or is available to download from the City of Sacramento website at:

[www.cityofsacramento.org/Arena](http://www.cityofsacramento.org/Arena)

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the Planning and Design Commission at or prior to the Public Hearing.

If you have any concerns, questions or objections, or need further information, please contact Stacia Cosgrove at the Community Development Department, 916-808-7110 or [scosgrove@cityofsacramento.org](mailto:scosgrove@cityofsacramento.org), and please refer to project number P13-065.



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(916) 808-6656

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**Letter I7**      **Elizabeth Xiu Wong**  
**Response**      January 14, 2014

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- I7-1              The commenter requests to speak at the Public Hearing on the Proposed Project. The commenter did in fact offer oral comments at the Planning and Design Commission Public Hearing on January 23, 2014. Those comments are noted as Comments T1-33 and TI-34. The comment is noted and will be conveyed to the City Council for its consideration.
- I7-2              The comment is noted and will be conveyed to the City Council for its consideration.



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1-16-14

William Lowell  
1537 Pennsylvania Ave.  
West Sacramento, CA 95691

(916) 371-9311

EDITOR

TO HELP MEET WATER SHORTAGES IN THE SHORT RUN, WE SHOULD TAKE ~~THE~~ FOLLOWING STEPS LOCALLY, STATEWIDE & NATIONWIDE: 1) USE LESS WATER PER FLUSH BY INSERTING INTO TOILET TANK 1 OR 2 <sup>GALLOON-SIZED,</sup> WATER FILLED PLASTIC WATER JUGS, THUS USING 2 GALLONS <sup>LESS</sup> / FLUSH; 2) SHORTER, LESS FREQUENT, SPRINKLING OF LAWNS, ETC. <sup>AS POSSIBLE</sup>; 3) USE LOWER FLOW WATER ONLY AS WE NEED IT, MEANING MORE FREQUENT TURN-ONS & TURN-OFFS.

IN THE LONG-RUN, INSTEAD OF HUGE TUNNELS MOVING TOO MUCH WATER <sup>SOUTHWARD</sup> FROM OUR NORTH STATE, ENLIST HELP FROM OUR FRIENDS IN ISRAEL TO CONVERT PACIFIC OCEAN <sup>WATER</sup> TO DRINKABLE WATER FOR SOUTHERN CALIFORNIA USING MORE, BUT SMALLER TUNNELS. STRATEGICALLY LOCATING THIS & OTHER PLANTS STATEWIDE & NATIONWIDE WOULD ALSO REDUCE DANGERS OF MORE DRYNESS-CAUSED, FIRE POTENTIALS.

FINALLY, ON ANOTHER IMPORTANT ISSUE, SACRAMENTO CITY PLANNING WILL HOLD A PUBLIC HEARING AT 5:30 P.M. ON BUILDING A NEW KINGS STADIUM BETWEEN 3<sup>RD</sup> & 4<sup>TH</sup> STREETS & BETWEEN "J" & "L" STREETS. THIS WILL INCLUDE MOVING WESTBOUND YOLOBUS STOPS ON "L" STREET ~~TO~~ "P" STREET AND IT SOUNDS LIKE ONE <sup>MAJOR</sup> RESULT WOULD BE NO MORE YOLOBUS USING TOWER BRIDGE! RATHER THAN THAT, LET'S SOLVE THE TRAFFIC FLOW PROBLEM BY CHANGING THE BROADWAY-15<sup>TH</sup> STREET BRIDGE TO A SOUTH SACRAMENTO SOUTHPORT BRIDGE, THUS PROVIDING OUR SOUTHPORT NEIGHBORS MUCH QUICKER HOSPITAL ACCESS & GREATLY REDUCE COMMUTE TIME & POLLUTION. REGARDS,

CC: CITY/ACR. COMM. DEV. DEPT. ✓  
300 RICHARDS BLVD., SAC., 26085811 ✓

William A. Lowell

I8-1

I8-2

I8-3



COMMUNITY  
DEVELOPMENT  
DEPARTMENT

CITY OF SACRAMENTO  
CALIFORNIA

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*City of*  
**SACRAMENTO**

COMMUNITY DEVELOPMENT DEPARTMENT 300 Richards Blvd. 3<sup>rd</sup> Floor  
Sacramento, CA 95811

WILLIAM LOWELL  
1537 Pennsylvania Avenue  
West Sacramento, CA 95691

Public Notice/Dana Allen/P08-086/EN



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# VIEWPOINTS

## WRITING FOR THE BEE

The Bee is interested in local and state commentary. Because of the volume of submissions, you will not be contacted unless the article is chosen for publication. To submit an article go to [sacbee.com/sendoped](http://sacbee.com/sendoped).

# Region needs bigger voice in Delta tunnel plan

BY ROGER DICKINSON  
*Special to The Bee*

For two decades, Sacramento battled with the East Bay Municipal Utility District over diverting water from the American River, which would have reduced our water flows, endangered fish and other wildlife, degraded the American River Parkway and compromised our water rights. After years, my colleagues on the Sacramento City Council and county Board of Supervisors, Sen. Dianne Feinstein and I worked out a solution with EEMUD that met the critical needs and objectives of both sides.

The solution has become known as the Freeport Water Project, and it preserves all of our values and assets for Sacramento while meeting the requirements of East Bay Municipal Utility District for greater access to water in drought and low water periods. We were only able to reach this solution because we took the time to understand the views and interests of each side and to build trust among both the people and the agencies involved in the dispute.

A similarly collaborative approach should be undertaken with regard to the Bay Delta Conservation Plan. Unfortunately, however, the parties pushing this project



Roger Dickinson

have displayed scant interest in working with Northern California to develop a plan that would serve the needs and requirements of all Californians. Monday's release of more than 30,000 pages of an environmental impact report that purports to justify the current Bay Delta Conservation Plan project only underscores the need for statewide collaboration.

The long-term health of the Sacramento-San Joaquin Delta is absolutely critical to the environment and economy of the Delta region as well as the San Francisco Bay. The preservation of indispensable and long-standing water rights is essential to the Sacramento region to ensure a sustainable and prosperous future.

The desire of south San Joaquin Valley agricultural interests and Southern California water contractors to have an assured and massive source of water to satisfy their customers is manifest. Indeed, the demands of the State Water Contractors are so great that they completely unbalance California's legislatively declared coequal goals of ecological restoration and preservation of the Delta and a reliable supply of water for the San Joaquin Valley and Southern California.

Of greatest value to the water contractors, the Bay Delta Conservation Plan would result in a 50-year "no surprises" permit issued by state and federal agencies to operate the new water export system.

"No surprises" refers to an unusual provision of the law that would allow water contractors to essentially keep pumping a predetermined amount of Delta water, regardless of what new problems might be discovered down the road toward restoration of the Delta.

The Bay Delta Conservation Plan's current implementation scheme is complicated, but in the end, fundamental authority for implementing the conservation measures intended to restore the Delta is left in the hands of water contractors subject to little or no influence by federal and state agencies responsible for natural resources protection - and with virtually no input from those of us who depend on the Delta for our livelihood.

In essence, the plan could provide nearly free rein to water contractors to operate the new water export system and decide whether that system is actually working to

restore the Delta.

Unlike the agreement we reached with the East Bay Municipal Utility District that served the interests of all parties, the Bay Delta Conservation Plan and the proposed enormous water export tunnels supported by the water contractors would give assured benefits to those who would take water out of the Delta while leaving Northern

**To begin to develop a better approach, we must first question the desirability and necessity of the mammoth physical facilities being aggressively promoted by the water contractors ...**

California and Delta parties with only uncertainty and risk. This situation is neither fair nor reasonable.

To begin to develop a better approach, we must first question the desirability and necessity of the mammoth physical facilities being aggressively promoted by the water contractors, as well as the consequences they would bring to local families and the economy. At the same time, we need a meaningful analysis of alternative water conveyance options, something the Bay

Delta Conservation Plan has failed to do.

Next, the State Water Resources Control Board must have a role in implementing or overseeing implementation of the Bay Delta Conservation Plan, in part because that board is responsible for setting water quality standards and flow criteria in the Delta.

Further, the Delta water master must have a role in determining effectiveness of the Bay Delta Conservation Plan, given that the Legislature has charged him with overseeing water diversions in the Delta, and for monitoring and enforcing the state water boards orders and licenses that apply to conditions in the Delta. Finally, the Bay Delta Conservation Plan needs to include Delta representatives within the permit implementation structure so that Delta interests are represented when future adaptive management and project operation decisions are made.

If we take this approach, then we will be much closer to building the needed trust among the parties and achieving an outcome that incorporates the interests of all parties. That result would truly replicate the success of the Freeport Water Project.

*Assembly member Roger Dickinson, D-Sacramento, represents the 7th Assembly District.*

-0142R-



— OPINION —  
SAC Bee - A-10 - 1/15/2014

LETTERS | Drought, recycled water, Sacramento airport, etc.

**Trade the train for dams**

Re "Drought challenges Brown again" (Page A1, Jan. 12): Ironic that Gov. Jerry Brown is dealing with a drought problem 37 years after the last time he sat in the Governor's Office? I don't think we have built a dam in California since the last time he sat there.

The only thing that occupies Brown now is the bullet train debacle. Let's build a dam or two, instead of worrying about getting people from Madera to Bakersfield at 100 mph.

— Phil Verduyssen, Sacramento

**Let's get high-speed water**

A brief memo to Gov. Jerry Brown: How about a high-speed aqueduct from the states of Washington and Oregon, instead of a high-speed train? It would be a long-term solution for the drought. We cannot afford to not do this.

— Linda Rector, Auburn

**Investing in water recycling**

Re "Cut water at golf courses?" (Letters, Jan. 11): In response to Rebel Kreklow's letter asking what municipalities are doing to address water use on golf courses, here in the city of Roseville, we have made a multi-year investment in water recycling to prepare for the kind of record-breaking water challenges we face today.

Through a consistent and considerable financial commitment, Roseville's wastewater treatment plant serves 870 million gallons per year of recycled water to golf courses, medians and parks in Roseville. This does not draw on Folsom Lake and is a product of prudent planning for the water situation we now face here in California.

Ken Glotzbach, Roseville,  
wastewater utility manager,  
city of Roseville

**EXTRA LETTERS ONLINE**

Find them at:  
[sacbee.com/letterstoeditor](http://sacbee.com/letterstoeditor)

**HOW TO SUBMIT**

**Online form (preferred):**  
[www.sacbee.com/sendletter](http://www.sacbee.com/sendletter)

**Other:** Letters, P.O. Box 15779,  
Sacramento, CA 95852

150-word limit. Include name, address and phone number. Letters may be edited for clarity, brevity and content.

**Build desalination plants**

In light of the size and demands on water for the city of Los Angeles, the time has come for restrictions to be lifted that hinder the construction of desalination plants in Southern California.

Normal seasonal water cycles cannot be guaranteed, whereas water from the ocean is predictably plentiful.

Complaints about the costs for desalination must be set aside, especially in light of the costs to the environment by continuing the current approach. Needs for water can, and should, be met by extracting it from a source close to end users, not via the myriad of aqueducts and canals in use or planned. The latter harkens back to the days of backroom deals when Los Angeles wielded tremendous power over the rest of the state, without sacrificing anything itself.

— Leendert Noordzij, Sacramento

SEAWATER  
CONVERSION  
VIA  
"TUNNEL"  
VISION -- 10

**Let's pursue desalination**

Re "Delta details unveiled - in 34,000 pages" (Page A1, Dec. 10) and "Red Sea project will boost Dead Sea" (Page A6, Dec. 10): So we've got this pork barrel Delta project that will allow Gov. Jerry Brown to spend more than \$25 billion to supposedly protect our future water supplies.

Yet, the same day's paper informs us that a multicountry Dead Sea/Red Sea desalination project, costing just \$500 million, will solve a drinking water shortage in that area.

Why aren't we pursuing desalination in California, even if just for agricultural needs? It seems like it would be a bargain and leave our terra firma alone.

— Myron Gomes, Gold River

A8 The Sacramento Bee | Tuesday, December 17, 2013

OPINION

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**Letter I8**      **William Lowell**  
**Response**      January 16, 2014

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- I8-1              No part of the comment addresses issues pertaining to the physical characteristics of the Proposed Project or to the content of the Draft EIR. As discussed in Response to Comment O5-3, the ESC will use water efficient fixtures. The comment is noted and will be conveyed to the City Council for its consideration.
- I8-2              As part of the project construction and operation, two bus stops on L Street will need to be relocated. Response to Comment A7-4 updates Mitigation Measure 4.10-5 which identifies a potential location for the construction of replacement bus stops, and Response to Comment A11-9 provides a detailed description of the current status of these relocation efforts. There are no plans to relocate the L Street bus stops to P Street or to restrict YCTD buses from using the Tower Bridge.
- I8-3              The comment suggests that a new Sacramento River bridge crossing be provided connecting South Sacramento and Southport in West Sacramento. As is described on page 4.10-78 of the Draft EIR, the cumulative transportation analysis assumed a new South Market Crossing Bridge (south of Pioneer Bridge) over the Sacramento River. A specific location has not yet been identified for this crossing, although the City of Sacramento is no longer considering a crossing at Sutterville Road.

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January 20, 2014

Mr. Scott Johnson, Associate Planner  
City of Sacramento Community Development Department  
300 Richards Boulevard, Third Floor  
Sacramento, California 95811

Dear Mr. Johnson:

This letter is in response to the Notice of Availability-Draft Environmental Impact Report for the Entertainment and Sports Center & Related Development Project (ESC) dated December 16, 2013. Based on my review of the draft EIR, I have the following comments on the draft EIR.

1. The draft EIR does not include an adequate economic analysis of the proposed ESC. As part of the Project Description, please provide the estimated costs for the project, as well as discuss in detail the potential economic effects of the ESC project on local property values, local taxes and the City's tax base, and the City's short-term and long-term debt.

I  
I9-1  
I

2. The draft EIR does not include sufficient information regarding public involvement. As part of the Project Description, discuss how the City would keep the nearby residents and businesses informed about the on-going status of the work, especially changes in road closures, mass transit routes, etc.

I  
I9-2  
I

Please continue to provide me with further notices relating to this project. Thank you for the opportunity to comment on this proposed project.

I  
I9-3  
I

Sincerely,

/signed by/

Lynne Stevenson  
2316 Capitol Avenue, Apt. 7  
Sacramento, California 95816  
l Stevenson249@gmail.com

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**Letter I9**      **Lynne Stevenson**  
**Response**      **January 20, 2014**

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- I9-1                      Please see Response to Comment O4-17 regarding consideration of social and economic effects under CEQA. The cost of the Proposed Project and its effect on taxes and debt are economic policy issues that do not pertain to the Proposed Project's potential physical effects on the environment. The Draft EIR includes an urban decay analysis (see Appendix H of the Draft EIR). The comment does not provide any explanation of the alleged inadequacies of that analysis. The comment is noted and will be conveyed to the City Council for its consideration.
- I9-2                      The comment requests additional public involvement as the Proposed Project moves into a construction phase. As construction of the Downtown project site proceeds, the public will be informed in a number of ways regarding status of the work, temporary roadway lane closures, and changed bus routes. The City of Sacramento will continue to update interested parties through postings on the City's website. Transit providers will likely update customers of changed bus routes through their individual websites.
- I9-3                      The commenter requests to be notified of future project-related communications. The comment is noted and will be conveyed to the City Council for its consideration.

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**Scott Johnson**

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**From:** Tunisha Grant <tboogie38@gmail.com>  
**Sent:** Wednesday, January 22, 2014 10:42 AM  
**To:** Scott Johnson  
**Subject:** DEIR

I have no problem with the complex, just, please, add some fun, cool.and educational stuff for kids 2 and up!

Look at Sony Metreon in SF and the Children's Museum, there, too.

Be creative!

Thanks  
Tunisha Grant

I10-1



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**Letter I10**     **Tunisha Grant**  
**Response**     January 22, 2014

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I10-1            A detailed description of the Proposed Project is presented in Chapter 2 of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.

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**Scott Johnson**

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**From:** Renaud, Raoul@Energy <Raoul.Renaud@energy.ca.gov>  
**Sent:** Wednesday, January 22, 2014 12:29 PM  
**To:** Scott Johnson  
**Subject:** Public Comment on the DEIR for the ESC - Loss of parking/charging for EVs during construction

Overall, I am in favor of the project and have no concerns about the design. However, as someone who commutes into downtown by car and parks in the East Plaza Garage, I am concerned that the DEIR does not appear to address alternative parking arrangements during the demolition and construction period. I am a participant in the City's electric vehicle parking program which provides access to city garages and charging stations.

I11-1

The Plaza East, Central and West garages contain EV parking spaces and charging equipment. These spaces and equipment are heavily used during the work week. Other nearby city parking facilities that would not be demolished, including the Capitol Garage and the City Hall Garage, will need to have EV parking spaces and charging equipment added if they are to handle the EVs displaced by demolition of the Plaza garages.

I11-2

I ask that the EIR address replacement of those parking facilities during the construction period. I also ask that the new parking facilities include ample parking and charging facilities for electric vehicles.

I11-3

Raoul Renaud  
(916) 651-2020

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**Letter I11**      **Raoul Renaud**  
**Response**      January 22, 2014

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- I11-1              During construction, the majority of the Plaza East Parking Garage in Downtown Plaza would be closed. An approximately 220-space portion of the garage under the 660 J/24 Hour Fitness building is anticipated to remain open and accessible via ingress/egress on 7<sup>th</sup> Street. If sufficient parking is not available in the portion of the Plaza East garage that remains open, motorists would instead be directed to either the Plaza Central or Plaza West garages, which are expected to remain open. Alternatively, they could choose to park in a nearby public or private parking garage or lot. As noted on page 4.10-28, recent weekday daytime surveys of parking resources in the project vicinity found more than 3,300 available parking spaces outside of but within one quarter-mile of the project site. Based on those studies, it is reasonable to conclude that parkers who may be displaced from the Plaza East garage would have little difficulty in finding alternate parking in close proximity.
- I11-2              The City recognizes that the electric vehicle charging stations are a garage amenity and are valuable to the ever-growing electric vehicle community. The charging stations in the Downtown Plaza parking garage were installed with funds provided by State and federal grants. The terms of the grants have been met and the City is not required to relocate the charging stations. A number of the charging stations are located in the Plaza West Parking Structure and the Plaza Central Parking Garage. They would not be affected by the initial construction of the proposed ESC, which would affect the Plaza East Garage. The City may remove the chargers from the Plaza East Garage and move them to other City parking garages with the proper electrical capacity.
- I11-3              Please see Responses to Comments I11-1 and I11-2.

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**From:** Sel Kerren <skerren123@gmail.com>  
**Sent:** Wednesday, January 22, 2014 12:45 PM  
**To:** Scott Johnson  
**Subject:** SUBJECT: "THE SPORTS ARENA" -- MY COMMENT.

My name is Selma Kelly and I'm responding to your email concerning the arena you're about to build.

1. Your police officers and dispatchers keep complaining that due to budge cuts they can no longer service many of the Districts coincerning Noise Complaints and Tresspasses -- I know because this is what they TOLD ME.
2. Your Animal Control officers complain that due to budget cuts they can no longer properly service Barking Dog and Unleashed Animal Complaints -- I know because this is what they TOLD ME.
3. Your civil court clerks complain that they can no longer service civil actions in a timely fashion due to budget cuts - for instance, it now takes 3 weeks just to get a case number!! - I know this also because they TOLD ME.
4. Next, you've got a new policy in place that FORCES citizens to PAY FOR their own animal control. For instance --

I12-1

When a neighbor's dog barks 24/7, you require citizens to PAY for "arbitration."  
However, the neighbor does NOT have to show up to the meeting - which means the barking may continue "forever" -- without penalty to the defendant -- while the plaintiff loses his money. Further, if the plaintiff makes \$100,000 a year, he will have to pay on a sliding scale like \$600 for the arbitration - and if the defendant refuses to show up, that money is non-refundable.

I12-2

So what the hell kind of racket are you running here, Mayor?

And now you want to .... build a "basketball arena"?

Mayor Johnson -- Pardon me for saying this -- but you understand how this makes you look -- right?

I'm a white girl who has no racist bone in her body. In fact, my best roommate ever was from Japan and my 2nd best one was from Thailand -- plus, my aunt and 1st cousin are both Black - from Africa.

So I say this very carefully -- You look like a Black mayor who could not give a SHIT about the QUALITY OF LIFE in this city -- but you do care about ... A BASKETBALL COURT ???

For some reason you think that I will set aside my peace and quite so that you can funnel money into your "basketball jones" thing. You also think that it's "okay" for citizens to pay for their own animal control services..

Until we take you to court !!!

So that's what I think about your assenine F!g sports-ass arena.

Selma Kelly  
Certified Legal Assistant

2754 Ellen Street  
Sacramento, CA 95815  
Tel. 915-949-630-2484

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**Letter I12**      **Selma Kelly**  
**Response**      January 22, 2014

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- I12-1            The comment addresses issues pertaining to noise complaints. A noisy neighbor may create a disturbance by having a loud television, stereo, or radio, or an out-of-control party. These situations are handled by the Sacramento Police Department and are best resolved by the officers assigned to your neighborhood. The City's Code Enforcement Department is responsible for the investigation of complaints of ongoing and aggravated noise which require monitoring with sound level meters or which are of a habitual or mechanical nature. Two common examples are a garage or residence being used as a rehearsal hall or local bars where music or amplified sound disturbs those residing or working in the area. The City's Animal Services Division handles barking dog complaints.
- I12-2            The comment addresses issues pertaining to animal control, barking dogs, and unleashed animal complaints. No part of the comment addresses issues that pertaining to the physical characteristics of the Proposed Project or to the content of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.

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**From:** Dawn Deason <dddeason@me.com>  
**Sent:** Wednesday, January 22, 2014 3:34 PM  
**To:** Scott Johnson  
**Subject:** ESC

Allow a vote. It is the only way you will get Sacramento residents to stop protesting the deal.

I I13-1

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**Letter I13**      **Dawn Deason**  
**Response**      January 23, 2014

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I13-1              The comment is noted and will be conveyed to the City Council for its consideration.



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**William E. Reany**

432 Lovella Way / Sacramento, CA 95819-2410 / [916] 452-7252 / <werlin@macnexus.org>

January 23, 2014

Statement to Sacramento Planning and Design Commission, City of Sacramento, in response to the Entertainment and Sports Complex DEIR Traffic Study.

Specific issues: Two items, both with regard to the Transportation element [§4.10] of the ESC DEIR :

§ VMT Calculations and SB 743: Analysis Methods: *Trip Origin/Destination Adjustments for Relocation of Arena to Downtown and Existing Plus Project Conditions - Vehicle Miles of Travel (VMT)*;

§ Impacts and Mitigation Measures: Measure #4.10.3.

Personal introduction: Retired from career as a regional economic analyst and statistician. Served six years as a State of California employee, having worked at the California Energy Resources Conservation and Development Commission primarily upon CEQA-related measures and regional economic impact matters. I participated there in the development process for a fledgeling methodology to link transportation demands with fuel use, and later spent one year with CalTrans' Transportation Laboratory in a planning and energy-related research capacity. Resident of East Sacramento for 35 years [between 1979 and present], and former representative of record for the East Sacramento Improvement Association on traffic matters relating to the then-proposed *Centrage* project a couple of decades back. More recently, I have filed -- as an individual -- a statement regarding the traffic analysis in the DEIR for the *McKinley Village* proposal.

**§ VMT Calculations and SB 743: Analysis Methods: *Trip Origin/Destination Adjustments for Relocation of Arena to Downtown and Existing Plus Project Conditions - Vehicle Miles of Travel (VMT)*:**

Vehicle Miles Travelled (VMT) historically is not an analytical tool used much in environmental impact reports. The legal "significance" of congestion is measured typically by changes in "Levels of Service" [i.e. the extent to which traffic can freely flow through a thoroughfare or intersection], as they are in most of the analysis of ESC DEIR § 4.10. In this instance, however, VMT concerns are introduced as an important component of this DEIR by the passage and signing into law of California Senate Bill 743, which took place this past September.

SB 743 was a bill crafted in large part to place procedural changes in the application of the California Environmental Quality Act (CEQA) to the ESC arena proposal under consideration here, and to allow a legally-accelerated Eminent Domain action upon two properties which are required for project construction. The specific portion of the bill to effect these changes may be found in §7 of the bill -- an amendment to §21168.6.6 of the Public Resources Code [i.e., incorporated in the wording of CEQA itself]. Under ¶ (a) of §21168.6.6, the Legislature placed three conditions upon the design and operational performance with respect to traffic congestion and air quality. And achievement of all three is required to qualify the facility for the prescribed changes available in the rest of §21168.6.6.

The paragraph which incorporates a firm standard for the VMT "performance" of this project is one of those three items: Under it, the new arena is required to "(III) Achieve and maintain vehicle-miles-travelled per

[1]

I14-1

attendee for NBA events at the downtown arena that is no more than 85 percent of the baseline." This sounds more like a legal condition than a mere goal.

It is in this context from which the handling of VMT issues must be examined in the traffic analysis of DEIR §4.10. The item should be discussed fully and accurately under the "Existing plus Project" case [defined on pp. 4.10-53 ff., with the discussion of results in the "Vehicle Miles of Traffic (VMT) - Existing Plus Project" [beginning at p. 4.10-69-70, and particularly Table 4.10-20].

And the DEIR discussion purports to do just that. We are shown the estimated VMT totals and treated to a table showing that the expected reduction in VMT-per-attendee from construction of the ESC is 18.8% [DEIR p. 4.10-70]. That is a reduction well surpassing the 15% reduction required by SB 743.

Unfortunately, there is an apparent "poison pill" present in these results; and this comes from a series of *ad hoc* adjustments, described in the section entitled: "Trip Origin/Destination Adjustments for Relocation of Arena to Downtown" [DEIR p. 4.10-41]. The adjustments are comprised of: (1) An increase in the percentage of attendees living in the "Central City" by a full 3% of the total number of projected attendees; and (2) a corresponding decrease of that same 3% from "the remainder of the region" in order to compensate for the downtown additions. In other words, three percent of the attendee base was arbitrarily moved into a position decidedly closer to the ESC, with its higher respective Transit, Walking and Biking modal shares and shorter vehicle trips. The adjustments were made only in the ESC project case: "If the Proposed Project is constructed, some trip origins and destinations would likely change in response to the new venue location." [DEIR, p. 4.10-41].

There are four essential reasons why this set of origin/destinations changes are not appropriate for use in this study:

First, there is no real justification for use of these adjustments offered -- let alone in only one of the two cases of relevance to the VMT comparison required by SB 743.. The sole element cited to recommend them is the fact that 2012's Kings campaign to boost season tickets netted from Central City zip codes a higher proportion of season tickets in the previous three years. But:

- There is no citation of any behavioral studies which show an instance in which the movement of a sports facility has caused a shift in the geographical location of its ticketholders;
- There is no accounting for purchasers who live outside of the City Center but whose business addresses -- and checkbooks -- are downtown;
- The absolute number of season ticket purchasers is only a very small proportion of overall ticket sales when one considers the number of attendees who purchase individual tickets or smaller game package plans; and
- To the extent that anyone who was an attendee in previous years -- only not at the season ticket level -- before ultimately upgrading to a season ticket in 2012 does not mean that they have not already been picked up in the Sleep Train survey from their previous attendance patterns. These may be being double counted.

Second, this treatment is neither conservative nor even-handed: Whether by affecting modal split estimates or length of trip, the adjustments have a reinforcing effect of decreasing both the number of vehicles running downtown on game nights and the average distances they drive to do so. Using them advantage the VMT showing for the proposed project over the Sleep Train facility. And they do so without substantial evidence behind them.

Third, it is not the declared intention of SB 743 to offer this kind of help to either the Sleep Train or ESC Project cases. The intended VMT performance comparison is only a hypothetical test between VMT levels experienced now at the Sleep Train site and those which would be expected if we were instead moving our

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arena to the Downtown Plaza site. That being the case, why change the distribution for only one of the two cases -- particularly when the adjustments favorably reduce VMT in only one scenario? Wouldn't it be preferable to compare the VMT volumes of the two facilities on an even footing -- estimated through use of identical locational distribution arrays? The text of the DEIR analysis certainly offers no convincing reasons not to. And why wouldn't that array be the one based solely upon data acquired from actual surveys collected recently from the operations at Sleep Train? There simply is no justification for the mere assumption of any diversion between the locational arrays used in the two cases.

Finally, these locational adjustments have not been documented in the study. The reductions in VMT attributable to these locational assumptions in the aggregate are likely to be significant; and, again, they appear only in the Project scenario estimates. There is no mention about how the reductions in attendees from or to outlying areas "to meet correct control totals" were distributed. An examination of the two DEIR Appendices regarding traffic matters [Appendices "D" Traffic Data" and "L": Draft Event Transportation Management Plan" reveals only two tables -- both displaying aggregated proportions of origin and destinations by local area used in the study [Appendix "L" Tables 3-2 and 3-3, pp. 22 and 23, respectively]: both of these reveal pre-adjustment data used for the Sleep Train arena case. There are no corresponding tables in Appendix "L" displaying how the ones used for the ESC calculations differ from those used for the Sleep Train facility. And this in a document which has a huge appendix [Appendix "D" is 630 pages long] displaying the travel data utilized in the study.

There is significant potential for mischief in this treatment, if the "correcting withdrawals" turn out to have been disproportionately taken from more distant regions: For instance, reshuffling large numbers of attendees from places like Roseville, Davis/Woodland, Elk Grove or Rancho Cordova remove considerably longer auto trips than those from Woodlake, East Sacramento or Oak Park. If not judiciously made, these discretionary adjustments can be misleading and even warp the results. Without the data to help check for this, we simply can't evaluate the even-handedness of the approach utilized here to balance this particular set of books.

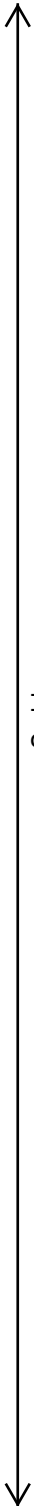
What we do know is that in the aggregate, the size of the VMT reductions solely caused by discretionary locational assumptions will be significant. We also know that the calculated VMT volume reduction for the proposed ESC case -- using the locational reshuffling -- was 18.8% below the estimate for Sleep Train [DEIR p. 4.10-70]: That's 3.8% beyond the threshold required to meet the SB 743 performance condition. How much of that estimated VMT reduction is attributable solely to this origin/destination tinkering in the ESC project scenario? One would like to be able to determine the answer to that question. The lack of documentation prevents even an intelligent rough estimate of the impact. And the staff has elected to not answer that question in the document themselves.

Happily, though, we can -- if only roughly -- test to see if the changes in the origin/destination sets could feasibly have been manipulated to create estimates that would change the VMT test in SB 743 for the ESC from "Pass" [i.e. Total VMT for the ESC is more than 15% lower than the total for Sleep Train] to "Fail" [Total VMT less than 15% lower].

You need nothing more than a pad of paper, a calculator and high school-level algebra to do so. Data-wise, you need only the average VMT per attendees for the ESC scenario from the DEIR [9.4], the proportions between those moved downtown [3%] the those remaining in place [97%] and a threshold average VMT per attendee estimate which marks the point where the ESC's goes from "Pass" to "Fail" [rounded up, that's 9.9 VMT per attendee.]

It turns out that manipulation could change the VMT test from "Fail" to "Pass" relatively easily: If the average VMT of the trips removed from the Sleep Train Origin/Destination matrix for transfer downtown averaged a total VMT of 12 or above -- i.e. one-way trips averaging 6 miles each way or more -- the ESC

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would reach SB 743's VMT test threshold. To see this in another way, simply imagine a circle centered on the ESC site which is 6 map-miles in radius. All the staff would need to have done to make the ESC pass would be to move those transferred-downtown trips to/from locations outside of that circle. Tables 3-2 and 3-3 show that there are lots of those in the distribution. And they would have shown up on corresponding tables for the ESC scenario. Maybe that's why the tables aren't there.

All of this raises eyebrows:

- No proof or serious discussion of their specific purpose or justification for the *ad hoc* changes to the Origin/Destination matrixes is shown anywhere in the text;
- The adjustments are completely discretionary and subject to a wide variance of results given which specific trips are wiped out of the origin/destination distribution and moved into the central city;
- Despite a voluminous size of the appendix materials in detail, the documentation showing the effects of the locational adjustments on the origin/destination tables are not shown. So there is no way to protect the VMT estimates for the ESC project scenario from arbitrary and capricious decisions of the staff in their derivation.

Now, I can't prove that the staff actually did use the origin/destination changes to manufacture a "Pass" for the ESC on SB 743's Vehicle Miles Travelled test. And I hope -- as a matter of their professional integrity -- that they didn't. But they easily could have; and the lack of documentation of the locational adjustments and their effects would serve nicely to hide the tracks.

I was an economist -- a statistically-based one at that -- in my professional life. Being an old model-builder myself, I can easily understand how these locational assumptions could have been crafted when initial runs -- based upon the Sleep Train data alone -- resulted in an ESC project case VMT volume which failed to meet the SB 743 criteria without help. In doing so, the adjustments "just happen" to work in favor of a highly controversial series of actions of the Mayor and City Council in the arena matter -- one which is already the source of one lawsuit and [as of this writing] potentially a plebiscite seeking to contain it. The study's staff isn't telling us what the effects of the adjustments are, and we simply cannot tell based upon the offered documentation. My guess, however, is that there was probably a guiding hand at work here. And that guiding hand wasn't God's.

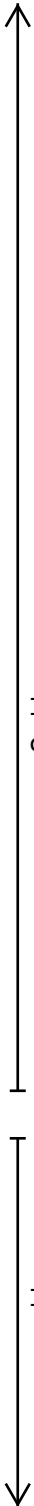
Now, I'm not a lawyer, but during my career with the State government working on environmental matters I've spent enough time slogging through the CEQA provisions as shown in WestLaw's *Annotated Codes* to know that although EIR's don't need to be exhaustive. They do need to be complete in their important elements, and must be made in good faith. Well, given the role of these VMT comparisons required by SB 743, this topic certainly is an important element. It's the "good faith" part of the *ad hoc* adjustments that looks doubtful.

**Recommendations:**

You need to fix this for the Final EIR. To do that:

- Purge the discretionary adjustments from the origin/destination data [as described on p. 4.10-41], and apply the original origin/distribution data to make your ESC/Sleep Train VMT comparisons.
- To examine the use of the origin/destination assumptions in this analysis, and to ensure that these VMT calculations are done without manipulation to influence results, an acknowledged expert from outside this region and neutral on the issue at hand should be engaged to monitor and report in writing directly to the Planning and Design Commission to confirm that the results are complete, appropriate to their purpose and without warping embellishments; and
- Staff should further and immediately notify the Planning and Design Commission members of the need for the above actions, and to help them act reasonably to prevent the City from moving forward on any

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I14-2

and all ongoing actions that may otherwise not be legal without the satisfaction of the conditional provisions of §7 of SB 743.

Please do this. I'd hate to see your present version of this analysis end up in the Courts.

§ Impacts and Mitigation Measures: Measure #4.10.3.

Impact Measure #4.10-3 involves a forecast queuing of traffic back onto I-5 in the Southbound direction at the "A" Street interchange. [DEIR, p.4.10-94]. This problem is exacerbated by its location in reference to the extent to which vehicles are changing lanes in the area at speed to position themselves in anticipation the the Business 80/U.S. Route 50 just further to the South. The presence of standing vehicles on an interstate highway presents a serious hazard both to occupants caught in the queue and those trying to drive by it at speed. And it is particularly dangerous in the conditions such as in this case, in which vehicles are weaving at speed in preparation for navigating a major freeway intersection.

The safety threat posed by the queueing back onto the freeway at "J" Street has been considered to be "significant" in its legal sense, and due to its inability to be resolved by Measures 4.10-3 'a', 'b' and 'c' [DEIR, p. 4.10-95], the impact has also earned the more serious designation of "unavoidable".

My observation to this part is addressed to the italicized comment immediately below Table 4.10-33 on p. 4.10-96. This note discusses briefly a measure described as "a physical improvement that would increase the capacity at the "J" Street/3rd Street I-5 off-ramps...."

In light of the fact that this reference involves presumably the reconstruction of the interchange and the impact without this action results in this action being designated "unavoidable", I believe that your discussion of this item is cursory, and should be expanded to offer more information about the proposed improvement, the specific geometric standards which interfere with the measure's implementation, and to provide for some documentation of relevant major communications between the City and CalTrans which establish the designation of the proposed item as infeasible. Simple identification of these documents in the Reference section of the document should be adequate for that purpose.

I'm not asking for a dissertation here; merely a little more transparency. I find your rendition to be unnecessarily vague and unhelpful given the the seriousness of potential accidents -- say -- if a collision accident between a truck and vehicles in the queue were to occur. We ought to know everything we can about the lack of our ability to fix this particular impact.

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Thank you for the opportunity to comment on this document.

I hereby avow that the foregoing is true and correct:

  
William E. Reany

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cont.  
I14-3

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**Letter I14**      **William Reany**  
**Response**      **January 23, 2014**

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I14-1      The comment provides the commenter’s personal background as well as opinions about the use of VMT as a measure of transportation system performance and the contents and requirements for compliance with Senate Bill 743. The comment notes that the transportation modeling included an assumption that there would be a small shift in the location of some event attendees as a result of the relocation of the facility from Natomas to downtown. The comment asserts that the shift (see page 4.10-41) in the proportion of trip origins in Downtown (from 10 percent under existing conditions to 13 percent under existing plus project conditions) is not appropriate for use. More specifically, the comment asserts that (1) justification for this adjustment is not offered, (2) the treatment is “neither conservative nor even-handed,” (3) it is not the “declared intention of Senate Bill 743 to offer this kind of help” to the Proposed Project, and (4) the “location adjustments have not been documented in the study.” Responses to each of these assertions are provided below:

- 1)      Assertion: Justification for the adjustment in Central City trip origins is not offered.

Response: The basic purpose of analyzing the effects of a proposed project is to document the likely outcomes should the project be constructed. Part of the analysis of individual travel modes is the determination of a potential shift in some trip origins from other parts of the region to the Central City as a result of the location of the ESC, and correspondingly greater use of transit, bicycling, and walking modes compared to conditions at Sleep Train Arena. As is explained further below and in greater detail in Response to Comment O10-1, the downtown ‘shift’ is readily justified by examining the 2013/2014 season ticketholder data in comparison to season ticketholder data from recent years before a future downtown ESC was foreseeable. In Letter A14, SACOG expressed its support of the methodology by stating that “[b]ecause the daytime population in the ESC area is very high due to the number of workers near the site, the potential to capture ESC patrons already in the Downtown Sacramento area is another asset of the site.”

- 2)      Assertion: The treatment is neither conservative nor even-handed.

Response: The adjustment in Central City trip origins is, in fact, conservative because, rather than simply making an assumption about future behavior, the adjustment reflects changes in behavior that have occurred during the 2013/2014 season: a greater percentage of season tickets were purchased from Central City zip codes than occurred in previous seasons. No further

adjustments were made to reflect additional shifts that may occur in future years leading up to or after the opening of the proposed downtown ESC. Further, no adjustments were made to post-event trip destinations. This conservatively assumes that additional people would travel directly from downtown employment locations to the proposed ESC, but would continue to return to suburban residences. To the extent that the future shift is made up of Central City residents, then the VMT and associated GHG reductions would be even greater than documented in the Draft EIR analysis. In Letter A14, SACOG staff expressed their support of the methodology by stating that “[t]he adjustments to these data which were made to estimate VMT to an arena at the proposed ESC site were very conservative and reasonable. In particular, a very modest assumption was made regarding the “shift” of patron origins and destinations observed at the current site to origins and destinations in the Downtown Sacramento: only 3 in 100 patrons were assumed to make this shift.”

- 3) Assertion: It is not the declared intent of Senate Bill 743 to offer this kind of help to the ESC.

Response: Senate Bill 743, Section 2(g), specifically states:

“The project (i.e., new downtown arena) also presents an unprecedented opportunity to implement innovative measures that will significantly reduce traffic and air quality impacts and mitigate the greenhouse gas emissions resulting from the project. The project site is located in downtown Sacramento near heavy and light rail transit facilities, situated to maximize opportunities to encourage non-automobile modes of travel to the entertainment and sports center project”.

The express language of Senate Bill 743 reflects an expectation that relocation of a major sports and entertainment facility from a suburban location to downtown Sacramento would change patterns and behaviors in a way to “encourage non-automobile modes of travel.” Thus, it is reasonable to conclude that authors of Senate Bill 743 would expect the employment of properly justified analysis methods, supported by substantial evidence, that evaluate the travel effects of placing the proposed ESC in downtown Sacramento.

- 4) Assertion: The location adjustments have not been documented in the study.

Response: Page 4.10-41 provided an overview of the methodology used to support the trip origin shift. The following further response to this comment describes the methodology for developing the location adjustments in detail.

The commenter added four additional bulleted comments under Comment 1) above. Each comment is responded to below:

- At the outset of the study, a literature search was conducted to determine whether any studies have documented changes in travel patterns associated with relocating a sports facility from a suburban to urban location within the same region. No such studies were found. However, data from basketball arenas in Portland, Salt Lake City, and Denver, which are situated in downtown settings adjacent to light rail lines, show significant (i.e., double-digit) levels of transit mode use.
- The use of cell phone data for estimating trip origins and destinations explicitly accounts for ticket holders who live outside of downtown, but have business addresses in downtown.
- For the 2013/2014 season, about 46 percent of all seats were purchased by season ticketholders.
- The cell phone data was collected in October and November 2012 prior to the NBA's decision to keep the Kings in Sacramento (provided that a new arena is built). Press releases (e.g., <http://www.nba.com/games/20130417/LACSAC/gameinfo.html>) show the April 17, 2013 Kings home game to have potentially been the last game the Kings would play in Sacramento. As such, the October and November 2012 data did not include additional season ticket holder purchase travel characteristics since the ESC was not proposed at that time. Consequently, no double counting of this effect occurred.

The commenter asks the following question under Comment 4) above: Wouldn't it be preferable to compare the VMT volumes of the two facilities on an even footing, estimated through use of identical locational distribution arrays? However, such an analysis would not be "preferable." It would not be reasonably foreseeable; it would be overly conservative and unrealistic. Nonetheless, this requested analysis was conducted in response to the comment and is presented in the paragraph below. It shows that the concern over the documented shift in Central City trip origins is inconsequential.

According to Table 4.10-20, a sold-out Kings game at the ESC is expected to generate 164,578 VMT, which is 9.40 VMT per attendee. Per the commenter's request, these values were recalculated assuming the identical distribution array (same trip origins/destinations as at Sleep Train Arena) as suggested in the comment. Under this scenario, a sold-out Kings game at the ESC would generate 167,152 VMT, which is 9.55 VMT per attendee. The baseline VMT per attendee at Sleep Train Arena is 11.57 VMT per attendee.

With the locational adjustment applied, the ESC VMT per attendee is 18.76 percent below the baseline. With the locational adjustment not applied, the ESC VMT per attendee is 17.46 percent below the baseline. Thus, the downtown locational adjustment factor has no bearing with respect to part 3 of the conformity requirement for Senate Bill 743: regardless of whether the adjustment is in place or not, the project still achieves at least a 15 percent reduction in VMT per capita compared to the baseline condition.

It should further be noted that the shift in Central City trip origins and the associated marginal change in VMT has no material bearing on the other two criteria for the project to qualify as a “downtown arena” under Senate Bill 743. Increasing the VMT per basketball attendee from 9.4 to 9.55, as noted above, would reduce the net carbon benefit from 268 to 225 metric tons per year, such that the project is still carbon neutral and would continue to meet the carbon neutrality criterion. Further, the change in VMT per attendee from 9.4 to 9.55 has only a minor effect on the per attendee GHG reduction addressed in the second Senate Bill 743 GHG criterion. The Proposed Project would continue to perform better than SACOG’s SCS goals for per capita GHG reduction in 2020 and 2035. Thus, the shift in Central City trip origins has no effect on the qualification of the proposed ESC as a “downtown arena” under Senate Bill 743, and the commenter’s assertion that the data were “manipulated” in order to achieve compliance with Senate Bill 743 has no merit.

As requested in this comment, following is a technical explanation of how the pre-game trip origins were proportionally shifted as described in page 4.10-41. The following process resulted in a shift of the proportion of trip origins in the Central City from 10 percent to 13 percent, with a corresponding proportional decrease throughout the remainder of the region.

Step #1: Export the 1,532 cell phone data trip samples into the SACOG model’s traffic analysis zone (TAZ) structure by using the geographic correspondence between TAZ boundaries and census block groups.

Step #2: Proportionally increase the cell phone trip totals to represent the attendance of a sold-out basketball game (17,500).

Step #3: Estimate the mode split for each TAZ using SACOG travel model mode split information, as described in page 4.10-41.

Step #4: For auto trips, apply average vehicle occupancy (2.27 persons per vehicle), and use SACMET model to assign vehicle trips for both the inbound (pre-event) and outbound (post-event) directions.

Step #4a (Sleep Train Arena Assignment): Auto trips calculated in Step #4 are assigned from the origin TAZs to the destination TAZ that represents Sleep Train Arena.

Step #4b (ESC Assignment):

- Create approximately 30 new TAZs in the downtown that represent the various parking garages (including location, available parking, and access provisions).
- Increase the proportion of trip origins in the Central City from 10 percent to 13 percent. The following page shows the Cube software modeling script including an area highlighted by a red circle that shows “10% of all trips from downtown”. For the ESC script, this factor was changed to 13%. The increase in trips added to the downtown TAZs were proportionally subtracted from the non-downtown TAZs via matrix multiplication using a fixed reduction percentage factor (i.e., every TAZ was reduced by the same percentage). This data were not shown in the Draft EIR appendices because it is voluminous (i.e., consists of up to eight 30 by 1,500 cell matrices, which would be 240 pages of appendices, and represents a level of detail that is very rarely included within a Draft EIR appendix.
- Auto trips calculated from previous step are assigned on the model network from the origin TAZs to the multiple destination TAZs located downtown representing ESC parking garage destinations).

The VMT estimate is performed by summing the product of the number of project vehicle trips and the segment length for all roadway segments within the SACMET model. As cited in Table 4.10-20, trips associated with 1,200 special event employees were also considered in the VMT estimate, as were service and delivery trips.

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1  PMOriginTrips='Inputs\PMO.dbf'
2  PMDestinationTrips='Inputs\PMD.dbf'
3  EVOriginTrips='Inputs\EVO.dbf'
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7  AirSageZone=261
8  PM Target_IN=17691
9  PM Target_Out=674
10 EV Target_IN=0
11 EV Target_Out=17691
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13 PM3_ModeShare='..\1 Mode_Share\? PM3 ModeShare.MAT'
14 EV_PT_by_Mode='..\1 Mode_Share\? EV Person Trips by Mode.MAT'
15 * EV_ModeShare='..\1 Mode_Share\? EV ModeShare.MAT'
16 StudyNetwork='..\00_Model_Run\INPUT\?base.net'
17 * CBD TargetIN=0.10 ; 10% of all trips from downtown
18 CBD TargetOUT=0.05 ; 5% of all trips to downtown
19 AVO=2.27 ; Average vehicle occupancy
20 PM_Pk_Factor=0.674
21 EV_Pk_Factor=0.750
22
23 ; create renumber and CBD lookup file
24 RUN PGM=NETWORK
25 FILEI NETI[1]=@StudyNetwork@
26 FILEO PRINTO[1]="Renumber.csv"
27

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**Cube software script used for the Sleep Train Arena VMT calculation. Area highlighted by red box shows 10% of all trips coming from downtown. This was increased to 13% for the ESC VMT calculation with a proportional reduction applied equally to all other TAZs.**

The comment asserts that based on an analysis using a pad and paper, a calculator, and high school algebra, the commenter determined that without the locational adjustment, the project's VMT per capita would no longer "Pass," but rather would "Fail," in terms of the VMT metrics stated in Senate Bill 743. The comment describes a methodology that yields 9.9 VMT per attendee (rounded up) without the location shift. The comment includes no explanation or documentation of how this estimate was derived. Based on an evaluation of the comment, it appears likely that the commenter assumed an estimate of the average VMT per attendee for downtown and non-downtown locations. As discussed above, these data would lead to an unrealistic result and, as such, they were neither compiled nor presented in the Draft EIR. The calculation provided in the comment therefore would be a rough estimate at best. Since the mathematical formulations associated with the commenter's estimate cannot be confirmed, it may contain the following potential shortcomings:

- An estimate of the average VMT per attendee for all downtown trips (including all trips from zip codes 95811, 95814, 95816, and 95818) was made without the benefit of any technical information to support it.
- It appears to apply the “reverse” location adjustment shift to both pre-event and post-event trips, whereas the Draft EIR methodology only applied the shift to pre-event trip origins.
- The methodology also resulted in a similar “reverse” shift in employee trip origins and destinations, whereas the Draft EIR did not.

The accuracy of the comment’s “pad and paper” exercise cannot be confirmed due to the lack of the mathematical formulation used to develop the estimate. A more rigorous and technically accurate analysis was presented above, which concluded that eliminating location adjustment would cause the overall VMT per attendee at the ESC to increase from 9.40 to 9.55 VMT per attendee.

The analytical methodology that resulted in a shift in Central City trip origins from 10% under existing conditions to 13% under existing plus project conditions is based on sound theory, is based on well documented substantial evidence in the record, and is conservative. The comment’s assertion that data were manipulated is baseless and without any merit. The analysis of impacts of the Proposed Project properly includes this estimated shift and altering the analysis to remove the shift would be improper. Nevertheless, the analysis included in this response, above, shows that the shift is inconsequential in terms of the Proposed Project’s attainment of Senate Bill 743’s criteria related to VMT and GHG reductions.

Further, the Draft EIR methodology to estimate the project’s VMT was independently reviewed by travel forecasting experts at SACOG. Letter A14 from SACOG expresses support for the VMT estimation method, stating the following:

- “The VMT estimation approach was innovative and sound.”
- “The adjustments to these data which were made to estimate VMT to an arena at the proposed ESC site were very conservative and reasonable.”
- “With effective marketing and planning, the actual shift of patron origins and destinations could be larger than 3 in 100, in which case



the actual VMT savings would be greater than the estimated 22 percent reported in the DEIR.”

- I14-2            Please see Response to Comment I4-1. For the reasons addressed in Response to Comment I14-1, the recommendations in this comment are without merit. The comment is noted and will be conveyed to the City Council for its consideration.
- I14-3            The comment mistakenly refers to “A” Street instead of J Street. Please see Response to Comment O19-27.

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**From:** Hoover and Joy Ebbert <heje@att.net>  
**Sent:** Friday, January 24, 2014 1:06 PM  
**To:** Scott Johnson  
**Subject:** Arena

Hoover and Joy Ebbert, We don't want ANY of Sacramento City tax money used to build an arena. The only reason to build an arena is to make money for the people who bought the Kings. Therefore, let them pay for the arena if they want it. Don't let them wreck downtown Sacramento, let them build on the old railroad property, which is the logical place to put it, if a new one is needed at all. At any rate, we do not want to use any of our tax money to help make these investors richer.

I15-1

Long-time taxpayers, Joy and Hoover Ebbert

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**Letter I15**     **Joy and Hoover Ebbert**  
**Response**     January 24, 2014

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I15-1            The comment is noted and will be conveyed to the City Council for its consideration. Please note that Alternative 2, ESC at the Railyards, considers the comparative environmental effects of construction and operation of the proposed ESC at the site in the Sacramento Railyards which was under consideration in 2012. Please see pages 6-24 through 6-34 of the Draft EIR.

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**Scott Johnson**

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**From:** Ken Home <kt7571@gmail.com>  
**Sent:** Monday, January 27, 2014 3:33 PM  
**To:** Scott Johnson  
**Subject:** Arena Environmental impact report

I am in favor of the arena being built in downtown Sacramento. I don't believe that there will be any Impact to the environment since the property is already zoned for commercial purpose.

I16-1

Ken Tiner

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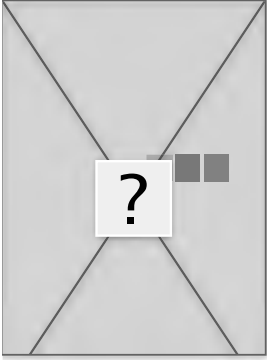


**Letter I16**     **Ken Tiner**  
**Response**     January 27, 2014

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I16-1            The comment is noted and will be conveyed to the City Council for its consideration.

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Dale T. Steele

916-804-6013 daletsteele@yahoo.com 301 27th Street, Sacramento, Ca 95816

January 25, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department Environmental Planning  
Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811 SRJohnson@cityofsacramento.org

Dear Mr. Johnson,

Re: Comments on the DEIR for the Downtown Entertainment and Sports Arena

I am writing to submit comments on the DEIR for the proposed sports arena downtown. The DEIR includes several proposed digital billboard sites, two of which would impact Sutter's Landing Park. My comments focus on these proposed billboards.

I17-1

The two locations in question currently provide foraging habitat for several sensitive raptor species including the state threatened Swainson's hawk. This species has been documented at several nearby locations and successfully fledge young hawks while foraging at Sutter's a Landing Park. Placement of new billboards would reduce available habitat for these species and would need to be fully mitigated elsewhere in the immediate Park area. The DEIR does not include adequate and full mitigation for these impacts. The DEIR should be updated to address these impacts. It would be preferable to relocate these billboards away from the park so as to avoid these impacts. Billboards on Sutter's Landing Park would also alter the viewshed at the park causing further impacts to those coming to enjoy wildlife, open space and the park's natural resources. Removal of all existing billboards on Park lands would be appropriate mitigation for such impacts.

I17-2

I17-3

These resources and mitigation issues have been documented in the Friends of Sutter's Landing Park have developed a vision for conserving the wildlife and natural resources at the Park. The Friends of the River a Banks have led field outings and educational activities that focus on and have documented these values. Recent projects that would impact Sutter's Landing Park have also been identified as causing similar impacts. Cumulatively, these impacts pose a major threat to the Park.

I17-4

The two sites in question are described below.

**Business 80 at Sutter's Landing Regional Park**

I17-5

The Business 80 at Sutter's Landing Regional Park site is located within the former City landfill site adjacent to Interstate 80 Business (Business 80) (APN 001-0170-026) (see Figure 2-32b, Site 3). The site is designated as Parks and Recreation and zoned as A-OS Agriculture-Open Space. The proposed digital billboard site is within the existing Sutter's Landing Regional Park.

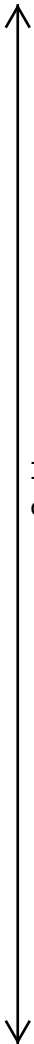
The proposed digital billboard footprint at this location would be a single face billboard on a center pole about 45 feet in height, oriented to the west to be seen by eastbound motorists on Business 80.

The proposed digital billboard site is sloped downward toward Business 80. The area is vegetated with low grasses, shrubs and mature trees. Methane release valves and piping lie above ground, immediately adjacent to the proposed digital billboard site.

The proposed digital billboard site is surrounded by Sutter's Landing Regional Park and the former landfill to the west, north and east. A static billboard is approximately 500 feet east of the proposed digital billboard site. Business 80 is immediately south of the site, and the proposed McKinley Village project site is located to the southeast, across Business 80.

**Business 80 at Sutter's Landing Regional Park/American River**

The Business 80 at Sutter's Landing Regional Park/American River site is located within a triangular parcel in Sutter's Landing Regional Park. The American River lies to the northeast of the site. Business 80 forms the southeastern boundary of the site. The site is located immediately southwest of an existing levee and east of the Union Pacific Railroad tracks. It is covered with short grasses, small shrubs, gravel, and exposed soil. The site is located within an area identified and approved by the City as a habitat mitigation site associated with the 28th Street Tree Removal Mitigation Project. Construction of the Mitigation Project was initiated in November 2013.



I17-5  
cont.

The overall height, including the digital billboard, would be from approximately 40' to 50' above existing grade of the adjacent freeway.

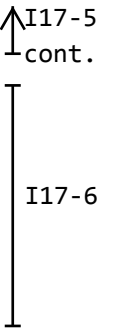
In summary, the DEIR includes proposed locations for two billboards associated with the sports arena would include impacts to sensitive wildlife, their habitats, open space and viewshed resources at Sutter's Landing Regional Park. The DEIR does not include adequate and full mitigation for these impacts. The DEIR should be updated to address these impacts. These impacts would require full mitigation in the immediate area of the Park and would be better avoided by relocating the billboards away from the Park or dropping them from the proposed project.

Sincerely yours,



Dale T Steele

301 27th Street  
Sacramento, Ca 95816  
[daletsteele@yahoo.com](mailto:daletsteele@yahoo.com)



**Scott Johnson**

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**From:** Dale Steele <dtsteele@icloud.com>  
**Sent:** Tuesday, January 28, 2014 1:34 PM  
**To:** Scott Johnson  
**Subject:** Draft Arena DEIR Comments  
**Attachments:** Draft Arena DEIR Comments.pdf

Hi Steve,

I can't tell if this was received yesterday so I'm trying again. Please confirm when you receive this.

Thanks, Dale

In summary, the DEIR includes proposed locations for two digital = billboards associated with the entertainment and sports arena that would impact sensitive wildlife, their habitats, open space and viewshed resources at Sutter's Landing Regional Park. The DEIR does not include adequate and full mitigation for these impacts. The DEIR should be updated to address these impacts. These impacts would require full mitigation in the immediate area of the Park and would be better avoided by relocating the digital billboards away from the Park or dropping them from the proposed project.

Please let me know if you have any questions about my comments or need me to mail a hard copy as well.

Thanks for the opportunity to provide comments on this DEIR.

Sincerely,

Dale T. Steele  
301 27th Street  
Sacramento, Ca 95816  
daketsteele@yahoo.com

Sent via Dale's mini iPad

**Scott Johnson**

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**From:** Dale Steele <daletsteele@yahoo.com>  
**Sent:** Tuesday, January 28, 2014 1:46 PM  
**To:** Scott Johnson  
**Subject:** FW: Re: Comments on the DEIR for the Downtown Entertainment and Sports Arena

Trying to resend my original email.

Sent from Yahoo Mail for iPad

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**From:** Corey and Marcy Brown <coreymarcy@earthlink.net>;  
**To:** Dale T Steele <daletsteele@yahoo.com>;  
**Subject:** Re: Comments on the DEIR for the Downtown Entertainment and Sports Arena  
**Sent:** Tue, Jan 28, 2014 8:36:05 PM

Dale

I heard that SMUD bought the Blue Diamond property near Sutter's Landing where they plan to place significant infrastructure related to the electrical capacity the arena will need. Did the EIR mention that? If not, it should.

Corey

On Jan 27, 2014, at 12:31 PM, Dale T Steele <daletsteele@yahoo.com> wrote:



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**Letter I17**      **Dale Steele**  
**Response**      **January 28, 2014**

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- I17-1            The comment summarizes issues that are specifically addressed later in the comment letter. See Responses to Comments I17-2 through I17-6 for specific responses.
- I17-2            Impact 4.3-2 addresses the potential for nesting raptors, migratory birds, and/or maternity roosts for special-status bat species to be disturbed during construction activities, including construction of digital billboards. Trees located within 500 feet of the proposed Business 80 at Sutter's Landing Regional Park/American River billboard site could provide suitable nesting habitat for raptors and other migratory bird species. Although the Proposed Project would not remove trees in the vicinity of the site, there is potential for construction activities to indirectly disrupt nesting efforts during the nesting season through increased noise and human presence. Eucalyptus trees located within the proposed Business 80 at Sutter's Landing Regional Park billboard site could provide suitable nesting habitat for raptors and other migratory birds, and roosting sites for special-status bat species. The Proposed Project could remove trees to facilitate the installation of a digital billboard and this activity could affect nesting raptors or other migratory birds as well as roosting sites for special-status bats during the nesting/roosting seasons if active nests or maternity roosts are present.
- Full mitigation for disturbance to Swainson's hawk is provided for in Mitigation Measure 4.3-2(a) (timing for tree removal, pre-construction surveys) and in Mitigation Measure 4.3-2(c) (field surveys).
- I17-3            There are two potential digital billboard sites located in Sutter's Landing Regional Park, the Business 80 at Sutter's Landing Regional Park site and the Business 80 at Sutter's Landing Regional Park/American River site. The visual character of the Business 80 at Sutter's Landing Regional Park site is described on pages 4.1-10 and 4.1-15 and in Figure 4.1-9 in the Draft EIR; the visual character of the Business 80 at Sutter's Landing Regional Park/American River site is described on page 4.1-15 and in Figures 4.1-12 and 4.1-13 in the Draft EIR.
- The potential aesthetic impacts of the future change in visual character, including views, are addressed under Impact 4.1-1 in the Draft EIR. More specifically, the effects at the Business 80 at Sutter's Landing Regional Park site are addressed on page 4.1-61, including a depiction of potential tree removal or tree trimming to accommodate the potential digital billboard in Figure 4.1-28. The Draft EIR concludes that the potential change in visual character at the Business 80 at Sutter's Landing Regional Park site would be less than significant, in large part due to the current conditions of the project vicinity, which includes numerous other billboards, the presence of the freeway edge, and the highly disturbed character of

the project site. Impact 4.1-1 at this site is considered less than significant, and, thus, under CEQA no mitigation measures would be required.

The analysis of the visual character impacts of the potential digital billboard at the Business 80 at Sutter's Landing Regional Park/American River site is presented on pages 4.1-64 and 4.1-65 of the Draft EIR. The analysis reflects the proximity of this potential site to the natural landscape of the American River Parkway, and concludes that "because the billboard structure could be visible from the Parkway and could intrude into views from Sutter's Landing Regional Park to the American River, the potential exists that construction and operation of a digital billboard at this site could substantially degrade the visual character or quality of this site adjacent to the American River Parkway." Impact 4.1-1 concludes that the potential change in visual character at the Business 80 at Sutter's Landing Regional Park/American River site would be potentially significant, and identifies Mitigation Measure 4.1-1(b) which requires a digital billboard at this location to be "located to eliminate the visibility of the billboard from the Jedediah Smith Memorial Trail and from the level of the river." Because it may not be possible to locate a digital billboard at this site while meeting the requirements of Mitigation Measure 4.1-1(b), Impact 4.1-1 is identified as significant and unavoidable at the Business 80 at Sutter's Landing Regional Park/American River site.

The mitigation measure suggested in the comment, removal of all existing billboards on parklands would not mitigate the potential significant impact at the Sutter's Landing Regional Park/American River site identified under Impact 4.1-1. Impacts that are described for the Business 80 at Sutter's Landing Regional Park/American River site, namely the visibility of the digital billboard face from the American River Parkway and the potential interruption of views from Sutter's Landing Regional Park to the American River, would not be reduced or avoided through implementation of the suggested measure.

- I17-4 The activities of the Friends of Sutter's Landing Regional Park are noted. The Draft EIR includes an assessment of cumulative impacts associated with the Business 80 at Sutter's Landing Regional Park digital billboard site, including the proposed McKinley Village project on the south side of Business 80. The analysis concludes that the cumulative effects at this location would be less than significant. No other cumulative projects are noted in the comment. The comment is noted and will be conveyed to the City Council for its consideration.
- I17-5 The comment describes existing conditions at the Business 80 at Sutter's Landing Regional Park and Business 80 at Sutter's Landing Regional Park/American River proposed digital billboard sites. No response is required.
- I17-6 The Proposed Project's impacts to biological resources and viewshed resources are described in section 4.3, Biological Resources, and 4.1, Aesthetics, Light, and Glare in the Draft EIR. Technical analysis, impact conclusions, and, where appropriate, mitigation measures are included in each of these technical sections.

Scott Johnson

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**From:** Dale Steele <dtsteele@icloud.com>  
**Sent:** Tuesday, January 28, 2014 3:26 PM  
**To:** Scott Johnson  
**Subject:** Re: Draft Arena DEIR Comments

Thanks Steve.

I'm on a trip and was having trouble sending email. I may have some additional comments regarding a possible SMUD expansion on current Blue Diamond property west of Sutter's Landing Park in response to the proposed arena project. This would trigger similar impacts on a larger scale and need to be analyzed and fully mitigated in the DEIR.

I18-1

Dale

Sent via Dale's mini iPad

On Jan 28, 2014, at 2:27 PM, Scott Johnson <[SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)> wrote:

Dear Mr. Steele,

Thank you for your interest and comments on the DEIR. I've received two emails from you, this one and another that forwards an email from Corey Brown.

Scott Johnson  
City of Sacramento  
Community Development Dept.  
Environmental Planning Services  
300 Richards Blvd., 3<sup>rd</sup> Floor  
Sacramento, CA 95835  
(916) 808-5842

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**From:** Dale Steele [<mailto:dtsteele@icloud.com>]  
**Sent:** Tuesday, January 28, 2014 1:34 PM  
**To:** Scott Johnson  
**Subject:** Draft Arena DEIR Comments

Hi Steve,

I can't tell if this was received yesterday so I'm trying again. Please confirm when you receive this.

Thanks, Dale

In summary, the DEIR includes proposed locations for two digital =  
billboards associated with the entertainment and sports arena that would impact sensitive

wildlife, their habitats, open space and viewshed resources at Sutter's Landing Regional Park. The DEIR does not include adequate and full mitigation for these impacts. The DEIR should be updated to address these impacts. These impacts would require full mitigation in the immediate area of the Park and would be better avoided by relocating the digital billboards away from the Park or dropping them from the proposed project.

Please let me know if you have any questions about my comments or need me to mail a hard copy as well.

Thanks for the opportunity to provide comments on this DEIR.

Sincerely,

Dale T. Steele  
301 27th Street  
Sacramento, Ca 95816  
daketsteele@yahoo.com

Sent via Dale's mini iPad

**Letter I18**     **Dale Steele**  
**Response**     January 28, 2014

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I18-1            The comment refers to a possible SMUD expansion on the current Blue Diamond property west of Sutter's Landing Regional Park. The comment incorrectly suggests a correlation between this undefined SMUD expansion and the Proposed Project. Should SMUD pursue a project to expand their facilities, environmental review would need to be undertaken. All actions related to the Proposed Project, including any extension or expansion of offsite utilities, are analyzed in the Draft EIR.

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**Scott Johnson**

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**From:** Carla R. Gillett <carlargillett@gmail.com>  
**Sent:** Tuesday, January 28, 2014 5:47 PM  
**To:** Scott Johnson  
**Subject:** Solar/Wind Power System Integrated On Roof Top  
**Attachments:** Environmental Impact Report HYBRID ENERGY SOLUTION for ESC Arena.doc

Mr. Johnson,

I have comments and ideas for ESC's EIR draft January 31, 2014 dead line.

Sir, has anyone thought to put a hybrid solar wind system on the roof top of the ESC?

A roof top dome with solar panels is not state of the art. An environmentally feasibly hybrid energy tower is thereon, the array combines dual energy sources on the same site at the same cost around the same weight and will produce double the energy, and is friendlier to flying wildlife to fly around and through..

I have prepared an illustration and brief for your review in support of the technology.

I have been in contact with Vice mayor Ashby's office and I have briefly spoke with ESC Desmond Parrington about hybrid energy concepts.

What I hope to achieve is to support Greenwise and introduce my technology which is proven meeting LEED requirements and SWCC Accreditation.

I hope my information illustration concepts and comments are important to warrant Greenwise support and we can power the arena with renewable hybrid energy.

Thank you and good luck,

Best regards,

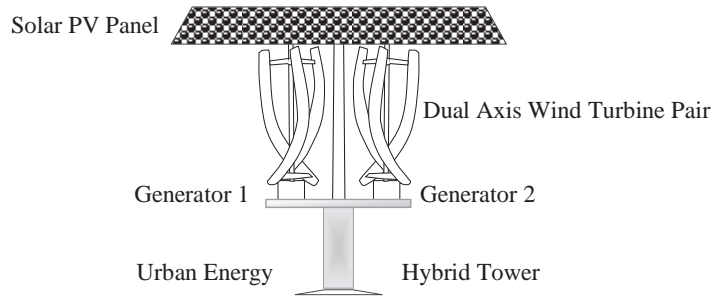
Carla R. Gillett

916-212-8444  
2509 49th Avenue 98522

--  
Carla R. Gillett  
Sacramento, CA

I19-1

ESC ARENA SOLAR & WIND HYBRID ENERGY TOWER



Perceivably the more we do to play our part in reducing our carbon footprint from a global and local emissions perspective towards solving this global challenge by expanding renewable hybrid energy which is solar integrated with wind power on the same site. The threat of climate change, together with the pressures to reduce emissions through city mitigation efforts, will have a significant effect on how significant environmental and economic impacts from climate change and only by generating power from renewable hybrid energy sources, driving for energy efficiency and thereby reducing our emissions intensity.

I19-2

ESC Hybrid Energy Tower placement surrounding roof top concept illustrated by Carla R. Gillett.



This hybrid energy approach and strategy has advantages to truly make the arena roof top state of the art. This break through system will upgrade the typical dome solar panel array which is old style and not state of the art. Since the roof top plans are not presently planned now is the time to consider the redesigned ESC blueprints to include the renewable hybrid energy array.

I19-3

The proven urban wind turbine system comprises quite turbines and solar PV panels which are set above the tower capital. This is a state of the art hybrid energy system which cost the same as the solar dome plan 6 - 10 per volt. The concern I have is the generator is located in the basement. Back-up generator of reactor 1 flooded; 3.6.4 2008: Tsunami study ignored Fukushima it was not designed for flooding and Sacramento has twin rivers so close by.

**Scott Johnson**

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**From:** Carla R. Gillett <carlargillett@gmail.com>  
**Sent:** Wednesday, February 05, 2014 2:47 PM  
**To:** Scott Johnson  
**Subject:** ARENA ROOF PLAN PDF  
**Attachments:** KINGS ARENA ECO ROOFTOP .pdf

Scott Johnson

City of Sacramento

Community Development Dept.

Environmental Planning Services

Mr. Johnson,

The ESC Arena Roof Plan pdf. I just finished this concept drawing by using the recent AECOM ESC design online and drew my rooftop ideas for ECO friendlier power generation.

Respectfully, Sir I thought you may be interested in knowing about new state of the art hybrid renewable energy power systems such as my urban REPS tower technology. This current DAWT and solar unit is feasible for urban townships and community energy production every roof in our city could provide rooftop power.

I am wondering why we can't do this the public has the willingness to make a difference and the drought has got us rethinking how are we going to power our homes.

The Gas Land movies prove it takes about two million gallons of fresh water to fracture one natural gas rig site.

Sir, why not consider this technology for rooftop, building and infrastructure applications, thank you for your hard work and community service!

Best regards,

--  
Carla R. Gillett  
Sacramento, CA

I19-3  
cont.

# ESC ARENA ROOF TOP Greenwise Smart



Hybrid  
Solar/Wind  
Tower

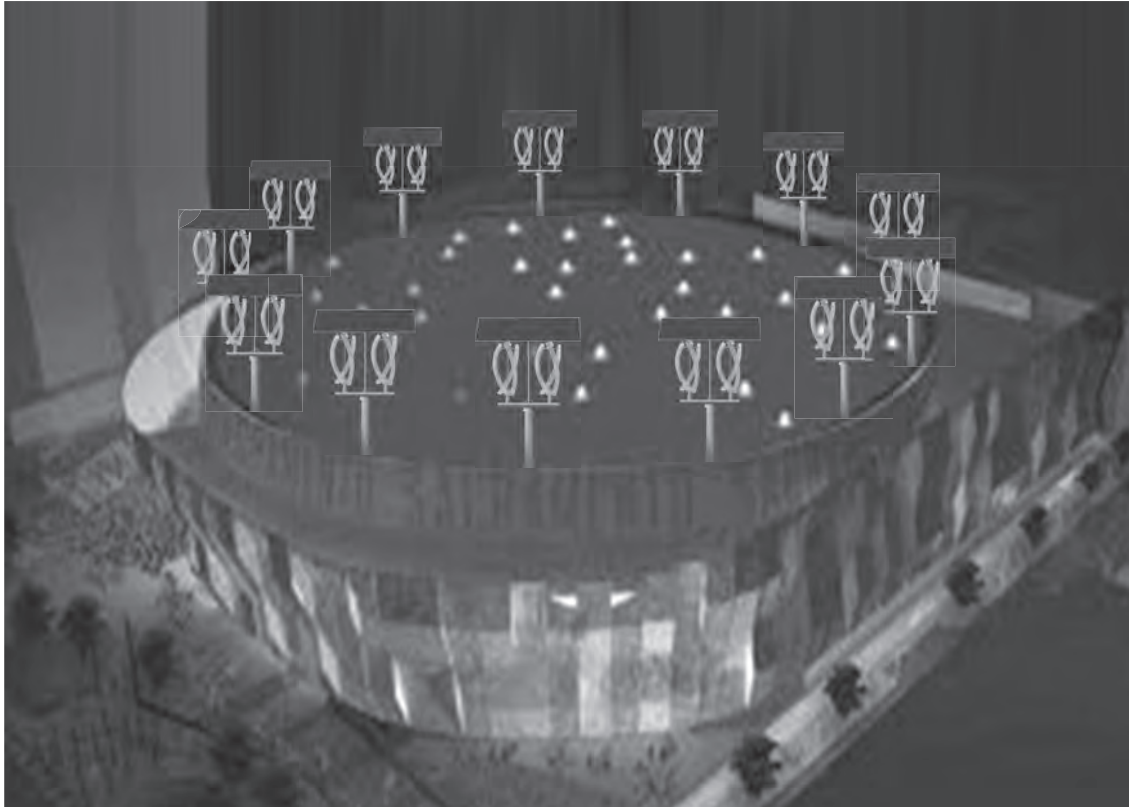
Invented and designed by Carla R. Gillett:@roboticvixen

2 or more  
Wind Turbines  
& Generators



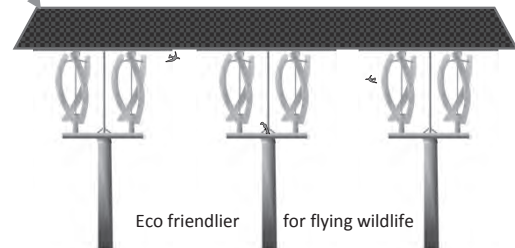
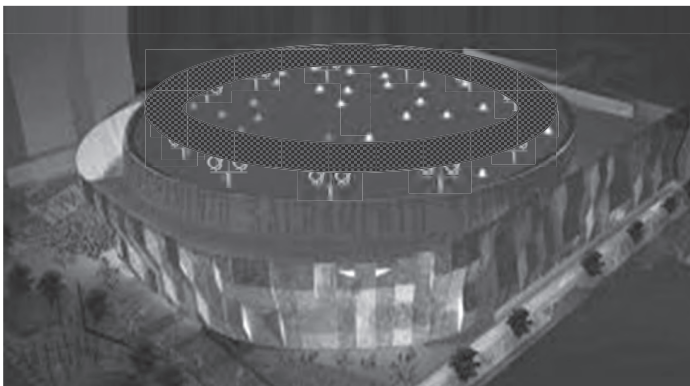
The Sacramento Kings new state of the art Entertainment Sports Center

Currently the roof plan is pending final design, alternatively this illustration shows how the roof will work as a renewable energy power system to generate significantly more power night and day.



ESC roof integrating Urban Tower Dual Axis Wind Turbine Array and Solar PV Panels

The Urban Hybrid DAWT Tower's size and design for the solar array can be determined to suit site.



Quiet DAWT blades activate in low wind speed.

Urban Towers are proven to meet LEED codes.

The illustrated tower array can be designed to support a solar panel ring per weight and height restrictions. Amazingly it's a fact every 20' feet of a building's elevation increases wind speeds by 10 mph thus ESC at 150' elevation generates wind speeds at 50 mph plus!

I19-3  
cont.

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**Letter I19**      **Carla R. Gillett**  
**Response**      January 28, 2014

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- I19-1            The project applicant has indicated that the rooftop of the proposed ESC would use rooftop treatments that reduce heat island effects, such as high solar reflectivity materials or coatings, green roofs, or photovoltaic panels on at least 50% of rooftop. The commenter's suggested use of a hybrid solar wind system is not currently part of the proposed ESC design. The comment is noted and will be conveyed to the City Council for its consideration.
- I19-2            Please see Response to Comment I19-1. In early 2012, the City of Sacramento adopted a Climate Action Plan aimed at reducing community-based greenhouse gas emissions to meet the goals established in the Global Warming Solutions Act of 2006 (AB 32). The Proposed Project would be consistent with the Climate Action Plan, as described in Impact 4.5-1 and Appendix B in the Draft EIR. In addition, as is documented in Section 4.5 of the Draft EIR, the proposed ESC would comply with requirements of AB 743 for greenhouse gas emission reductions and carbon neutrality (see pages 4.5-11 through 4.5-13).
- I19-3            Please see Responses to Comments I19-1 and I19-2.

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Scott Johnson

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**From:** Kevin Coyle <caysea@comcast.net>  
**Sent:** Wednesday, January 29, 2014 12:48 PM  
**To:** Scott Johnson  
**Subject:** A Sacramento Citizen's Comments on the ESC Draft EIR

Dear Mr. Johnson,

EIRs do not make recommendations to approve or disapprove of projects; rather, EIRs are produced in order to inform civic decision makers, including the public. Whether the public can decide a project's fate through the ballot box or not, the public always requires that information on civic matters be available for the purpose of holding elected officials accountable.

I20-1

In this context, it behooves the producers of an EIR to be as clear, forthright, consistent and unbiased as possible. If the EIR appears to skip important considerations, or to introduce murk instead of clarity, the public may lose faith with the EIR and with the review process as a whole. For clarity, it will be necessary to fully explain any assumptions made in the EIR that conflict with or seem to conflict with the ESC draft term sheet, or with repeated public statements by Kings spokespersons or city officials, or with official city documents

In the interests of a more complete, logical and satisfying EIR, I submit the following comments and questions.

I20-2

1. Transit.

On page 4-10-99, the draft speaks of a bulge of 450 light rail users passing through each of the adjacent light rail stations when events at the ESC have ended, and you note that it will take about 45 minutes before everyone who needs a ticket can get a turn at the ticket machines, assuming no one spends more than 20 seconds at a machine.

Imagine a cold, rainy night in Dec. 2018, fans leaving a big game which the Kings lost by 3 points thanks to lousy officiating. As at all games, a large group of people

I20-3



will have been drinking. Does it seem likely that in this context, hundreds of people will line up docilely and complete their ticket transactions in 20 seconds each?

I think from time to time there will be “incidents.” Such incidents may require you to add more thoroughness to the draft’s discussion of police resources that will be committed to the ESC and its environs.

The draft also omits points concerning Regional Transit. For example, RT has an institutional interest in maximizing fare revenue. RT may think it can cut riders’ wait time by supplementing the trains with bus service. RT may be pressured by its riders to do so. It may be pressured by local police to do so.

Therefore, the EIR should examine the possibility that RT may divert already sparse evening bus service away from some neighborhoods in order to service the ESC. Reduced transit service in non-favored neighborhoods may also need to be addressed in the “blight” portion of the EIR.

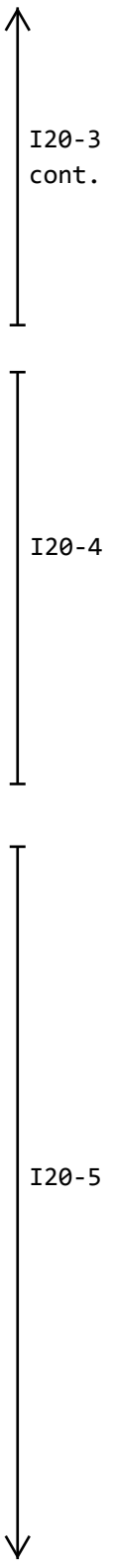
## 2. Attendance.

The draft makes numerous references to a figure of 17,500 as an estimated maximum attendance at major events.

However, recent news reports indicate the ESC developers plan to allow crowds of about 19,000 to enter the ESC on a standing room only basis.

In addition, there have been numerous news reports about ESC developers repeatedly pledging that an additional 10,000 people could be accommodated to watch big events from outside the building and for no cost.

If 10,000 free spaces are advertised, 20,000 may show up to see if luck in obtaining a space is on their side. Perhaps, EIR scientists have methods for predicting crowd sizes as you do for estimating traffic flows, but this matter does need full discussion in the final EIR.



Whether 10,000, 20,000 or more, this outdoor crowd must be factored into all your calculations regarding traffic, transit, noise, air pollution and police services.

With regard to transit, increasing ESC attendance by 50 percent or more would probably increase the size of the bulge of riders of RT trains, probably pushing the time needed for everyone to get tickets to well over an hour. Hence, any problems arising from frustrated riders massing by the hundreds would be multiplied by the increased numbers of attendees when outdoor attendance is factored in.

Perhaps the ESC developers were only kidding us about the 10,000 outdoor spaces for free viewing. However, no one, including especially the public, is going to believe they were kidding us unless we see legally binding language promising that they will not offer outdoor viewing.

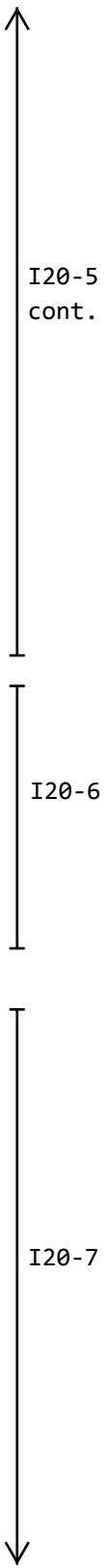
The EIR cannot be clear if it does not delineate this issue.

A possible solution: have the final EIR show environmental impacts, especially in the areas of transit, traffic, air pollution, noise and police services, at each projected level of attendance, such as 17,500, 19,000, 29,000 and 39,000, for example. This information would aid decision makers.

The draft EIR mentions that police resources will be used to manage ESC related traffic, but does not mention the police being used for policing the ESC and environs. This is an unbelievable omission and must be rectified in the final EIR.

Traditionally, Sacramentans drink at large, outdoor occasions. Traditionally, American spectators at professional sporting events drink. The attendees, both indoors and out, will be well lubricated.

Traditionally in Sacramento, the police supply a large, visible presence to all large, outdoor events, but particularly to signature events such as the Second Saturday Art Walk, the Old Sacramento New Year's Eve events and, as one presumes is intended, future large arena events with a large outdoor crowd.



More than 100 officers patrolled the 2013 New Year's celebration in Old Sacramento, according to news reports. On occasion, so many officers are patrolling the Art Walk, that routine patrolling is suspended in other neighborhoods.

The popular Thursday Night Market on K Street in the 1990s was eliminated because of the difficulties police had in controlling crowds after dark.

Both the Art Walk and the New Year's celebration have been marred by shootings. With 41 or more events per year with crowds upwards of 10,000 milling outside in the cold and drinking heavily to keep their spirits up, the ESC appears well placed to yield 4 or 5 shootings or stabbings a year, and perhaps a few mini-riots.

Therefore, I urge you to include in the final EIR incisive discussion of the outdoor crowd, post-event interaction between the inside crowd and the outside crowd, the likely attributes of crowd behavior and the likely police responses to that behavior and show how these will affect traffic flow for the different travel modes, noise, and air pollution (if auto traffic is impeded by the police response to crime).

With respect to noise problems, in addition to the screams of a fleeing or rioting crowd, be sure to factor in the sound of the police helicopter and the diameter of its circling pattern.

To mention the police only in terms of their traffic management function when it seems inevitable that they will have to do much more undermines the credibility of the EIR. If you are not charged with addressing all the police problems in the EIR, at least acknowledge the likelihood of those problems and explain why they are not included in the EIR analysis.

In particular, the EIR section on blight should examine whether increased diversion of police resources to the ESC area and the accompanying diversion of normal patrols away from other neighborhoods will contribute to rising crime rates and blight in the de-policed neighborhoods.



I20-7  
cont.

I20-8

I20-9

I20-10

3. Distribution of the draft’s attention.

The draft discusses 3 aspects of the project: the ESC itself, the PUD and what the draft calls “growth induced directly and indirectly by the Proposed Project.”

This induced growth is given very little attention in such areas of the draft as traffic, transit, noise, air pollution, etc. Yet according to city officials, inducing this growth is the most important purpose of building the ESC. On March 26, in recommending the arena deal to the City Council, city officials wrote “The development of a new ESC at Downtown Plaza will serve as an economic catalyst for the Plaza, the greater downtown and the region.”

Note that the city’s wording allows for no doubt that the induced growth will be inevitable, if the ESC is built. In contrast, what the EIR says is “The Proposed Project would tend to attract additional retail customers to the project vicinity, and would tend to benefit rather than hinder the potential redevelopment of K Street from 7th to 9<sup>th</sup> Streets and the Railyards development.”

The public would benefit from a discussion about why the draft is so much less enthusiastic about the power to induce growth than city officials are.

More importantly, discussion is needed on how this inevitable induced growth will affect air pollution, traffic, transit, noise, etc.

In comparison with parameters for the ESC, the definition of the PUD appears to be quite vague according to the draft with the vague phrase “up to” used repeatedly in describing the size of different aspects of it and the total size of that project. Much less space is given to the PUD than to the ESC. For example, in the section on Project Description, Project Elements, you devote about 25 pages to the ESC and about 6 to the PUD, even though the PUD could be substantially larger, if it is really built.

This skewing or imbalance suggests that someone is hiding something or that the PUD is more imaginary than real. In fact, the term sheet between the City and the ESC developers indicates that the PUD will only be built out if the developers consider doing so “commercially reasonable.” If the unlikeliness of the mutli use

I20-11

I20-12

development really being built is the reason that the PUD information is so vague in the EIR, admit it in order to avoid greater doubts about the integrity of the process.

However, compared to the induced growth that is inevitable, the possibly imaginary PUD is well analyzed indeed. Please insure that the final EIR corrects this imbalance.

↑  
I20-12  
cont.

Sincerely,

Kevin Coyle, Sacramento

**Letter I20**      **Kevin Coyle**  
**Response**      January 29, 2014

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- I20-1            The comment describes the role of an EIR and states that it is necessary to explain any assumptions made in the Draft EIR that conflict with the ESC draft term sheet, official City documents, or statements made by others. As described in the Draft EIR (see Chapter 2, Project Description), the project analyzed in the Draft EIR is consistent with the draft term sheet.
- I20-2            The comment is noted and will be conveyed to the City Council for its consideration.
- I20-3            The comment refers to “incidents” that may require a police response. Section 4.9, Public Services, in the Draft EIR discusses police presence and law enforcement at the Downtown project site. The comment is noted and will be conveyed to the City Council for its consideration.
- I20-4            Sacramento Regional Transit submitted a comment letter on the Draft EIR (see Comment Letter A7). Regional Transit stated, “As we are successful in maximizing transit utilization, there may need to be additional service/trains, security, and other infrastructure added to the system. RT will work with our collective partners to make sure there are adequate resources to meet these needs.” (See Comment O7-3.) Contrary to the commenter’s assertion, Regional Transit does not plan to reduce service in other parts of the city in order to accommodate demand at the Downtown project site.
- The comment also suggests that a reduction of transit service could cause blight in neighborhoods where service is reduced. No reduction in transit service is anticipated as a result of the Proposed Project. Further no correlation exists between reduced transit service and blighted environmental conditions.
- I20-5            Several newspaper articles have included applicant comments that on infrequent occasions, the proposed ESC could accommodate crowds in excess of the maximum seating capacity of 17,500. The following is stated on page 2-17 of the Draft EIR:
- On rare occasions certain events may be held that would exceed the seated capacity of the proposed ESC. In these cases, the building could accommodate approximately 1,000-2,000 additional attendees in standing-room-only spaces in the Main Concourse, the Upper Concourse, or cordoned portions of the entry plaza. The types of events that could attract such crowds would include such infrequent events as the Olympics, NBA Finals games, a national political convention, or extremely rare major concerts. Data collected by the Kings

reflects the infrequency of such events. In a survey of 13 other arenas in similar-sized cities around the country, out of over 1,000 events, only 3 had attendance over 18,000. In the event that one of these infrequent events were to be planned for the Proposed ESC, the applicant would coordinate with the City on event traffic management, crowd management, as well as other related event planning. Because of the infrequency of these events, they are not evaluated further in this EIR.

The same approach applies to use of the event plaza. There are several outdoor spaces in downtown Sacramento that are infrequently used for public gatherings with attendance in excess of the planned and regular use of the public space. For example, free summertime concerts in Cesar Chavez Plaza often attract 3,000-4,000 attendees, and on May 23, 2013 a crowd of approximately 15,000 attended a rally to celebrate the NBA's decision to turn down the proposed relocation of the Sacramento Kings to Seattle. Similarly, New Year's Eve fireworks celebrations are known to attract 20,000-30,000 attendees each year to Old Sacramento. Neither of these public spaces is designed to accommodate these types of crowds on a regular basis. Nevertheless, working with the Sacramento Police Department and the City's Department of Public Works, event organizers implement procedures that allow infrequent use of these spaces by numbers of people that are materially larger than the normal, day-to-day activities for which they were designed.

Similarly, in the event that infrequent, special events occur in the plaza surrounding the proposed ESC, potentially associated with playoff games, special sporting events such as the Olympics, a national political convention, or the like, the ESC operator and the event organizers would work to plan the event in coordination with the City of Sacramento and other potentially interested parties (e.g., California Highway Patrol, Old Sacramento Business Association, Downtown Sacramento Partnership, etc.). Because of the infrequency and unique character of these types of events, it would be impossible to account for them in the context of an EIR. Further, such events could only occur subject to special permits from the City of Sacramento.

I20-6 Please see Response to Comment I20-5.

I20-7 Impact 4.9-1 on page 4.9-4 of the Draft EIR explains that the Sacramento Police Department would provide interior and exterior security at the proposed ESC and would implement the Proposed Project's traffic management plan (Revised Draft Event TMP) before, during, and after certain events.<sup>18</sup> Crowd control around the ESC before and after events would also be provided by the Sacramento Police

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<sup>18</sup> Matthes, Dana, 2013. Personal communication via e-mail between Aaron Hecock of ESA and Dana Matthes of the Sacramento Police Department. October 24, 2013.



Department, similar to other large events held in the city. In addition, the Sacramento Police Department would serve additional population in the downtown area created by the Proposed Project. The City's evaluation of public services confirmed the Police Department's ability to provide these services with no adverse effects on the environment. Please also see Response to Comment I20-10.

I20-8 The commenter suggests that police helicopters and rioting crowds will produce greater noise in the area. In response to this hypothetical situation, it should be noted that the Proposed Project would be located in an existing urban environment, which includes occasional police activity and helicopter flyovers. Any further analysis would be speculative at best and not required under CEQA.

I20-9 Please see Response to Comment I20-7.

I20-10 As described in the Draft EIR in Impact 4.9-2, growth and development in the downtown area, including development of the Proposed Project, would require additional police staff and facilities, especially in the Central City area. The Sacramento Police Department's Master Plan identifies citywide department needs and identifies new facilities and staffing necessary to maintain police protection services throughout the city. The Sacramento Police Department has the ability to allocate resources to ensure staffing levels and response times throughout the city are at an acceptable level. The comment is noted and will be conveyed to the City Council for its consideration.

I20-11 Growth inducing effects of the Proposed Project are evaluated in Chapter 5, Section 5.4 of the Draft EIR. The analysis includes consideration of the potential for the Proposed Project to eliminate obstacles to growth and to induce additional economic growth. The Draft EIR includes a discussion of the removal of obstacles to growth in Section 5.4.1, pages 5-6 and 5-7. The discussion of the economic effects is presented in Section 5.4.2, pages 5-7 through 5.9. The discussion of economic effects is focused on an assessment of indirect and induced employment that would be generated through the multiplier effect. The environmental effects of induced growth are addressed in Section 5.4.3, page 5-9 of the Draft EIR. Specifically, the discussion notes "growth induced directly and indirectly by the Proposed Project could also affect the greater Sacramento region. Potential effects caused by induced growth in the region could include: increased traffic congestion; increased air pollutant emissions; loss of agricultural land and open space; loss of habitat and associated flora and fauna; increased demand on public utilities and services, such as fire and police protection, water, recycled water, wastewater, solid waste, energy, and natural gas; and increased demand for housing."

Consideration of the environmental effects of induced growth is necessarily much less detailed than the evaluation of effects of the Proposed Project. As noted in the Draft EIR, "[i]ncreased future employment generated by resident and employee

spending ultimately results in physical development of space to accommodate those employees. It is the characteristics of this physical space and its specific location that determine the type and magnitude of environmental impacts of this additional economic activity. Although the economic effect can be predicted, the actual environmental consequences of this type of economic growth are too speculative to predict or evaluate, since they can be spread throughout the Sacramento metropolitan region and beyond.”

I20-12

The comment accurately states that more detail is provided about the design and physical characteristics of the proposed ESC than is provided for the future mixed use development that would be allowed within the SPD area. More detail is provided about the proposed ESC because the proposed building has been designed and is proposed to be constructed starting in May 2014. As is described on page 2-67 of the Draft EIR, “[p]lans do not currently exist for construction of the mixed use development within the PUD area, although it is possible that some construction of mixed use development in the PUD area could occur concurrently with the construction of the proposed ESC. Prior to the issuance of demolition and/or building permits, design and construction plans would be required to be submitted and approved by the City of Sacramento.” It should be noted that all references to “PUD area” in the Draft EIR are changed to “SPD area.”

The varying level of detail available about different portions of the Proposed Project is appropriate under CEQA. State CEQA Guidelines section 15124(c) states that the project description should include “[a] general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.” The Guidelines do not require detailed description of the project, only a “general description” of the project characteristics. Design and engineering details are not required. The information available regarding the proposed mixed use development is sufficient to evaluate the potential physical environmental impacts of the project and meets the standards of CEQA.

Under CEQA an EIR must be prepared at the earliest possible time to facilitate informed decision making on the part of the lead agency. Section 15004 (b) of the State CEQA Guidelines states that “EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.” At this time, more information is known about the design of the proposed ESC than about the future mixed use development. The Project Description, Chapter 2 of the Draft EIR, provides the greatest level of detail that is currently available about each element of the Proposed Project. Chapter 1, Section 1.5, describes how this EIR would be used for future approvals related to the proposed mixed use development. As is stated on page 1-8, “[t]o the extent appropriate and consistent with the

requirements of CEQA and the State CEQA Guidelines, the City would rely on this EIR in conjunction with its consideration of subsequent project development.” Use of this EIR to cover later project activities is addressed in PRC section 21166 and State CEQA Guidelines section 15162(a).

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RECEIVED

JAN 30 2014

3300 Douglas Blvd.  
Suite 369

Roseville, CA  
95661

916.787.5619  
fax 916.787.5617

January 30, 2014

Scott Johnson  
City of Sacramento Community Development Department  
Environmental Planning Services  
300 Richards Blvd. Third Floor  
Sacramento, Ca 95811  
RE: Entertainment and Sports Center EIR (P13-065)

Scott Johnson:

RPI Management, Inc. on behalf of 630K Street Partners, LLC, (ownership of 630K - SW corner of 7<sup>th</sup> & K streets) would like to take this opportunity for public comment to state our overall support for the Entertainment and Sports Center (ESC) and underscore the benefit to the investment environment surrounding the project and the downtown core as a whole. The project development represents significant public and private investment in Downtown and is strongly supported by our partnership.

As property owners, we have long awaited reinvestment in the Downtown Plaza Mall and view the ESC development as a catalyst for more private investment. Our partnership is now prepared to consider a major re-investment in the 630 K Street asset in response to the proposed project. Our plans provide for a significant private investment to reposition the property as the Arena Gateway on The Kay, the new front door of the ESC project. No public funds would be required on-site for our project.

Attached please find a list of comments related impacts outlined in the EIR for:

1. The existing tenant base, and
2. *The Arena Gateway to The Kay asset.*

We look forward to working in full cooperation with the City and Project Development Team to make the 7<sup>th</sup> Street entrance a true gateway to the K Street Mall and a dynamic front door for this exciting new Regional destination.

Sincerely,

Peter C. Thompson  
RPI Management, Inc.  
Asset Manager, 630 K Street Associates

Cc: Michael Ault, DSP Executive Director  
Mark Friedman  
Matt Eierman, City of Sacramento Parking Authority

I21 - 1

Existing Tenant Base Impacts – Comments and Concerns:

On behalf of the tenants, we collected the following summary of comments for the EIR.

**Construction noise and impacts**

A high level of communication as to the timing and duration of the construction impacting 630 K will be required. Any road closures on Seventh Street or to the alley way at the rear of 630 K should be identified and noticed in advance. Dock high loading access is an essential building service and will need to be maintained.

I21-2

**Tenant Parking Rights**

Certain tenants and properties adjacent to the Project currently possess contractual fair market value parking rights provided by the City of Sacramento to spaces beneath the Project (see attached rights 630 K Street tenant ICF Jones & Stokes). 630 K Street Tenant parking currently generates a FMV revenue stream for the City Parking Assets and should enhance value. ICF has asserted that these FMV parking access (for both private and company vehicles) be maintained during and after construction in the parking structure remaining under the 660 J Street corner of the project. USF has also requested that current FMV hourly/monthly parking accommodations for the students and faculty of the USF Campus be maintained both during and after construction in the remaining 660 J spaces. It is hoped that these off arena peak parking revenues will be viewed as an asset to the development. In addition, ICF is concerned about parking of their fleet vehicles. Under their agreement with the City, they have been utilizing 6-8 reserved parking spaces on the 2nd level of the East lot back in a corner that's rarely used. ICF requires parking that is grouped together as different users use the vehicles each day and need to know where the fleet vehicles are parked.

I21-3

**Event Security**

Plans for crowd control and security on ESC Event Dates should be identified in more detail and communicated with the tenants of the building.

I21-4

**Security Concern - Seventh Street RT Bus Stop Security**

Please address how the ESC project will impact the security in 7<sup>th</sup> Street corridor between J and L streets. Of special concern is the RT bus shelter at the 7<sup>th</sup> Street entrance of 630 K Street. Increased foot traffic and ridership will make this already inadequate station further negatively impact the office entrance on 7<sup>th</sup> Street. Game day capacity level foot traffic will conflict with the pedestrian flow-through around the current shelter. Additional usage of the shelter will negatively impact the entrance to the building on 7<sup>th</sup> Street. Ownership requests that the shelter be relocated to a more favorable location to allow for the increased foot traffic flow on the sidewalk and the increased usage of the RT Buses.

I21-5  
I21-6

### Arena Gateway on The Kay (630 K Street)

As the impacts of the Project are considered please account for the following items that will allow our Ownership group to successfully reposition 630 K Street to *The Arena Gateway to the Kay* and further the overall development of the area:

- Outdoor seating along the North face of the building East of the current office opening inside of the 630 K Street parcel of the K Street Pedestrian Mall
- Outdoor seating along the South face of the building into 15 feet of the alley easement
- A rooftop garden/patio on 630K
- Blade signage on the north east corner of the building and advertising facings on both the north and east facings
- An enhanced entrance to the building from 7<sup>th</sup> Street

We look forward to working cooperatively with the City and the arena project ownership team to make the K Street entrance to the Project successful.

I21-7



EXHIBIT J

AGREEMENT FOR RIGHT OF FIRST REFUSAL FOR PARKING PERMITS

This Exhibit is attached to and made a part of the Lease by and between MARVIN L. OATES, as co-trustee of the MARVIN L. OATES TRUST, and MASSIE ENTERPRISES, L.P., a California limited partnership (collectively, "Landlord") and JONES & STOKES ASSOCIATES, INC., a California corporation ("Tenant") for space in the Building located at 630 K Street, Sacramento, California.

AGREEMENT FOR RIGHT OF FIRST REFUSAL FOR PARKING PERMITS

This agreement (hereafter the "Agreement") is made on July 23, 2007, between the City of Sacramento ("City"), a charter municipal corporation and Marvin L. Oates, as Co-trustee of the Marvin L. Oates Trust and Massie Enterprises, L.P., as owners of the building at 630 K Street and successors in interest to the ownership of 630 K Street (collectively "Owner"), who agree as follows:

- 1. Term of Agreement.** The term of the agreement shall be twelve (12) years, commencing on January 1, 2008 ("Commencement Date") and expiring on December 31, 2019.
- 2. Right of First Refusal.** The City presently enjoys the right to sell 1,383 parking permits (as described in the Parking Operation & Maintenance, City Agreement #92-206, hereafter "POMA") at the Downtown Plaza Mall parking garages through the year 2053 ("City Allocation"). The City hereby grants Owner with a Right of First Refusal to purchase up to thirty (30) monthly parking permits of the City Allocation within the Downtown Plaza Mall parking garages, throughout the term of this Agreement.

In the event the number of monthly parking permits sold at the Downtown Plaza Mall Garages equals the City Allocation, the City will immediately notify Owner of any monthly parking permits that become available for resale. Upon receipt of City's written notice informing Owner that a single or multiple parking permits have become available for resale, Owner shall have ten (10) business days to purchase the available permits from the City. Any permits not claimed by Owner within this timeframe shall be made available and sold to the general public. The Monthly parking permits described herein are valid on a month-to-month basis, subject to (i) the then applicable fair market value and (ii) cancellation upon 30 days notice. The Right of First Refusal will be granted to Owner on the condition Owner has purchased 29 or fewer parking permits for use at the Downtown Plaza Mall parking garages.

- 3. Compensation to City.** Owner shall pay City One Thousand (\$1,000) dollars ("Fee") each year beginning the Commencement Date and continuing annually thereafter. City will credit Owner the amount of the Fee towards any monthly parking permits issued to the Owner for use at the Downtown Plaza Garages. At the end of each year following the anniversary of the Commencement Date, the City will retain any amount of the Fee not applied to monthly parking permit expenses.
- 4. Notice.** Any notice, documentation, or other communication required or desired to be given pursuant to this Agreement shall be given in writing either by personal service, by certified mail, return receipt requested, postage fully prepaid or by national overnight delivery service, to the following respective addresses:

City	Owner
Parking Services Division City of Sacramento 921 10 <sup>th</sup> Street, 1 <sup>st</sup> Floor Sacramento, CA 95814	Marvin L. Oates Marvin L. Oates Trust 8615 Elder Creek Road Sacramento, CA 95828

CITY  
AGREEMENT NO. 2007-0757

CITY 2007-0757  
AGREEMENT NO. \_\_\_\_\_ 1

The above addresses may be changed by written notice in accordance with this section.

- 5. **Security.** The nature of any permit issued pursuant to this Agreement is that of a license, and no agency or relationship of landlord and tenant shall arise from this Agreement. City shall not be responsible for the personal security of any person or personal property in the Lot, or in any substitute or alternate facilities furnished pursuant to this Agreement or otherwise.
- 6. **Extension.** Owner shall have two (2) successive option(s) to renew this Right of First Refusal for a term of five (5) year(s) each on the same terms and conditions set forth in this Agreement. If Owner elects to exercise such option, then Owner shall provide City with written notice six (6) months prior to the expiration of the then current term of this Agreement.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

**OWNER:**

By: *Marvin L. Oates*  
 Marvin L. Oates, As Co-Trustee of  
 the Marvin L. Oates Trust  
564-20-1185  
 City of Sacramento  
 Business Operations Tax Cert. No.

MASSIE ENTERPRISES, L.P., a  
California limited partnership,

By: *Clara K. Massie*  
 Clara K. Massie, as Trustee of the  
 Clara K. Massie Family Trust dated  
 May 1, 1997, General Partner

By: *Ricky Massie*  
 Ricky Massie, General Partner  
91-177-0983  
 City of Sacramento  
 Business Operations Tax Cert. No.

**CITY:**

CITY OF SACRAMENTO,  
 a municipal corporation  
 By: *Jerry Way*  
 By: Jerry Way, Director of Transportation  
 For: Ray Kerridge, City Manager

APPROVED AS TO FORM

By: *Gregory H. Hutchis*  
 Deputy City Attorney

**ATTEST:**

By: *Dawn Bullwinkel*  
 City Clerk 7-23-07

CITY  
AGREEMENT NO. 2007-0757

CITY  
AGREEMENT NO. 2007-0757<sup>2</sup>

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**Letter I21      Rubicon Partners, Inc.**  
**Response      January 30, 2014**

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- I21-1      The comment provides support for the Proposed Project and welcomes reinvestment and revitalization to the Downtown core. The comment is noted and will be conveyed to the City Council for its consideration.
- I21-2      The Draft EIR, in Impact 4.10-10, describes construction-related project impacts and recommends preparation of a Construction Traffic Management Plan. Street closures are not required along 7<sup>th</sup> Street for construction purposes. The City and construction team would communicate information regarding lane closures and restriping on portions of J Street and L Street to agencies, stakeholders, and property owners well in advance of such closures.
- I21-3      The comment addresses legal issues pertaining to parking in the Plaza East Parking Garage and does not address physical environmental issues associated with the Proposed Project. As is described in the Draft EIR, Section 4.10, there is ample parking availability in parking garages during weekday daytime and evening periods in the vicinity of the Downtown project site. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.
- I21-4      As stated in Revised Draft Event TMP, communication methods to be implemented by the Sacramento Police Department include outreach and wayfinding strategies designed to inform event attendees of the various transportation options and to facilitate pedestrian, bicycle, and vehicle access.
- I21-5      The Sacramento Police Department is currently responsible for, and would continue to be responsible for, police protection in the city, including the 7<sup>th</sup> Street corridor between J Street and L Street. It is expected that police officers would be present in that corridor before, during, and after events at the ESC, helping to manage vehicular, transit, bicycle, and pedestrian traffic and provide security. Please also see Responses to Comments I20-7 and I20-10.
- I21-6      The Proposed Project does not propose to close or relocate the existing bus stop on the west side of 7<sup>th</sup> Street north of L Street. However, RT staff currently is evaluating the potential for relocating southbound bus routing from the 7<sup>th</sup> Street corridor to the 9<sup>th</sup> Street corridor, which would cause the permanent removal of this stop. Please see Response to Comment O13-2 regarding pedestrian flows along 7<sup>th</sup> Street.

I21-7            The comment lists anticipated improvements to the building at 630 K Street. The comment is noted and will be conveyed to the City Council for its consideration.



CAPITOL PLAZA - SACRAMENTO

300 J Street  
Sacramento, California 95814  
t: 916-446-0100  
holidayinn.com  
<http://twitter.com/HolidayInnSac>  
<http://facebook.com/HolidayInnSac>

To: Stacia Cosgrove – Community Development Department  
From: Liz Tavernese – General Manager, Holiday Inn Capitol Plaza  
Re: Environment Impact Report – Entertainment and Sports Center  
Date: January 30, 2014

Ms. Cosgrove we are very excited about the planned project for the Entertainment and Sports Center. Revitalizing downtown and especially the Downtown Plaza will only enhance our business. Because we are in the business to provide a good night’s sleep, I would like to comment on a couple of concerns.

- Noise Factor – The report hits on the time schedule for noise to affect the neighborhood. We are obviously concerned about any noise that will disrupt the sleep of our patrons. Mainly after 8 pm but before 7 am could also negatively impact the hotel. The report indicates that not only will there be noise during construction but once the Center is operational there could be a disruptive noise level in the evening hours. Our concern would be the level of noise after 8 pm. The report indicates that all options to reduce noise will be used but we feel it is important that we reinforce how important that is to our business. I am referring to noise from construction and outside speakers as I realize pedestrian noise as well as traffic noise is out of your control.
- 4<sup>th</sup> Street – Our deliveries take place in the alley that is between the Fruit Building and our building, connected to 4<sup>th</sup> street. It is imperative that 4<sup>th</sup> street continues to be open to truck and car traffic.
- 3<sup>rd</sup> Street – Traffic flow could be enhanced from our lot on 3<sup>rd</sup>, especially during the construction, if the signal on 3<sup>rd</sup> in front of the hotel was opened to a left hand turn. Car traffic could use 3<sup>rd</sup> street for freeway access on M instead of circling the block. Just a suggestion.

I22-1  
I22-2  
I22-3

Thank you for your time.

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**Letter I22      Holiday Inn**  
**Response      January 30, 2014**

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- I22-1            The commenter expresses concern regarding sleep disturbance for patrons at the Holiday Inn due to construction and outdoor speaker noise after 8 PM. This is understandably important to the Holiday Inn business operation. Potential sleep disturbance from project construction and operational noise were analyzed in the Draft EIR, which includes mitigation measures to reduce and control noise associated with project construction and operations to the extent feasible. The commenter noted these nighttime noise reduction mitigation measures and their importance to the Holiday Inn. The comment is noted and will be conveyed to the City Council for its consideration.
- I22-2            There are no plans to limit cars or trucks on 4<sup>th</sup> Street south of J Street. Truck deliveries to the subject property therefore would not be adversely affected by street closures or use limitations. Please also see Response to Comment I23-2.
- I22-3            The comment recommends permitting outbound left-turns from the signalized driveway on 3<sup>rd</sup> Street, which currently permits ingress to the project's parking lot and adjacent Plaza West parking garage. There is no nexus between the Proposed Project's construction or operational impacts and the need to implement this improvement. If the commenter or the City were interested in advancing this recommendation, a modification of this type could be evaluated as an isolated improvement. The comment is noted and will be conveyed to the City Council for its consideration.

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Churchwell White LLP  
1201 K Street, Suite 710  
Sacramento, CA 95814  
M 916.468.0950  
F 916.468.0951

January 30, 2014

Robin R. Baral  
D 916.468.0576  
[robin@churchwellwhite.com](mailto:robin@churchwellwhite.com)

VIA U.S. MAIL & EMAIL ([SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org))

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

**Re: *Comments to Sacramento Entertainment and Sports Center Draft Environmental Impact Report, State Clearinghouse Number SCH 2013042031***

Dear Mr. Johnson:

We represent California Fruit Building, LLC (“Owner”), owner of the California Fruit Building located at 1006 4th Street (“Fruit Building”), adjacent to the northwest corner of the project site analyzed by the Entertainment and Sports Center and Related Development Draft Environmental Impact Report (“EIR”). The Owner is very supportive of the efforts of the City of Sacramento (“City”) to revitalize the downtown core through development of an arena and adjacent properties (the “Arena Properties”). The Owner, however, has significant concerns about project impacts that may significantly affect operation of the Fruit Building.

I23-1

As noted in the EIR, the Fruit Building has operated for 100 years, and it is listed as a Landmark on the Sacramento Register of Historic and Cultural Resources. This letter identifies potentially significant access, transportation and vibration impacts that the Arena Properties could have on the historic Fruit Building, with recommendations for the City to address prior to certification of the EIR.

**1. Maintain 4th Street Right-of-Way.**

The Owner has significant concerns regarding access to the Fruit Building during and after construction. Certain language in the DEIR is of concern in this regard:

I23-2

The Project Description states that 4th Street between J and L Street has been abandoned and no longer functions as a City street. (EIR, p. 2-7.) The EIR thereafter omits 4th Street in its description of access to the project area. (EIR, pp. 2-9 to 2-10.) Of all rights-of-way and points of access surrounding the Downtown Project Site, only 4th Street is omitted.

The EIR is also inconsistent in its discussion of Construction and Phasing. In the discussion of construction phasing for the PUD area, the EIR states that “it is likely that the southern lane of J

I23-3

Street and 4th Street south of J Street would be temporarily closed” (EIR, p. 2-69.) This differs from the analysis of transportation impacts, which notes only the closure of the south curbside lane on J Street between 4th and 5th Street. (EIR, p. 4.10-104.)

I23-3  
cont.

It is imperative that full, complete and unimpeded access through 4th Street south of J Street remain at all times during and after development of the Arena Properties. There are no other means of accessing the Fruit Building other than the doorways at 4th Street and the J-K alley, which have provided access to the California Fruit Building by tenants, clients and service providers for 100 years. The City thus should not adopt a construction phasing plan that results in any closure or prohibition of access to 4th Street south of J Street, and the EIR should be revised to account for the Fruit Building’s access requirements.

In addition, the EIR noted that approval of a PUD by the City will be required. (EIR, p. 2-89.) In the November 2013 draft of the PUD Guidelines, Guideline DG1.2 stated that the “4th Street right-of-way may be adjusted to increase the available site for the potential expansion of the cinema/theater.” Based on objections that the Owner made during the December 12, 2013, Planning and Design Commission hearing, the January 16, 2014 staff report to the PDC recommended removing this language and stated that the applicant response was to remove the language. At the present time, the Owner seeks confirmation that Guideline DG1.2 has been removed and that the PUD boundary will follow the applicant’s Tentative Map property line along the east side of 4th Street.

I23-4

**2. Address Vibration Impacts to the Fruit Building as a Historic Structure.**

The EIR notes the potential noise and vibration impacts from pile driving on historic structures. (EIR, p. 4.8-9.) The EIR also notes the policies of the City’s General Plan as they relate to vibration, and the General Plan requirement that the City shall require an assessment of damage potential of vibration-induced construction activities in close proximity to historical buildings. (EIR, p. 4.8-13, citing EC 3.1.7.) In the impact analysis, however, The EIR excludes potential vibration impacts to the historic Fruit Building by setting unreasonably tight boundary zones.

I23-5

Mitigation Measure 4.8-3 calls for a “vibration, crack and line and grade monitoring program at existing historic and non-historic buildings located within 20 and 10 feet of demolition and construction activities.” Mitigation Measure 4.8-4, however, identifies a range between 10 feet and 50 feet where construction-related vibrations could cause significant impacts to adjacent structures, and additional annoyances at distances at up to 160 feet. The distance thresholds under the monitoring program for Mitigation Measure 4.8-3 are inconsistent with the range of impacts identified in Impact 4.8-4. At a minimum, the vibration, crack and line and grade monitoring program should be extended to 100 feet for historic buildings, or the EIR should note that monitoring under Mitigation Measure 4.8-3 will include the Fruit Building.

The Fruit Building is sensitive to construction-related vibration. Vibration impacts, particularly from pile driving at the 408 J Street site, could damage the structure, infill walls, or operating systems of the Fruit Building. The monitoring program boundary for vibration impacts to historic buildings should include the Fruit Building, and should therefore be increased to 100 feet.

City of Sacramento  
January 30, 2014  
Page 3 of 3

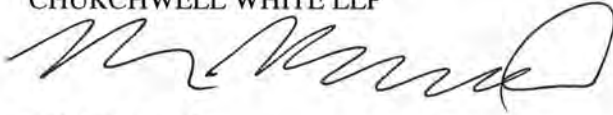
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The Owner looks forward to cooperating with the City and participating in the remaining public review process to ensure that the concerns over impacts to the historic Fruit Building are addressed prior to certification of the EIR.

I23-6

Very truly yours,

CHURCHWELL WHITE LLP



Robin R. Baral  
Attorney

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**Letter I23**      **Churchwell White, LLP**  
**Response**      **January 30, 2014**

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- I23-1            The comment provides information about the California Fruit Building as well as a summary of comments in the letter. The comment is noted and will be conveyed to the City Council for its consideration.
- I21-2            The Draft EIR, page 2-7, first paragraph, is revised to add the following after the third full sentence:
- South of J Street, 4<sup>th</sup> Street provides access for service and delivery vehicles for the California Fruit Building, the Holiday Inn, and adjacent Downtown Plaza buildings. North of L Street, 4<sup>th</sup> Street provides egress from the Plaza West Parking Structure. South of J Street, 6<sup>th</sup> Street provides access for service and delivery vehicles to the Church of Scientology and loading docks serving Downtown Plaza businesses, including the 660 J Street office building and 24 Hour Fitness.
- I23-3            Please see Response to Comment I23-2.
- I23-4            As is noted in Chapter 2 of this Final EIR, the prior PUD application has been eliminated from the current Proposed Project. There are no specific development standards or other aspects of the Proposed Project that would inhibit the use of 4<sup>th</sup> Street or access to businesses that are served from 4<sup>th</sup> Street.
- I23-5            The commenter expresses concerns regarding vibration damage to the Fruit Building from project construction, specifically pile driving, and requests the vibration crack and monitoring program to include the Fruit Building. The comment is incorrect in that the greater distances referenced by the commenter pertain to impact pile driving (potential historic building damage if impact pile driving occurs within 50 feet of a historic building and human annoyance if impact pile driving occurs within 160 feet of buildings where persons sleep). For this project, however, Mitigation Measure 4.8-3 requires auger displacement pile drilling to be used during construction, rather than impact pile driving, which could still result in damage to historical buildings within a 15-foot distance. This is described in Impact 4.8-4 on page 4.8-34 of the Draft EIR. The distances included in Mitigation Measure 4.8-3 were developed based on potential building damage, with some additional buffer, and would not be extended to 100 feet since that distance is substantially outside the range of potential historical building damage.
- I23-6            The comment is noted and will be conveyed to the City Council for its consideration.



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January 23, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development  
Department Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811-0218  
[srjohnson@cityofsacramento.org](mailto:srjohnson@cityofsacramento.org)

Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (SCH # 2013042031)

Dear Mr. Johnson: Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) & Related Development project.

I object to the DIER. I believe the traffic analysis is flawed. The traffic impacts are much greater than studied, and the costs involved to insure proper traffic flows are understated. Additionally, the number of persons per vehicle utilized in the analysis is vastly overstated thereby reducing the impact of vehicular traffic.

I  
I24-1  
I

Further the DIER unstates the infrastructure costs associated with the project.

I  
I24-2  
I

Respectfully submitted

James Cathcart  
1418 19th Street  
Sacramento CA 95811  
[jamesc1942@gmail.com](mailto:jamesc1942@gmail.com)  
916 9555213

--  
jim cathcart

**Scott Johnson**

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**From:** james cathcart <jamesc1942@gmail.com>  
**Sent:** Thursday, January 30, 2014 3:17 PM  
**To:** Scott Johnson  
**Subject:** EIR Comments

January 23, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development  
Department Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811-0218  
[srjohnson@cityofsacramento.org](mailto:srjohnson@cityofsacramento.org)

Subject: Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (SCH # 2013042031)

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I object to the DIER. I believe the traffic analysis is flawed. The traffic impacts are much greater than studied, and the costs involved to insure proper traffic flows are understated. Additionally, the number of persons per vehicle utilized in the analysis is vastly overstated thereby reducing the impact of vehicular traffic.

Further the DIER understates the infrastructure costs associated with the project.

Respectfully submitted

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916 9555213

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jim cathcart

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**Letter I24**      **James Cathcart**  
**Response**      **January 30, 2014**

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- I24-1              The comment provides an opinion that traffic impacts are greater than stated in the Draft EIR, but does not provide any substantial evidence supporting that opinion. As indicated on page 4.10-42 of the Draft EIR, observations of nearly 2,000 vehicles entering Sleep Train Arena between 5:00 PM and 8:00 PM for a weekday evening Sacramento Kings game in April 2012 yielded an average of 2.27 persons per vehicle. The sample size of 2,000 vehicles is more than adequate to develop a reasonable point estimate of average vehicle occupancy for analysis purposes.
- I24-2              The Draft EIR does not provide any cost estimates for off-site infrastructure improvements. The cost of the Proposed Project, including any off-site infrastructure improvements, is an economic issue outside the scope of an EIR. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA.

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**Scott Johnson**

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**From:** Delphine <delphinespeaksup@gmail.com>  
**Sent:** Thursday, January 30, 2014 3:19 PM  
**To:** Scott Johnson  
**Subject:** Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center and Related Development Project (SCH #2013042031)

Dear Mr. Johnson:

Thank you for the opportunity to comment on the DEIR on the proposed Entertainment and Sports Center (ESC) and Related Development project.

For your information, some of the inadequacies in the DEIR are:

Project objectives and general plan policy: The DEIR is defective because it fails to acknowledge that the proposed project is not consistent with important General Plan policies.

Inadequacy of the Event Transportation Management Plan: The ETMP itself is flawed and does not include infrastructure improvements that may be required to fully address impacts of ESC events on transit operations, and pedestrian and bicycle access.

I25-1

I25-2

Very truly yours,

Delphine Cathcart

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**Letter I25**      **Delphine Cathcart**  
**Response**      January 30, 2014

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- I25-1              The comment does not identify which policies it asserts may be in conflict with the Proposed Project. Each technical section of the Draft EIR describes how the Proposed Project is consistent with applicable 2030 General Plan policies. Consistent with the requirements of CEQA, if a potential inconsistency is identified, then any resulting physical effect is analyzed in the appropriate resource chapter of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- I25-2              Please see Response to Comment O2-17 for discussion of the Revised Draft Event Transportation Management Plan.

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Scott Johnson, Associate Planner  
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SRJohnson@cityofsacramento.org

Comments on Entertainment and Sports Center Draft Environmental Impact Report

General DEIR Comments

Thank you for the opportunity to comment on this DEIR. I am a member of the community, I work downtown and I am very interested in the future of Sacramento. Please note my opposition against a large government subsidy for the development of the ESC in downtown. I support the no build alternative and would also support modernizing the existing Sleep Train Arena.

I26-1  
I26-2

1. The DEIR project alternatives section is deficient. There is obvious bias in favor of the ESC alternative. The DEIR must include the criteria used for consideration of alternatives. Those criteria should be the same for alternatives selected or not selected; they should all be assessed equally. The entire document was written as a post-hoc analysis and justification in favor of the ESC at the Downtown Plaza site. For example academic information regarding the economic risk of ESC's and information that concludes that ESC's do not create economic growth was ignored. The average attendance of games is overestimated. CEQA requires a meaningful consideration of all the alternatives and that did not occur here.

I26-3  
I26-4  
I26-5

2. The public was never given a meaningful opportunity to provide feedback and input on the building of the ESC. The fact that over 22,000 people signed a petition calling for a vote on this issue shows that there is real opposition to this project but the project proponents never gave the public a chance to actually be part of the process. I know the response to this will be that you held some public meetings and sent out a couple of surveys but all of those things were just a sham and none of the feedback giving during meetings or to the surveys was ever given real consideration. Please listen to the community. This does not comply with CEQA.

I26-6

3. The project proponents, including the mayor and city manager have repeatedly misrepresented to the public and the media the kind of an impact the ESC will have on Sacramento and the true conclusions of the environmental document. The Mayor claims that 4,000 jobs will be created. However, the DEIR states that no new jobs will be created by the ESC, instead the hope is that 3,776 new jobs will be created by development that occurs around the ESC. The problem with that is there is no contractual promise from any of the parties involved to actually build new development around the ESC, thus this job creation is nothing more than wishful thinking. Public comments made by the mayor, city manager have misled the public about the true contents of the DEIR.

I26-7

Section 2.4.3: Projected Number and Schedule Of Events

1. Why was the average attendance estimated to be 16,750 people per game? In the last four seasons (2007/08-2010/11) the Kings average attendance was only 13,446 persons per game. From the 2004/05 season through 2010/11 season the average attendance was 15,117. This includes the 2004/05, 2005/06 and 2006/07 seasons, which were all sold out. Therefore, the average attendance figure of 16,750 people per game should not be used as average attendance that high is unlikely to occur. What is the DEIR's figure of 16,750 based on? This figure seems incorrectly high and therefore a misrepresentation. The DEIR did not include the raw data used to calculate the average attendance of 16,750. The informational nature of CEQA supports the disclosure and inclusion of the

I26-8

raw data used to calculate the average estimate of people per game. Without this information the economic need and objectives are not supported by substantial evidence.

2. Provide the average number of these types of events currently being held at Sleep Train Arena for comparison:

- Other Sporting Events
- Family Ice Shows
- Circus, Premium
- Civic Events
- Trade Shows
- Family Shows
- Conventions
- Other med. Events
- Other small events
- Graduations
- Concerts (small)
- Concerts (med)
- Concerts (large)

I26-8  
cont.

Section 2.4.6: Office

1. Why are you proposing to increase the square footage of office space when the current office space is only 50 percent occupied? What was your basis for your decision to build office space?

2. Was an economic feasibility study of the office space conducted?

I26-9

Section 2.4.7: Hotel

1. Why are additional hotel rooms being built when there is only a 70% occupancy rate in the existing hotels? What was your basis for your decision to build a hotel?

2. Was an economic feasibility study of the hotel rooms conducted?

I26-10

Section 2.7: Parking Monetization Plan

1. A major part of this project is the plan for the city to sell bonds securitized by city parking revenues (both parking fees and parking enforcement revenues) and to backfill the loss to the general fund from some unidentified source. The DEIR states: “[t]he parking monetization plan would not result in changes to the physical features or the operations of the included parking assets. Since there would be no resulting physical or operational changes, the parking monetization plan is not further considered in this DEIR.”

The decision to exclude the parking monetization plan from consideration in the DEIR is not explained in any way. I would like an explanation of why the DEIR concludes that there will be no resulting physical or operation changes. There will be physical changes since many of the existing parking spaces will be demolished when new parking taking its place. In addition the operations of the assets will change in numerous ways, one example is that staffing levels would likely increase at parking facilities that service event-going customers. One very possible change is that the revenue generated by the parking assets is not enough to pay the bond debt then parking rates will need to be raised. Raising parking rates will have an environmental impact because among other things it changes traffic flows and individual’s decisions regarding driving versus other means of transportation.

I26-11

The finding that the parking monetization plan would not result in changes to the physical features or the operations of the included parking assets is not supported by substantial evidence. All of these impacts must be discussed in the DEIR and by not discussing them you are not complying with the requirements of CEQA and you are misleading the public. The lead agency must consider the whole of the action when determining whether it will have a significant effect.

I26-11  
cont.

Section 4.8.1: Sensitive Receptors

1. What is your basis for not including nearby office workers on Capitol Mall in the list of sensitive receptors, specifically 455 Capitol Mall, 555 Capitol Mall, 621 Capitol Mall, 721 Capitol Mall and 770 L Street? Users and tenants of these building are sensitive to construction noise and impacts on them should be considered and mitigated for. The DEIR failed to adequately analyzed construction noise impacts.

I26-12

Section 4.9.2 and 4.9.3: Police and Fire Protection

1. The amount of money that will be taken from the general fund and allocated to the city's contribution to the ESC should be considered when determining impacts to police and fire protection. The city will have fewer funds to pay for police and fire protection because the general fund money used for those items will instead be diverted to the building of the ESC.

I26-13

Section 4.10.1: Environmental Setting – Analysis Periods

- 1. Why is the weekday analysis period from 4:45pm to 5:45pm and from 6pm to 7pm?
- 2. Why does the analysis not include the time period from 5:45pm to 6pm? This is not explained in the DEIR.

I26-14

Section 5.4.2: Economic Effects

1. Increases in direct, indirect and induced employment should not be included because there is no agreement between the city and any developer to actually construct restaurants, retail, offices, hotels or residences. Because there is no contractual requirement for the supposed restaurants/retail/offices/hotels to be built there is a very real risk that none of the business will be built. The DEIR fails to consider these risks and possibilities and is therefore deficient and misleading. Please explain why the City decided not to secure contracts with restaurants/hotels/offices to guarantee development around the ESC, as other Cities such as San Diego have done. Why hasn't the issue of securing contracts to guarantee ancillary development been discussed in this DEIR? This seems like a reasonable and efficient approach to creating economic development around the ESC.

I26-15

2. The increase in office jobs is not a real increase as these are likely just jobs that have been moved from the demolished office space to the newly constructed office space, they should not be included as induced or indirect employment. This misleads the public.

I26-16

3. How do you justify spending approximately \$300 million dollars on the ESC to create between 0 and 3,766 jobs?

I26-17

Section 6 Project Alternatives: General Comments

The DEIR must consider a reasonable range of alternatives that would be capable of avoiding or substantially lessening the impact of the project. The DEIR failed to analyze a reasonable range of alternatives because it does not consider a plan that would have modernized Sleep Train Arena

I26-18

Appendix K: Table K-2

1. Provide the number of events occurring each year at Sleep Train Arena and the average attendance at each kind of event, e.g. Kings games, concerts, family events, graduations, etc. so the attendance can be calculated and broken down.

I26-19

Appendix H: General Comments

1. This economic report was prepared by ALH Urban & Regional Economics. ALH refers to Amy L. Herman. Section 7 states that she has 30 years of experience, but it does not say what that experience is in. I believe Ms. Herman was chose to write this report because the authors of the DEIR knew Ms. Herman would provide whatever kind of analysis they requested as opposed to a neutral and objective assessment of impact of the new ESC, this does not comply with the requirements of CEQA and is misleading to the public.

I26-20

Appendix H: Page 7 – Economic Development

1. The purpose of CEQA is to give an accurate, objective, good-faith effort at full disclosure of the impacts of a project. By choosing only two cities that may have benefited from construction of a sports facilities and then concluding that sports facilities lead to economic growth is misleading. An overwhelming majority of the research done on the economic effects of sports facilities has shown that they do not lead to economic growth and that they are not catalysts.

I26-21

Further, in San Diego, one of the conditions placed on the developers of Petco Park was a contractual guarantee that they would build housing, retail and commercial space. The city of Sacramento has no such guarantee from developers and thus has no ability to force the development of the area around the new ESC.

This section must be revised to provide an honest and complete assessment of both the benefits and drawbacks of this project.

Appendix H: Page 20 – Net New Retail Sales

1. This section claims that there will be a decrease in retail space of 226,628 square feet, yet somehow an increase in sales of 78.2 million dollars but fails to explain how or why the increase will occur. Common sense would suggest that sales would fall when retail space decreases by about 50 percent. The DEIR does state two reasons for the increased sales: "1) the anticipated enhanced performance of the Project's retailers relative to the existing Downtown Plaza retailers; and 2) much stronger occupancy, with a small vacancy allowance assumed for the Project." But the DEIR fails to explain, using actual facts and not just wishful thinking, why they anticipate better performance of retailers and stronger occupancy numbers. Where is the data, study or support for the assertion that an increase in sales of 78.2 million will occur? This finding is not supported by substantial evidence.

I26-22

Appendix H: Page 48 – Other Economic Considerations

1. CEQA requires that decisions be informed and balanced. The DEIR does not objectively consider the economic impacts of the project. The information presented has been slanted in favor of the ESC. The analysis in this section is not consistent with the claims of page 7 of Appendix H that sports facilities lead to economic development and growth. The analysis states: "Although the evidence is somewhat anecdotal, it suggests that while Natomas businesses benefit from offsite spending by Sleep Train Arena visitors, this spending does not appear to comprise a significant portion of the sales. Furthermore, no restaurants or retailers have been known to close in parallel with the Arena's declining attendance." How do you reconcile the claims that a new ESC will lead to economic

I26-23

development and growth downtown with the admission that Sleep Train Arena has very little impact upon Natomas businesses?

↑ I26-23  
| cont.

Appendix H: Page 52 - Economic Development Impacts

1. CEQA requires “a good-faith effort at full disclosure” and “that decisions be informed and balanced.” The DEIR only considers a very limited amount of academic literature available on sports facilities impacts on cities. Only that information that was beneficial to the ESC was considered. There is a vast amount of academic literature available on the topic of sports facilities and their economic impact. Much of this information explains that ESC are a risky investment for communities and that ESC do not generate economic growth or development. CEQA does not allow you to only consider the information that you believe support your preferred alternative an actual analysis must occur. The DEIR must present all information objectively. The DEIR cannot just ignore the large amount of information regarding the negative economic impacts of ESC’s. The DEIR must explain why they chose not to consider information that did not support the ESC alternative. By ignoring all of this academic literature the statements in the DEIR are misleading and deceptive and do not provide the public with a balanced analysis of this project.

I26-24

Thank You,  
Kevin Smith  
January 31, 2014



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**Letter I26**      **Kevin Smith**  
**Response**      **January 30, 2014**

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- I26-1            The comment is noted and will be conveyed to the City Council for its consideration.
- I26-2            The comment is noted and will be conveyed to the City Council for its consideration. Please also see Response to Comment O19-7.
- I26-3            The process for selecting alternatives is explained on pages 6-1 through 6-11 of the Draft EIR. As stated on page 6-1, an EIR must describe a range of alternatives that might feasibly accomplish most of the basic objectives of the project and that could avoid or substantially lessen one or more of the significant impacts. Potential alternatives were subjected to the same criteria—would they lessen impacts while still achieving basic project objectives. The project objectives are reiterated on pages 6-1 through 6-3 of the Draft EIR. Significant and unavoidable impacts of the Proposed Project are identified on pages 6-3 through 6-5. The alternatives that were selected would reduce one or more of those impacts while still achieving many of the project objectives. Alternatives that would not reduce significant impacts while achieving most of the project objectives are discussed on pages 6-5 and 6-6, followed by an extensive discussion of past arena siting efforts.
- I26-4            The comment provides an opinion regarding the use of economic analyses in an EIR and does not raise any environmental issue related to the project or its potential environmental effects. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic issues under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.
- I26-5            The estimate of attendance at ESC events is based on documented historic use of this type of facility in Sacramento and the features of the Proposed Project, as discussed on pages 2-15 and 2-17 and shown in Table 2-4 of the Draft EIR. Attendance-related impacts, such as traffic congestion, are based on these estimates. If attendance was overestimated, then the project’s environmental impacts were also overestimated.
- I26-6            The commenter expresses concern that the public has not had adequate opportunity to participate in the project review process. The City’s outreach, workshops, public hearings, and environmental review process have provided numerous opportunities for public input and comment, well in excess of the requirements of CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

I26-7 The comment addresses employment growth associated with the Proposed Project. Table 5-1, page 5-8 of the Draft EIR, presents estimated direct, indirect, and induced employment growth associated with the Proposed Project. According to Table 5-1, there would be 2,084 new jobs in the mixed use development at the Downtown project site, and 1,682 indirect and induced jobs, for a total new employment of 3,766. The Proposed Project has received substantial attention in the local media and many statements have been made pertaining to aspects of the project, including attendance, employment, economic effects, traffic issues, and the like. At times these statements have purported to address the contents of the Draft EIR, and other times they reflect individual perceptions or opinions, or reflect other studies that have been undertaken by interested parties. The comment is noted and will be conveyed to the City Council for its consideration.

I26-8 Estimated event attendance at the proposed ESC is presented in Table 2-4, page 2-16 of the Draft EIR. As noted in the comment, the table reflects an estimated attendance at NBA regular season basketball games of 16,750, with the exception of several games per year that are estimated to be attended by the full 17,500 seated attendance. The estimated regular season game attendance is considered conservative from the perspective of the environmental impacts, and exceeds by a few hundred the highest average attendance at Sacramento Kings games during any year since the team's arrival in Sacramento. In the 2002/2003 regular season, the Kings averaged attendance of 16,672. An average attendance of 16,750 for most regular season basketball games was assumed to ensure that the EIR did not inadvertently underestimate environmental effects that would accrue on an annual basis. It should be noted that for the purposes of single day impacts, such as transportation impacts associated with a Kings basketball game, the full capacity of the proposed ESC, 17,500 attendees, was used for evaluation purposes.

Appendix K, Table K-2, in the Draft EIR provides information on annual attendance at Sleep Train Arena between 2000 and 2013. The comment requests a more detailed breakdown of past attendance based on the level of detail used for the future estimate of attendance at the proposed ESC. This level of detail that was used to estimate future attendance is not available for past attendance. In response to the comment, the following Table K-2A provides similar information as available from the Sacramento Kings.

**TABLE K-2A  
SLEEP TRAIN ARENA EVENT SUMMARY 2000-2013**

Type of Event	Number of Events													
	FYE 2000	FYE 2001	FYE 2002	FYE 2003	FYE 2004	FYE 2005	FYE 2006	FYE 2007	FYE 2008	FYE 2009	FYE 2010	FYE 2011	FYE 2012	FYE 2013
Concerts	31	14	17	30	23	29	33	33	33	19	27	36	22	15
Family Shows	26	32	33	47	45	46	45	46	51	40	43	46	39	37
Other	9	20	31	27	33	35	34	45	44	38	52	51	42	24
Kings Pre Season	3	3	3	3	4	3	3	3	3	3	3	3	1	3
Kings Reg Season	40	41	41	41	41	41	41	41	41	41	41	41	33	41
Kings Post Season	2	4	9	6	6	2	3	0	0	0	0	0	0	0
Monarchs	19	18	16	17	20	20	22	22	19	19	19	0	0	0
Knights	12	12	13	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>130</b>	<b>132</b>	<b>150</b>	<b>171</b>	<b>172</b>	<b>176</b>	<b>181</b>	<b>190</b>	<b>191</b>	<b>160</b>	<b>185</b>	<b>177</b>	<b>137</b>	<b>120</b>

Note: FYE – Fiscal Year Ending; typically June-July.  
Source: Sacramento Kings, 2013.

I26-9

The proposal to build different amounts of space within the mixed use development is based on the applicant’s objectives and assessment of potential demand in the coming years. Many factors affect the occupancy of a building. Occupancy is largely driven by overall demand and the attractiveness of the building space and cost competitiveness compared to other options in the local market.

If the project is approved as proposed, over time the applicant would determine how much and the type of space it would propose to develop. As is explained on page 2-40 of the Draft EIR,

“[t]he proposed entitlements would not, however, prescribe any particular mix of uses within each building or mixed use lot, nor would minimum amounts of any particular land use be established. Consequently, allowable development for each use that is developed in the future would depend, in part, on the amount of development capacity that is taken up by other uses. For example, the EIR assumes that the maximum amount of residential development that could be constructed would be approximately 550 units comprising about 500,000 sf. However, if less than the assumed maximum amount of residential units is developed, then additional hotel rooms or retail or office space could be built as long as the total amount of space constructed would not exceed 1.5 million sf. Further, and importantly, the maximum amounts of each type of

space would be limited by the overall level of environmental performance described in this EIR.”

I26-10 Please see Response to Comment I26-9.

I26-11 The fiscal issues associated with the parking monetization plan that would be used to provide the majority of the City’s financial contribution to ESC construction costs are economic issues. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic issues under CEQA.

At its meeting of December 10, 2013, the City Council received a report from the City Treasurer entitled “Downtown Entertainment and Sports Center Debt Financing Plan.” In that presentation, it was noted that “[r]evenues that the parking enterprise had previously contributed to the General Fund will be contributed to the financing. To keep the General Fund whole, a series of new revenues will be contributed to the General Fund. These include a new 5% arena-ticket surcharge, parking revenues from ESC events, City ESC-generated possessory-interest tax, ESC sales and utility users’ taxes, City profit from ESC operations, possessory-interest tax from the Downtown Plaza garage, and property-tax revenues from the transfer of the land to Sacramento Basketball Holdings (SBH).” Additional details of the final financing plan would be provided to the City Council prior to hearings to consider project approval, at which time the City Council would determine whether to move forward with the project, including the project financing plan involving parking monetization.

The comment is noted and will be conveyed to the City Council for its consideration.

I26-12 The commenter questions why impacts on other office buildings and workers were not included in the noise assessment in the Draft EIR. The commenter is correct that there are many additional commercial office buildings and retail uses in the area that were not explicitly described as sensitive receptors in Section 4.8 of the Draft EIR. This is because the Draft EIR analyzed noise at the nearest sensitive receptors and applied mitigation based on this worst-case exposure, which would also reduce noise at sensitive areas and receptors located farther away.

I26-13 The Proposed Project would not be expected to adversely affect the City’s ability to fund other programs such as police and fire protection services. In February 2013, the City Council adopted Principles for the Finance and Development of a New Entertainment and Sports Center. In adopting those Principles, the City stated that “[a]ny losses to the General Fund that result from the parking monetization program must be backfilled by new and reliable sources of revenues.” By protecting the General Fund, the Proposed Project would reduce the risk that the project financing could adversely affect potential funding of other community assets. Further, by spurring additional development in the

downtown and the region, the Proposed Project would increase property and sales tax revenues to the City, providing additional revenues to support City-sponsored projects and programs.

I26-14 City of Sacramento *Traffic Impact Study Guidelines* require analyses of project impacts during the weekday AM and PM peak hours (i.e., a 60-minute morning and evening analysis hour). At the vast majority of study intersections, the busiest consecutive 60-minute period in the afternoon occurred from 4:45 to 5:45 PM. This is why the weekday PM peak hour analysis represented conditions from 4:45 to 5:45 PM.

A second evening peak hour was warranted based on the Proposed Project's travel characteristics. Based on traffic data collected at a Sacramento Kings game at Sleep Train Arena and data provided by the ICON Venue Group from similar NBA arenas, it was determined that the proposed ESC's greatest hourly trip generation would occur from 6:00 PM to 7:00 PM. Analysis of a pre-event peak hour from 6:00 to 7:00 PM therefore was included in the Draft EIR. It was not necessary to include the 15-minute period (as stated in the comment) from 5:45 PM to 6:00 PM in either of the analysis periods because it fell outside the timeframes of the PM peak hour and the pre-event peak hour.

I26-15 The analysis of the Proposed Project assumes construction and operation of all of the mixed use development set forth in the Project Description. The comment raises questions about the certainty of the proposed mixed use development, which pertain to issues that are not relevant to the Draft EIR or to the physical environmental effects of the project. To the extent that the project is not fully developed, the environmental impacts described in the Draft EIR would not occur, as is presented under Alternative 1, No Project Alternative, in Chapter 6 of the Draft EIR.

I26-16 As is presented in the Draft EIR in Table 2-8, existing occupied office space that would be demolished accounts for approximately 556 existing office jobs. The proposed office space, if fully developed, would accommodate 2,159 office jobs, for an increase of 1,603 office jobs. The calculated indirect employment presented in Table 5-1 would be that indirect and induced employment associated with the net new 1,603 office jobs. The information in these two tables is presented to assess the effects of the net increase in employment by type that would occur with full implementation of the Proposed Project. The information is presented clearly and at a sufficient level of detail to ensure that the public is fully and objectively informed about the environmental effects of the Proposed Project.

I26-17 As listed on page 2-6 of the Draft EIR, the City has many objectives for the Proposed Project, including leveraging the ESC to develop the City's workforce. The role of the City's decision makers is to balance the cost of investing in the

Proposed Project against the potential benefits, including job creation. The comment is noted and will be conveyed to the City Council for its consideration.

I26-18 Please see Response to Comment O19-7.

I26-19 Please see Response to Comment I26-8.

I26-20 The analysis presented in Appendix H was prepared by ALH Urban & Regional Economics, a firm focusing on urban and regional economics with extensive experience in the preparation of urban decay analyses for CEQA documents. ALH Urban & Regional Economics prepared an independent analysis consistent with professional standards and methods. The data and analysis presented in Appendix H accordingly are objective and based on technical and analytical data gathered from a number of sources. As noted in the Draft EIR on page 1-3, all references used to develop the economic analysis, as well as staff members' resumes, are available for public review from the City of Sacramento, Community Development Department office.

I26-21 Appendix H contains an analysis of the potential for urban decay to be caused by the retail component of the proposed mixed use development. It is not an assessment of the economic effects of the proposed ESC or of sports facilities in general. The discussion of economic effects of sports facilities contained in Appendix H is additive to the urban decay study, and while acknowledging that there are studies that demonstrate different effects of sports facilities on economic development, it identifies two examples that ALH Economics considers particularly relevant and comparable to the Proposed Project. The specifics of these examples do not contribute to or detract from the conclusions of the Draft EIR regarding the environmental impacts of the Proposed Project.

I26-22 The most conservative approach for conducting an urban decay analysis is to assume a high level of economic activity at the proposed retail space. To the extent that the retail space in the Proposed Project is less successful, the project would also be less likely to adversely affect retail sales at retail space elsewhere in the market area. The estimates of future sales are based on standardized data available from Retail MAXIM, which annually publishes an industry resource document that reports average sales per square foot figures for many national retailers and aggregates the data by specific retail categories. The increase in retail activity at the project site is exacerbated by the current underperformance of retail space on the project site, estimated in Appendix H to be 20% to 47% below estimated levels of retail sales by type of space reported by Retail MAXIM. This projected underperformance is consistent with overall sales data reported by the State Board of Equalization. For further explanation, please see the discussion presented in the Draft EIR, Appendix H on pages 17 through 20.



I26-23           The Draft EIR addresses the physical environmental effects of the Proposed Project. As is presented in Chapter 5 and Appendix H, the Draft EIR addressed the question of the potential effects of the closure of Sleep Train Arena on business activity in North Natomas. Based on comparison of retail sales data and Sleep Train Arena attendance data over recent years, and communications with commercial real estate brokers, the conclusion of the analysis is that North Natomas businesses are not highly reliant on Sleep Train Arena activity. More specifically, in recent years as Sleep Train Arena attendance has decreased, there has been a corresponding increase in retail sales activity. The conclusion of the analysis is that retail activity in Natomas is more highly dependent on the overall economy of the region than attendance at Sleep Train Arena.

The Draft EIR, and specifically Appendix H, does not make a claim or prediction that “a new ESC will lead to economic development and growth downtown” as suggested in the comment. Appendix H states that “[s]ports facilities, along with other major civic structures such as cultural and entertainment centers, are often perceived as an economic development tool to rebuild cities.” The examples of San Diego and Columbus, Ohio, that are presented in Appendix H provide comparisons to situations that are similar to downtown Sacramento. Based on the examples provided, Appendix H concludes that “sports facilities can serve as economic development catalysts, impacting how and where people spend money. The attraction of large crowds creates economic activity that helps leverage development. Sports facilities, along with entertainment complexes and cultural facilities, can renew downtown areas, create new images, and generate real economic development.” While the examples provided in Appendix H provide a basis to conclude that the ESC could provide an economic development catalyst, the Draft EIR does not claim that it will do as such.

Conclusions regarding the effect of closure of Sleep Train Arena are separate and distinct from the information regarding the potential economic catalyst of the proposed ESC. The situations differ in many significant respects related to land use and economic activity, including but not limited to the suburban, auto-oriented location of Sleep Train Arena and its lack of community orientation as well as its character as a dated facility with declining attendance and documented challenges in attracting high profile concerts and other events. Sleep Train Arena also is located in Natomas, an area subject to flood-related development restrictions. These economic factors differ greatly from those associated with a new entertainment and sports center located in the City’s Central Business District surrounded by businesses and development.

I26-24           As explained in Response to Comment I26-23, Appendix H of the Draft EIR notes that sports facilities “are often perceived” as economic development catalysts, but does not attempt to prove that is the case or will be the case in Sacramento. It does, however, provide relevant examples where such economic development has

occurred. The examples provided are part of the basis for the conclusion of the EIR that the Proposed Project would not lead to further urban decay in an already blighted part of K Street. Appendix H was prepared by ALH Economics, which brings more than 20 years of experience in conducting market analyses and CEQA-related urban decay studies. In the opinion of the professional economist that prepared the study, the examples are relevant comparisons and substantiate that “K Street and surrounding areas may reap strong economic development benefits from development of the ESC.” It should be noted that the use of comparative examples supplemented the extensive quantitative analysis of urban decay which concludes that the market area retail demand would be of sufficient size to absorb the proposed retail development as well as expanded levels of retail sales at the existing Macy’s while continuing to maintain a healthy market for retail space and not causing urban decay.

As is stated in Response to Comment I26-21, the Draft EIR is required to disclose the physical environmental effects of the Proposed Project and is not an economic impact analysis. Social and economic effects are not physical environmental effects under CEQA (see Response to Comment O4-17), and are only relevant insofar as they may provide a linkage between the Proposed Project and a physical environmental impact, or if used as a measure of the significance of a physical environmental impact. To the extent that the proposed ESC is less of an economic development stimulus than some predict, the potential adverse environmental impacts of the project would be less than those described in the Draft EIR. This is true even in the case of the analysis of potential urban decay effects, where less economic activity associated with the project would mean that there is more available demand to support existing or non-project related retail businesses.

**Scott Johnson**

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**From:** Gail Rains <gail.rains314@gmail.com>  
**Sent:** Friday, January 31, 2014 12:37 PM  
**To:** Scott Johnson  
**Subject:** No Carriage Horses

As a native of Sacramento, I have never enjoyed nor supported the use of carriage horses.

With the coming arena downtown, creating more traffic and general city-type chaos, I wish to go on record that carriage horses will only suffer further stress and pollution.

The great city of New York has banned carriage horses. I see no detriment to our quality of life if Sacramento would do the same.

The well being of these horses should be paramount and taken into consideration.

Thank you.

Gail Rains  
District 3

I27-1

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**Letter I27**     **Gail Rains**  
**Response**     January 30, 2014

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I27-1            Please see Responses to Comment Letter O6.

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**Scott Johnson**

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**From:** Marc Gordon <Marc.Gordon@sunpower.com>  
**Sent:** Friday, January 31, 2014 1:16 PM  
**To:** Scott Johnson  
**Cc:** Ronald Lagman  
**Subject:** macys project

Mr Johnson,  
I am in need of information for the new arena in DT Sac. Specifically, I need the height and mass dimensions of the proposed arena that is across 5th street from the Macys store where have been engaged to develop the installation of a solar PV system on the roof. I have reviewed the materials I could find on line, but so far I have not found any that will provide me with the shade impact to the rooftop of Macys

I28-1

Thank you

Marc Gordon  
National Large Account Project Development Manager  
SunPower Corporation,  
1414 Harbour Way South  
Richmond CA 94804  
510-260-8359 direct  
510-326-5522 mobile  
[marc.gordon@sunpower.com](mailto:marc.gordon@sunpower.com)

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**Letter I28**      **SunPower Corporation**  
**Response**      January 30, 2014

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I28-1              The physical characteristics of the proposed ESC are presented on pages 2-18 through 2-31 of the Draft EIR, including Figures 2-8, 2-9, and 2-16 that present cross-sections, and Figures 2-10 through 2-15 that present floor plans.

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*Plaza*  
FIVE FIFTY FIVE

January 31, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
SRJohnson@cityofsacramento.org

Sent via email and hand delivered

RE: Comments on the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development (December 2013); State Clearinghouse Number: SCH 2013042031

Dear Mr. Johnson:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development (ESC) Project. The owners of Plaza Five Fifty Five located at 555 Capitol Mall, offer this letter in strong support of the proposed project and believe it will be an important catalyst for the renaissance of Downtown Sacramento. We also send the letter to identify a number of concerns regarding the adequacy of the DEIR as it relates to impacts to the property at 555 Capitol Mall and pursuant to the California Environmental Quality Act (CEQA), Pub. Res. Code Sections 21000 *et seq.*

I29-1

Beginning in the fall of 2013, as we became aware of the plans for the ESC, we contacted the project sponsors and the City staff in an attempt to better understand the potential effects of the project on our property. Concurrently, 555 Capitol Mall had begun the process of preparing an application for City approval of an ambitious plan for the redevelopment of our property. The proposed planning application will be submitted in February 2014 and will include a multi-phased, mixed-use development including the conversion of the existing two buildings to a combination of residential, retail, office and other uses. City staff and Plaza 555 representatives conferred in early October 2013 and reviewed the Lionakis Architects plan. The presentation was focused on integrating and maximizing Plaza 555's future plan and avoiding access limitations and back-of-house impacts interpreted from the conceptual renderings of the ESC. Shortly thereafter City staff shared these concepts and concerns with the ESC project sponsors.

I29-2

Upon receiving notice of the 45-day comment period for the DEIR, we contacted and have met with the project sponsors to explain our concerns and we have had discussions with their traffic-engineering consultants, Fehr and Peers. Through those conversations, meetings and email correspondence, we expressed our concerns regarding: 1) a significant obstruction to the ingress and egress to our parking garage prior to, during and after events; and 2) the long-term effects of the project design that placed all of the ESC “back of house” operations on L Street, directly opposite our project.

I29-2  
cont.

We appreciate the time they have taken to meet with us to date, yet we are still striving to resolve the following deficiencies contained in the DEIR and the proposed Draft Traffic Management Plan (TMP) attached to the DEIR as Appendix L:

1. Impacts to 555 Capitol Mall Due to Proposed Pre-Event and Post-Event Street Closures:

I29-3

The proposed street closure plan for 5<sup>th</sup>, 6<sup>th</sup> and L Street as depicted in the Draft TMP, significantly and negatively impacts our property, by severely restricting ingress and egress to and from our nearly 800 parking stall, multi-story parking garage. (Page 46 incorrectly assumes an exit from our parking lot onto 5<sup>th</sup> Street.) In addition, the street closures will cause significant and negative impacts to our loading and unloading operations, which occur in the evenings and weekends in the “service alley” between the buildings and the parking structure at 555.

The street closure plan will result in significant delays and create significant air quality and noise impacts as vehicles will be required to idle for extended periods waiting to enter or exit the garage and service alley. These impacts are specifically damaging to our property in ways that are severe and disproportionately significant when compared to other properties in the vicinity.

I29-4

The DEIR does not evaluate these and other potentially significant impacts related to implementation of the TMP, despite the fact that the Draft TMP appended to the DEIR includes detailed information regarding the location of street closures near 555 Capitol Mall. Given this level of detail, impacts related to the TMP are reasonably foreseeable, and therefore should be evaluated in the EIR pursuant to CEQA. 14 Cal. Code Regs. Section 15064(d). In addition to analyzing impacts related to the street closures and other elements of the TMP, the DEIR should identify mitigation measures to minimize any significant impacts caused by the TMP. 14 Cal. Code Regs. Section 15126.4. The City should not defer until later the formulation of any such mitigation measures. *See San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645.

I29-5

**Recommendation:** We recommend that the street closure plan be amended to accommodate ingress and egress to our parking garage and service alley, and/or the ESC should be obligated to make physical modifications to the garage to ensure adequate ingress and egress as well as loading and unloading operations at

I29-6

555 Capitol Mall. The DEIR should include additional environmental analysis of these impacts from the TMP in order to identify suitable mitigation measures to reduce the impacts of the TMP to less than significant levels including:

- a. A full description and analysis of the traffic impacts related to delivery, service and support vehicles related to arena operations including truck queuing and staging on L Street and exiting on 5<sup>th</sup> Street.
- b. Accurate illustrations of vehicular ingress/egress similar to pedestrian versions included in report
- c. Citation as to those with specific responsibility/authority for the physical changes that will be required to adequately mitigate these impacts, and the operational changes that will be required to address long term traffic management.

I29-6  
cont.

2. L-Street Street Improvements and Building Façade

As illustrated in conceptual plans for the ESC presented to the City, the L Street frontage of the proposed project will result in direct impacts to 555 Capitol Mall in that the L-Street frontage supports all “back of house” operations for the ESC. This “back of house” function, along with the proposed truck entrance and the proposed pedestrian walkway that is elevated above L Street, if not altered or addressed adequately with the design, will combine to create a blighting influence and result in unnecessary challenges for the future redevelopment for properties fronting on L-Street.

I29-7

Aesthetic impacts related to this “back of house” feature are not adequately depicted in the set of photosimulations included in the DEIR. Although the DEIR includes a photosimulation of the project site from the corner of L Street and 7<sup>th</sup> Street, the DEIR does not include a photosimulation depicting the project’s “back of house” design and operations relative to the properties adjacent to that portion of the site. As such, the DEIR does not adequately identify aesthetic impacts or potential mitigation measures related to this design aspect of the project.

**Recommendation:** The L Street frontage of the ESC needs to be designed to mitigate these blighting influences and to ensure that the future redevelopment of other properties along L Street is encouraged. The frontage needs to be pedestrian-oriented with active uses and attention to the street design elements, building openings and other uses that have transparent windows and doors that open onto L Street. The TMP should contemplate service vehicle queuing, staging, and travel paths to limit or avoid conflicts with this more pedestrian-orientated use of L Street.

I29-8

**Summary:**

We remain enthusiastic supporters of the ESC and sincerely believe that there are mitigations that can adequately address our concerns. We eagerly look forward to working with the City and the ESC sponsors in seeking out these acceptable resolutions.

I29-9

Sincerely,

Plaza Five Fifty Five, LLC, a Delaware limited liability company



By, William Chang  
Manager

cc: Clark Morrison, Cox Castle

**Letter I29**      **Plaza 555**  
**Response**      **January 30, 2014**

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- I29-1      The cumulative analysis in the Draft EIR accounts for a variety of future projects throughout the city and in the Central Business District, as included in the regional transportation models overseen by SACOG. These models are based on economic and demographic projections of growth, and would account for the potential growth that the commenter's project would represent, in the event that an application is submitted and that the project is approved and constructed. At the time of preparation of the Draft EIR, no specific application for the commenter's project was pending or anticipated. The comment is noted and will be conveyed to the City Council for its consideration.
- I29-2      Please see Response to Comment I29-7 for a discussion of the location of "back of house" uses in the proposed ESC, the nature of uses that would front on L Street, and updates to the L Street frontage of the Proposed Project.
- I29-3      The 800-space parking garage at 555 Capitol Mall has the following entry/exit points: 5<sup>th</sup> Street (one inbound entry lane), L Street (one outbound exit lane), and 6<sup>th</sup> Street (one inbound entry lane and one outbound exit lane). As depicted in Figure 16 of the Revised Draft Event TMP, L Street is proposed to be closed to vehicular traffic for approximately 45-60 minutes during weekday evening post-event conditions. As such, the L Street exit from 555 Capitol Mall would not be open. As indicated in Note 1 on Figure 16, 6<sup>th</sup> Street would be open to local traffic including the exit from the 555 Capitol Mall parking garage. Without any special access provisions, all outbound traffic departing 555 Capitol Mall during post-event conditions would be required to use the 6<sup>th</sup> Street exit.
- Even if "pre-paid" parking at 555 Capitol Mall were to be implemented for special events (i.e., exit gate would remain open and traffic would flow continuously), it is likely that congestion and delays would occur (due to a single egress point) at the 6<sup>th</sup> Street exit if the garage were nearly full. To address this issue, two access modification options are available to the commenter:
1.      Temporarily convert the entry lane from 5<sup>th</sup> Street to allow outbound travel during the post-event conditions. Position a traffic control officer to monitor/control the flow of outbound traffic from this driveway and the southbound sidewalk pedestrian flow. A distinct advantage of this configuration is the immediate access (via 5<sup>th</sup> Street to L Street) onto northbound I-5 or westbound Tower Bridge from motorists departing the 555 Capitol Mall parking garage at this driveway.

2. Temporarily convert the entry lane on 6<sup>th</sup> Street to allow for outbound travel during post-event conditions. Motorists could exit either driveway onto southbound 6<sup>th</sup> Street, and then head westerly on Capitol Mall or southerly toward the I-5 on-ramps at P Street. Adequate pavement width is available on 6<sup>th</sup> Street to enable two simultaneous flows of traffic to exit the garage and travel southbound (via traffic management and coning).
3. It may be desirable to implement both options. Field observations indicate that the 5<sup>th</sup> Street access immediately ‘ramps up’, meaning it serves the higher garage floors. The 6<sup>th</sup> street access serves the at-grade floor and at least one belowground floor. Having both accesses open would better facilitate the flow of post-event traffic.

A third option, opening the L Street garage exit during post game conditions, was discussed with the City’s Public Works Department. This exit is situated immediately west of 6<sup>th</sup> Street, meaning that vehicles would traverse nearly the entire L Street block between 5<sup>th</sup> and 6<sup>th</sup> Streets before exiting the closed segment of L Street. Due to the strong likelihood of conflicts between vehicles exiting at this driveway and pedestrians who would be crossing L Street, this concept was determined to be infeasible. Based on input from the City of Sacramento Department of Public Works, even if this option was included in the Revised Draft Event TMP, the Police Department’s traffic control officers would disallow it if field observations indicated safety risks and dictated its closure.

Figure 14 of the Revised Draft Event TMP shows post-event vehicle routes including an exit from 5<sup>th</sup> Street between Capitol Mall and L Street. This exit was intended to represent the existing exit for the adjacent Bank of America garage, and not the 555 Capitol Mall garage. The comment is incorrect and there is not an error on Figure 14.

A one-way (eastbound-only) service alley exists directly south of the parking garage between 5<sup>th</sup> and 6<sup>th</sup> Streets. Based on the street closures shown on Figure 16, vehicles could exit this alley onto 6<sup>th</sup> Street, but not enter the alley due to the closure of 5<sup>th</sup> Street to the south. As noted in the Revised Draft Event TMP, these closures would occur about 50 times per year for about 45-60 minutes. Should a planned 5<sup>th</sup> Street closure (north of Capitol Mall) cause conflicts with planned deliveries that would use the service alley, the Revised Draft Event TMP is a flexible tool that accounts for the fact that coordination with the City and ESC operator may be necessary. Options could include staging delivery vehicles until after the L Street closure has ended, or permitting delivery vehicles to pass through the street closure at Capitol Mall and 5<sup>th</sup> Street.

I29-4

The commenter asserts that road closures will create significant air quality and noise impacts to the 555 Capitol Mall building due to extended vehicle idling. As to noise, slow-moving or idling vehicles would result in less noise than fast moving



vehicles. As to air quality, the primary localized air quality pollutant associated with traffic congestion and idling is carbon monoxide (CO). CO emissions for the worst-case locations were assessed in Impact 4.2-5 in the Draft EIR and were found to be less than significant.

I29-5 Please see Response to Comment O2-17.

I29-6 The comment requests mitigation to modify the parking garage accesses to provide adequate ingress and egress. A field review (limited to observations made from public street sidewalks) was conducted. This review did not yield any noticeable, obvious physical constraints (e.g., insufficient drive aisle width) that would preclude the accesses on 5<sup>th</sup> and 6<sup>th</sup> Streets from temporarily being converted for outbound travel. However, it is acknowledged that special signage, temporary removal of access gates, and other modifications at each access may be necessary.

Please see Response to Comment I29-4 for responses regarding the service alley, vehicular ingress, and post-event street closures.

I29-7 The comment states that the L Street frontage of the Proposed Project would represent “back of house uses” and would have a “blighting influence,” adversely affecting other nearby properties that face L Street. Contrary to the comment, the project plans show that the L Street frontage of the Proposed Project would become materially more activated than under current conditions. As is presented in Figures 2-10 and 2-11 of the Draft EIR, most of the functions that would typically be considered “back of house” would be accommodated below grade on the Event level of the proposed ESC. This would include truck loading docks, marshaling areas, trash and recycling receptacles, media vans, ambulance staging, and the like (see Draft EIR Figure 2-10).

As described on page 2-22 of the Draft EIR, “[a]long L Street there would be entry to a lobby serving the administrative space above the practice courts; entries for VIPs, media, employees, and Paratransit riders; ticket and box offices, and a retail space that could be used for a team store.” The Draft EIR described that there would be a truck loading entrance on the north side of L Street, between 5<sup>th</sup> and 6<sup>th</sup> Street. As is described in Chapter 2 of this Final EIR, since publication of the Draft EIR, the applicant has revised the design of the proposed ESC to relocate the truck loading entrance from L Street to 5<sup>th</sup> Street. This change would further eliminate non-pedestrian uses from the project’s L Street frontage. The uses that would be present on the project’s L Street frontage would have a greater level of day-to-day activity than the current uses on the project site (back entrance to Macy’s East, small amount of recessed and below-grade retail/restaurant (e.g., Pre-Flite Lounge)), or the parking structures and lots line the south side of L Street (and which represent the back side of buildings that front on Capitol Mall).

Since publication of the Draft EIR, additional detailed depictions of the L Street frontage have been developed by the project architects, and are presented below.



I29-8                    The comment is noted and will be conveyed to the City Council for its consideration. Please see Response to Comment I29-7 for a discussion of the uses planned for the L Street frontage of the proposed ESC, including relocation of the truck loading entrance from L Street to 5<sup>th</sup> Street.

I29-9                    The comment is noted and will be conveyed to the City Council for its consideration.

# PAUL HASTINGS

1(415) 856-7076  
roberthoffman@paulhastings.com

January 31, 2014

79252.00002

VIA E-MAIL SRJOHNSON@CITYOFSACRAMENTO.ORG

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

**Re: UNION PACIFIC RAILROAD COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT PROJECT (P13-065) (SCH#: 2013042031)**

Dear Mr. Johnson:

On behalf of Union Pacific Railroad ("UPRR"), we submit the following comments on the above referenced Draft Environmental Impact Report ("EIR").

**1. The EIR Must Include Measures to Mitigate the Project's Potentially Significant Impacts on the Remediation of the Railyards South Plume.**

Modeling for the South Plume Feasibility Study (*Final Feasibility Study Report, Central Shops Study Area – Soil and South Plume Study Area – Ground Water, The Railyards, Sacramento, CA*. ERM August 2010, [http://www.envirostor.dtsc.ca.gov/public/final\\_documents2.asp?global\\_id=34400004&doc\\_id=5005829](http://www.envirostor.dtsc.ca.gov/public/final_documents2.asp?global_id=34400004&doc_id=5005829)) concluded that at high rates of extraction from depths less than 100 feet, groundwater is drawn from the coarse zone between approximately 65 and 95 feet (the "Gravel Zone"). The Gravel Zone contains significant volatile organic compound ("VOC") contaminant mass that at the proposed pumping rates will likely be relocated from the current footprint of the South Plume and will likely require treatment prior to discharge. The EIR must explain how to design the proposed dewatering system to minimize the relocation and treatment of existing contaminant mass.

The Draft EIR acknowledges in impacts 4.6-4 and 4.6-6 that construction dewatering could adversely affect the remediation of the Railyards South Plume, and that this is a potentially significant impact, but the EIR does not explain how this impact can be avoided or mitigated. The Draft EIR states only that the City and the project applicant will obtain approval from the Department of Toxic Substances Control ("DTSC") prior to engaging in dewatering activities. To the extent this is intended to qualify as mitigation, it is improper deferral of mitigation.

Deferral of mitigation is permissible only when an EIR specifies "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." 14 CCR § 15126.4(a)(1)(B). Here, the Draft EIR includes no such specifications: it is silent both as to performance standards and as to methods to accomplish them. At a minimum, the EIR must explain the performance standards that will be met ("DTSC approval" is not a performance standard) and the types of "appropriate steps" that could be taken to accomplish those standards. This should include a commitment from the project applicant to perform any remediation that is necessary as a result of relocating or otherwise disturbing the existing contaminant mass.

I30-1

**PAUL  
HASTINGS**

Scott Johnson, Associate Planner  
January 31, 2014  
Page 2

The City and the project applicant are further advised that UPRR does not assume responsibility for any costs of remediation caused by the City or project applicant or which might otherwise result from the construction of the proposed project.

I30-1  
cont.

**2. The Project Must Avoid Interference with Existing Groundwater Remediation Systems.**

Experience dictates that during wet weather, the City of Sacramento combined sewer system may experience flows at or greater than capacity. The Draft EIR notes that the project will involve extraction of 1 million gallons per day ("mgd") for a period of 12 to 15 months, and acknowledges in impacts 4.11-5 and 4.11-7 that the project would discharge additional flows to the City's sewer and drainage systems, which could exceed existing infrastructure capacity.

I30-2

UPRR is actively remediating soil and groundwater in the vicinity of the project. The existing groundwater remediation systems have float switches that allow for shut off during periods of high storm flow. In addressing sewer capacity limitations and associated impacts and mitigation, the EIR must account for nearby groundwater remediation systems, and the project must not prevent or impact continued operation of the existing systems. The mitigation measures should include methods to avoid interference with remedial systems and a commitment to perform any remediation that is necessary as a result of interference with existing systems or exacerbation of existing contaminants.

**3. The Project Must Include Mitigation to Protect Construction Workers from Contaminated Groundwater.**

The Draft EIR acknowledges in impact 4.6-3 that the project could expose "people" to existing contaminated groundwater during dewatering activities. The Draft EIR includes insufficient discussion of potential impacts to construction workers and protective mitigation. The project must include mitigation measures to protect construction workers from vapors in contaminated groundwater and from direct contact with contaminated groundwater.

I30-3

Thank you for the opportunity to participate in the planning process. We look forward to reviewing your responses in the Final EIR.

Sincerely,



Robert P. Hoffman  
for PAUL HASTINGS LLP

CJB

Cc Ruth Cayabyab  
Project Manager  
Permitting Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, CA 95826

LEGAL\_US\_W # 77615547.6

**Letter I30      Union Pacific Railroad**  
**Response      January 30, 2014**

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I30-1      As discussed on page 4.6-23, the project proposes to take several measures to identify and treat any contaminated groundwater, which would ensure that contaminated groundwater is not discharged to the sewer system. In addition, Impact 4.6-4 discusses the potential for the Proposed Project to affect the location of the South Plume and/or interfere with remediation efforts. See also Responses to Comments A10-5 and A10-9.

To provide clarification, Mitigation Measure 4.6-4 on page 4.6-24 of the Draft EIR is revised as shown:

Prior to initiating dewatering activities for the ESC and/or ~~PUD~~ SPD development, the ~~City and the~~ project applicant shall demonstrate that dewatering activities would adequately protect construction workers and minimize interference with remediation activities subject to ~~obtain~~ approval from DTSC. If during project dewatering, monitoring data indicate that the remediation of the groundwater plume is being adversely affected, dewatering activities shall cease until measures are developed and implemented, subject to DTSC approval. Measures might include: (1) limiting the duration of pumping during periods of high groundwater flow; (2) relocating dewatering wells; or (3) equally effective measures to be developed in consultation with DTSC which eliminate demonstrated adverse effects to on-going remediation.

I30-2      Mitigation Measure 4.11-5 on page 4.11-38 of the Draft EIR requires that the applicant manage drainage and dewatered groundwater in a manner that ensures that the existing capacity of the CSS and Basin 52 are not exceeded. Such measures could include holding tanks, suspending construction during dewatering and/or designing and implementing offsite improvements to accommodate project flows. With implementation of this measure, the Proposed Project would not exceed existing infrastructure capacity.

For a discussion of the project's relationship to ongoing remediation of the South Plume, please see Response to Comment I30-1.

I30-3      As discussed on pages 4.6-21 and 4.6-22 of the Draft EIR, all dewatering would be conducted pursuant to City and CVRWQCB requirements, which would protect construction workers from exposure to contaminants in groundwater and/or vapors. After project construction is complete, there would be no risk of exposure to contaminated groundwater because dewatering would cease.

For a discussion of vapor intrusion risks, please see Response to Comment A10-7.

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**Scott Johnson**

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**From:** johnphyde@gmail.com on behalf of John Hyde <jhyde@bullet-marketing.com>  
**Sent:** Friday, January 31, 2014 3:23 PM  
**To:** Scott Johnson  
**Cc:** Kelly Smith  
**Subject:** Objections to the draft Environment Impact Report

To: Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811

cc: Kelly T. Smith

Dear Mr. Johnson,

I am writing to express my objections to the Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development, a draft of which was prepared for review in mid-December 2013.

I believe the EIR is inadequate, and I oppose its certification.

Among my reasons for objecting is this: I don't believe that the EIR adequately addresses the problems that the arena would create for traffic in and around the arena. I believe that the arena would impact the freeway connections to such a large degree that Caltrans would eventually require significant changes to freeway on-ramps and off-ramps.

Based on analysis I've read (especially by the watchdog group, Eye On Sacramento), these changes, if ordered by Caltrans, would be paid for by the citizens of Sacramento, to the tune of \$100 million or more. I don't feel that this issue has ever been fully addressed by the city, not here in the EIR nor in the City Council's Term Sheet.

Thank you.

John Hyde  
1821 N. Bend Dr.  
Sacramento, CA 95835

**John Hyde / Bullet Marketing**



I31-1

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**Letter I31**     **John Hyde**  
**Response**     January 30, 2014

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I31-1            Please see Responses to Comment Letters A4 and O10.

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**Scott Johnson**

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**From:** laura <bikeamazon@yahoo.com>  
**Sent:** Friday, January 31, 2014 4:09 PM  
**To:** Scott Johnson  
**Cc:** Mayor Johnson; Jay Schenirer; Angelique Ashby; Allen Warren; Steve Cohn; Steve Hansen; Kevin McCarty; Darrell Fong; Bonnie Pannell  
**Subject:** The Arena DEIR is inadequate and should be rejected

IMPACT ON UNEMPLOYMENT: this project will replace businesses that are open daily, 70+ hours a week with a stadium that will on be used on an occasional basis for 3-4 hour stretches. All those man-hours of employment will be lost. the jobs that are "created" from the ESC are really just moved from north natomas. this will negatively affect the regions unemployment rate and this DEIR does not address this specific issue.

I32-1

IMPACT ON CITY BUDGET: The construction of the ESC depends on the Parking Monetization Plan. the impact of this on is dismissed in section 2.7 of the DEIR:

As part of its financial contribution to the proposed ESC, the City of Sacramento would sell bonds that would be repaid through a stream of revenues generated by a portion of the City's downtown on- and off-street parking assets. The parking monetization plan would not result in changes to the physical features or the operations of the included parking assets. Since there would be no resulting physical or operational changes, the parking monetization plan is not further considered in this EIR.

I32-2

The bonds will be repaid by diverting "a stream of revenues" from the city of sacramento's operational budget. the loss of this funding will directly affect all other spending done on the behalf of the residents of the city. the DEIR should not ignore this very important impact on all of the city's residents and on the maintenance and operation of other city assets and programs that will have to sacrifice a part of their funding stream to repay the bonds required for the construction of the ESC. Library hours are being cut in the city right now. this DEIR acknowledges the cuts to the city police department since the recession started in 2007. The DEIR needs to "further consider" these impacts in order to be adequate and relevant.

Laura Rubalcaba,  
31 PADDLE COURT  
SACRAMENTO CA 95833

"Forward Together! Not One Step Back!" - Reverend William Barber, founder, Moral Monday Campaign in North Carolina and President of the NC NAACP

**Scott Johnson**

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**From:** laura <bikeamazon@yahoo.com>  
**Sent:** Friday, January 31, 2014 4:19 PM  
**To:** Scott Johnson  
**Subject:** Fw: This DEIR is inadequate and should be rejected

i sent these comments previously, but got no acknowledgement.

Laura Rubalcaba,  
"Forward Together! Not One Step Back!" - Reverend William Barber, founder, Moral Monday Campaign in North Carolina and President of the NC NAACP

----- Forwarded Message -----

**From:** laura <bikeamazon@yahoo.com>  
**To:** "SRJohnson@cityofsacramento.org" <SRJohnson@cityofsacramento.org>  
**Cc:** Kelly Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, January 31, 2014 10:33 AM  
**Subject:** This DEIR is inadequate and should be rejected

**Digital Billboards** - this project will add six new digital bill boards in the city. Digital billboards are very distracting to drivers and can cause fatal crashes, especially along heavily traveled freeways where cars are traveling at high speed and traffic conditions can change rapidly. A driver may only have seconds to avoid a fatal crash and if they are busy trying to see what is on the digital billboard (which changes every 2 to 6 seconds) they could be dead before they know it. digital bill boards are flashy and feature movement, they are designed to make people look at them. they are not appropriate for use along freeways where drivers need to pay attention to the traffic. the issue of traffic safety impacts of digital bill boards was not adequately addressed in the Draft EIR. A search of the 112 page section of the DEIR turns up exactly zero references to "digital billboard".

I32-3

**4.9.2 Police Protection.** you say:

Implementation of the Proposed Project would have a significant impact related to police services if it would:

- require, or result in, the construction of new, or the expansion of existing, facilities related

to the provision of police protection, the construction of which could cause significant environmental impacts.

You do not consider the utilization of the police (which I pay to protect my property and person)

for arena activities a significant impact?

you go on to say:

Impact 4.9-1: The Proposed Project would increase demand for police protection services

I32-4

within the City of Sacramento.

The Sacramento Sheriff's Department currently provides interior and exterior security at Sleep

Train Arena during events, and also manages ingress and egress traffic patterns before and after

Sacramento Kings games.<sup>3</sup> The Sacramento PD would be responsible for interior and exterior

security at the proposed ESC, and for implementation of the Proposed Project's traffic management plan (TMP) before, during, and after certain events.

These police will not be available to me, the taxpayer who is paying for them, while they are providing services to the project, yet you completely ignore this in the EIR. all you measure is the impact of new people moving into the area and the effect that would have on police staffing. this is a critical oversight in the DEIR.

this DEIR is inadequate and should be rejected.

Laura Rubalcaba,  
31 paddle Court  
Sacramento, California 95833

"Forward Together! Not One Step Back!" - Reverend William Barber, founder, Moral Monday Campaign in North Carolina and President of the NC NAACP

I32-4  
cont.

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**Letter I32**     **Laura Rubalcaba**  
**Response**     **January 30, 2014**

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- I32-1            As is described in the Project Description, Chapter 2 of the Draft EIR, the Proposed Project would increase the amount of space for businesses on the project site. Table 2-2 explains the changes in the amounts of space. In addition to the proposed ESC, the Proposed Project would result in an increase of over one million square feet of space. Excluding the proposed residential units, there would still be an increase of over 500,000 square feet of retail/commercial/office/hotel space on the project site compared to existing conditions. As is further presented in Table 2-8, not accounting for the jobs at the proposed ESC, most of which would be transferred from the current Sleep Train Arena site, there would be an increase of nearly 2,100 jobs at the Downtown project site. Contrary to the comment, the Proposed Project would not adversely affect employment in Sacramento. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA.
- I32-2            Please see Response to Comment I26-11.
- I32-3            Please see Response to Comment O19-9.
- I32-4            The Sacramento Police Department is responsible for providing law enforcement services throughout Sacramento. Please also see Responses to Comments O17-3, I20-10, and I26-11. The comment is noted and will be conveyed to the City Council for its consideration.

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**Scott Johnson**

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**From:** Jean Fleury <fleuryj@surewest.net>  
**Sent:** Friday, January 31, 2014 4:10 PM  
**To:** Scott Johnson  
**Cc:** fleuryj@surewest.net  
**Subject:** ESC Draft Environmental Impact Report Comments

**ECONOMIC CHALLENGES OF THIS PROJECT**

This project presents a real conundrum for the city. By putting the ESC downtown, it increases the traffic and pollution there as most folks go to events via automobiles. It increases pressure on the utility services. But it also will discourage some people who currently attend events in the city core from going there due to these very issues. It is the people going to events in the central city that will pay for this facility with parking fees and increased business activity.

I33-1

In order to balance that traffic and pollution, public transit will need to be increased. Yet, as stated, the more people who ride transit, the fewer parking fee dollars there will be to pay for this facility. And transit is not available to many arena patrons. Will the offset by placing this project in the city core balance out to make this project successful in paying for itself and not creating a traffic nightmare? Without the right balance, this project will fail.

In order to meet certain CEQA requirements, there needs to be less driving and more use of other modes of transportation, including walking and bike riding. However, I take issue with some of the reduction in vehicle miles traveled (VMT) figures presented in this EIR that professes to meet the CEQA requirements. (See Transportation section.)

I33-2

And could the city and investors reap a bigger payoff by, instead of an ESC, constructing an imaginative mall and smaller entertainment center that will meet the needs of the many thousands of future downtown residents better than arena? After all, a mall will be open many more hours a day than an arena. The new arena could be built on city land in Natomas, thus saving Natomas' large economic stimulator.

I33-3

**AESTHETICS, LIGHT AND GLARE**

Since the final design of the facility had not been produced prior to the release of this report, the description in this Draft EIR may not be the true description of the building. However, since the "final" design was released within the last few days, I feel that I can comment on it. This report states: "The 150-foot tall, rounded, multi-faceted ESC building would be a distinctive, highly visible, iconic building that would be instantly recognizable due to a design unique in the region, and would be especially visible at night..." (Pg. S-8.) This description is not accurate. If the site is built out as the site plan shows, the arena will be surrounded on three sides, except the south, by other buildings. Several of those buildings exist and are not part of the proposed project; supposedly they will remain. The other proposed structures will be new ones. The height of those building may not be known at this time, but it can be assumed that they will be several stories, thus basically obliterating the view of the arena from surrounding streets, except for L Street. Cars may briefly see it before they go through the tunnel on 5<sup>th</sup> Street.

I33-4

I personally like the design. As someone who has worked in the architectural field for many years, I feel am qualified to evaluate a building's design. Many people it will think it is too modern. However, what I do question are the materials that have been described for the building exterior. According to The Sacramento Bee: "Following their vow to create an indoor-outdoor building that does justice to Sacramento's warm climate, team architects gave the arena a half-block-long front entry dominated by five glass aircraft hangar doors that can fold upward to create a five-story opening, allowing people in the arena plaza and even motorists on nearby J Street to see directly into the facility." "The structure's façade is a distinctive silvery-white series of vertical panels made out of patterned glass, perforated, see-through aluminum, and Sierra limestone." The Bee is mistaken. I doubt that it will be fully visible from J Street after the other "potential future development" shown on the site plan is constructed.

This design has several problems: Distinctive silvery-white panels, aluminum and limestone could create overwhelming glare and reflect heat into the plaza arena, making it scorching during our very hot summers. Also, the plaza floor material will likely absorb heat and bounce it back into the plaza area. And being that basically it will be surrounded by buildings, there may be a lack of breezes to cool it. In other words, it will be an uncomfortable place to be. In addition, the large glass areas face west and will attract the hot afternoon sun, reflections and bounce glare into the plaza.

I33-5

There are other problems as well: Opening up the large glass doors will be a problem for HVAC systems and temperature regulation to keep it comfortable when you have thousands of people inside. And having the doors open will attract flies and other bugs, particularly in the food areas. Birds may also be lured inside.

I33-6

The building is described as having some standing room only areas where attendees may stand both inside and out. There are codes that regulate fire, safety and occupancy standards. This sounds like a real safety hazard to me.

I33-7

So this highly touted design and site location has a lot of problems that still must be worked out. This structure would be far more impressive in Natomas where it could be viewed from all sides without other structures blocking it; it would even be seen as far away as the I-5 freeway. And there are no immediate neighbors to complain about the noise.

I33-8

**NOISE**

There are codes that regulate noise. A while back some guy got a ticket for playing his guitar downtown as reported in The Bee. So it's OK to blast the surrounding businesses, hotels and residential units with noise, sometimes late into the evening---if you are an arena and are owned by the city---but heaven forbid some guitar player strums too loud.

I33-9

**TRANSPORTATION**

**Where ESC Attendees Come From**

This Draft EIR references various data that it used on which to find its conclusions that locating the arena downtown will reduce traffic and pollution enough to meet CEQA requirements. None of this data, that I could find, seemed to be based on the report that Think Big Sacramento put out in July 2011 titled *The Capitol Corridor Impact Report*. Who is Think Big? "Think BIG is a regional initiative launched by Sacramento Mayor Kevin Johnson to facilitate construction of a new entertainment and sports complex ("ESC") that promotes job creation, economic growth, cultural development and civic pride across the greater Sacramento metropolitan area." Think Big's mission is also to: "ENGAGE: The Committee will conduct a series of public meetings and studies to educate the public and mobilize support from key stakeholders in El Dorado, Placer, Sacramento, Sutter, Yolo and Yuba counties."

Why is this important? Because there seems to be confliction between the vehicle miles traveled (VMT) computations in this EIR and the Think Big report.

It is also significant because Think Big, through its various reports, tried to direct the thinking of the public to believe the information it was producing was factual in order to support the building of the ESC downtown. It is important because Think Big also put out an economic report (*The Economic Engine Report*, June 2011) that professes to bring thousands of jobs to the area, bring redevelopment to cure the city core blight area, and bring an economic windfall to the region because of the arena and its surrounding development at the existing mall site. The economic report has been recently updated by the author (*The Renaissance Report*, December 2013), through another organization associated with the Mayor and pro-arena supporters (The4000), which put out different economic numbers and reduced the number of arena-goers. The number of arena and surrounding development visitors will have an effect on the conclusions of this Draft EIR. The validity of these reports is vital to the success of this project. Important decisions by the city are being based on some of the reports---especially the economic ones---put out by Think Big and The4000 group.

I33-10

This EIR will be part of the decision-making process as to whether or not this project is a true benefit to the City of Sacramento and whether it proceeds. Therefore, the public has a right to evaluate the information in this interpretation against other evidence it may have and decide for itself which information provided is accurate and can be used as the basis for comments relating to this project.

Per *The Capitol Corridor Impact Report*: "In an effort to educate itself and the public, the Committee [Think Big] sought out the demographic information [where people live] of the attendees of all the events held at Power Balance Pavilion [Sleep Train Arena], for both basketball and non-basketball related events. Specifically, the committee was interested in knowing where the attendees of these events lived in order to better understand the roll of the entertainment and sports complex as a regional asset. The Committee worked with the National Basketball Association ("NBA") and the Sacramento Kings ("Kings") in order to acquire this data."

I33-11

*The Capitol Corridor Impact Report* states that 75% of arena attendees for all events do not come from the City of Sacramento; 62% of arena attendees for basketball events come from outside the city; for non-basketball events, 80% come from areas external to the city. Of the non-Sacramento residents attending events 39% come from counties to the west, north and east of Sacramento. (This figure was derived by adding up the percentages from the various counties listed in Chart 1.) Most of those folks go to the existing arena via I-80 from both the west and east, and I-5 and Hwy. 99 from the north. Generally they now go directly to the arena without passing through downtown Sacramento. And many Sacramento County residents live along the I-80 corridor, west of I-5, in cities

like Citrus Heights and communities like Antelope, Foothill Farms, Carmichael, Fair Oaks, McClellan, etc., and do not enter the city core to get to the existing arena. Now many of them will add mileage and more traffic congestion to their trips.

But the biggest increase in travel mileage will be by the residents of Natomas if the ESC is located downtown. They will likely offset any savings in VMT this EIR has attributed to the people who work and live in the central city and who will walk to functions at the new arena; the downtown residents and workers currently have to drive to the existing arena. Now it is Natomas residents who will have to drive to the city core. These folks from Natomas will be caught in the I-5/I-80 interchange and have to enter downtown via off-ramps where this EIR has indicated there will be significant traffic backups. The EIR may calculate a couple of less miles of driving for some ESC attendees, but additional mileage will be added to the travel of many others. And they will be deposited onto a very congested freeway and multiple congested street intersections in order for them to get to parking within walking distance of a downtown sports complex.

I33-11  
cont.

Downtown workers may have a family member who wants to go to ESC events with the worker. So that worker would drive home to get the family member then come back to the event, thus adding more miles to the actual event trip. This could happen with Natomas residents too, who live within a reasonable distance of the arena. The close proximity to Natomas may cause them to make a trip home and back to the arena before games. Did the cell phone pings pick this up? Was this figured into the VMT calculations?

*The Capitol Corridor Impact Report* also shows that 19% of the non-Sacramento attendees to the existing arena come from counties and cities to the south (San Joaquin) and some from the east (El Dorado County). This is far less than the 39% that presently never enter the I-5 downtown section. Currently that 19% pass through downtown without a lot of traffic congestion on their way to Natomas because they are usually in the through lanes (left-hand lanes). If the arena is downtown, most of them will be forced into the traffic backup trying to get off I-5 onto city streets.

There will likewise be traffic tie-ups at entrances to downtown parking garages while vehicles are waiting to enter. These bottlenecks will create congestion and pollution, despite traffic management actions.

I33-12

**Page 4.10-41** of the Draft EIR *Trip Origin/Destination Adjustments for Relocation of Arena to Downtown* states: “The proportion of all season ticketholders who have Central City purchase zip codes increased by 30 percent for the 2013/2014 season compared to the previous three seasons. Cell phone data show that 10 percent of Kings pre-game trips originate from the Central City and 5 percent of Kings post-game trips return to the Central City.” This report assumes that the increase in ticket sales is because the arena will now be located downtown; it seems to assume that 5 percent of the arena patrons will be downtown residents in the future. It does not tell us how many new Natomas season-ticket holders there are. But this was also a strategy by arena-proponents to encourage fans to buy season tickets to show the Kings and the NBA that they will support the team. It was a marketing ploy. However, some city core residents within walking distance of the ESC may think that they can better afford tickets if they do not have the expense of driving and parking that they now have with the arena in Natomas. Still, this could be a one-time deal. Many of them may not buy tickets in the future depending on several criteria: They can’t afford to continue this support (and couldn’t in the first place but bought season tickets to give the illusion of backing the team so it would stay); the team doesn’t improve and the fans lose faith. The economic situation of the fans will make a huge difference in the future as to their ability to continue this support. The economy has been fickle in the past; it can and will be again in the future at some point.

I33-13

I33-14

Now Natomas residents who frequent the arena events will have to drive downtown. Many of those “Central City” residents may still drive as opposed to walking or riding transit. Weather conditions will likely play a role in that decision. Some ESC patrons may be driven there and picked up later, thus contributing to the traffic congestion around the arena. And some of those “return” trip cell-phone pings that the authors of this Draft EIR used to support their case may not be because the phone owners live in the central city but because they have a passenger who lives there or they went there to party after a game. Cell-phone tracking may not be a consistent, dependable statistical representation. So based on some cell phone pings, a lot of assumptions have been made about where people live and traffic patterns in the city.

I33-15

The population for the zip code 95814 (the zip code in which the arena will reside) is only 9,922 (2010 census). These folks are within easy walking distance of the new arena. But the next three closest zip codes to the new arena, partially within walking distance of the ESC at their nearest edges, have a total population of 42,985. When combined with zip code 95814 = 52,907. This is about half of the population of Natomas. It is hard to imagine that the downtown arena goers will outnumber the number of event attendees who come from Natomas, and who will now have to drive to get to the new arena.

I33-16

While getting people to ride public transit in order to reduce traffic congestion is a great idea, the more people who do so will reduce the amount of parking revenue needed to pay the “mortgage.” The convenience of riding it and the safety aspects are paramount to getting people to ride transit. But it will be a delicate balancing act because the more people who ride transit, the fewer who will be paying parking fees needed to make bond payments; the more people who drive, the more traffic congestion there will be. And RT

I33-16  
cont.

has had severe funding problems the last few years that has drastically curtailed its service, particularly at night. This could happen in the future during another economic downturn.

**Peak-Hour Overlap**

One of the main reasons that downtown arena proponents have given for putting the arena in the city core is to get people to go shopping, conduct other commerce, and eat downtown before arena events. That economic infusion is essential to make this project work. However, in order to do that, and still get to games/shows on time, event attendees will have to arrive at least two hours before, thus putting them into the thick of the “rush-hour” (5-6 pm) traffic. Just to find a place to park, walk to a place to eat, wait to get seated (at popular restaurants there may be a waiting backlog), order, wait for the meal to be prepared, eat, pay for it, then walk the rest of the way to get to an event on time will force them to come at least two hours before games or performances. Otherwise, they will just eat inside the ESC and the supposed economic benefit of this arena will not be realized. That lack of economic activity and will affect the city’s ability to pay for it. And there certainly will be little or no time for shopping for most arena attendees.

I33-17

In order to make this project successful, the city, the Kings and surrounding businesses may have to put on additional events to bring more people to the locale around the arena to spend money. It will be with parking fees and ticket surcharges that the city will get the income necessary to make the bond payments on this facility. But those additional occasions will mean more downtown traffic.

**Significant and Unavoidable Impact**

Unfortunately, this Draft EIR seems to accept many of the traffic problems that will be created by this project as acceptable even though they may cause harm to the city. In several places, in regards to conditions that will degrade the traffic flow, this report states: “...this impact is considered *significant and unavoidable*.” This appears to mean that it’s too bad this is happening, but get used to it and learn to live with it, because no matter how much it might negatively impact your life, it’s here to stay. This troubling response appears several times under various impact categories:

**Page 4.10-93: “Impact 4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.” “Impact Significance After Mitigation:** Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered *significant and unavoidable*.”

**Page 4.10-94: “Impact 4.10-3: The Proposed Project would worsen queuing on the J Street freeway offramps from I-5.” “Impact Significance After Mitigation:** The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or “no project” levels. This mitigation measure is required as part of the ESC construction and/or operation. Therefore, this impact would remain *significant and unavoidable*.”

I33-18

**Page 4.10-99: “Impact 4.10-6: Access to light rail transit would be inadequate.”** “During the post-event peak hour, approximately 920 riders would be expected to board LRT trains. The majority of boardings would occur at the 7th/I, 7th/K (St. Rose of Lima Park), 7th/Capitol, 8th/Capitol, or 9th/K stations.” **“Impact Significance After Mitigation:** This mitigation measure would be required as part of the ESC construction and/or operation. Since the City cannot guarantee that all needed improvements would be implemented in a reasonable period of time, this impact therefore is considered *significant and unavoidable* despite a number of these mitigations being feasible and within the control of the City and the project applicant.”

**Page 4.10-107: “Impact 4.10-12: The Proposed Project would contribute to cumulatively unacceptable intersection operations in the City of West Sacramento.” “Impact Significance After Mitigation:** This impact is considered *significant and unavoidable*.”

**Page 4.10-108: “Impact 4.10-13: The Proposed Project would contribute to cumulatively unacceptable operations on freeway facilities maintained by Caltrans.”** “Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered *significant and unavoidable*.”

**Page 4.10-110: “Impact 4.10-17: Access to light rail transit would be inadequate under cumulative conditions.” “Impact Significance After Mitigation:** While some of these strategies and programs in Mitigation Measure 4.10-6 are within the City and applicant’s control, others require approval by and implementation from Regional Transit. Since the City cannot guarantee that all needed improvements would be implemented in a reasonable period of time, this impact therefore is considered *significant and unavoidable*.”

**Other Significant Traffic Problems**

On Page 4.10-16 of this DEIR under the heading *Freeways* is this interesting tidbit: “Traffic data for the I-5 mainline was collected from the Caltrans’ PeMS database. AM and PM peak hour data was collected in May 2013. The pre-event peak hour data was chosen so as to include a Kings game at Sleep Train Arena (i.e., data were pulled for the 6-7 PM peak hour on November 12, 2012 when the Kings played a home game with reported attendance of 16,000). As described later in this section, it was necessary to include trips associated with this activity for the purposes of the ‘plus project’ analysis.”

I33-19

So important decisions about traffic during Kings games was gleaned from one day’s study. It would certainly appear to the average person that more than one day’s worth of data would be necessary to make major decisions about a project of this size and scope.

On Page 4.10-92 under the heading **Impacts and Mitigation Measure**, subheading *Impact 4.10-1: The Proposed Project would worsen conditions at intersections in the City of Sacramento*, we are told that the levels of service (LOS) would degrade to an F at several intersections within the area. But we are also told that would be OK, per the City’s General Plan (Policy M 1.2.2(a)), “...provided that the project improves other parts of the citywide transportation system within the vicinity of the project site. The Proposed Project would include the following generalized travel benefits and specific multimodal improvements,” which include some pedestrian enhancements. We are also told that by moving the arena downtown from Natomas, thus reducing the VMT by nearly 20% (per this report and debatable) and making some improvements on other parts of the transit system, this F grade at major intersections feeding the route to the arena is OK, even though many of the improvements that supposedly compensate for it may not be at or near the ESC or these intersections.

I33-20

We are further told: “These measures meet the intent of Policy M 1.2.2(a) of the City’s General Plan in that they provide long-term improvements to the City’s local and regional transportation system. However, the street system in the vicinity of the project could experience substantial congestion immediately before, during, and after events unless circulation is managed effectively. The project has proposed to implement an Event Transportation Management Plan (TMP) that would be intended to manage vehicular circulation near the project site, and to optimize the safe and efficient use of multiple modes of transportation to and from events at the ESC (see Appendix L).

Then it is revealed that: “Because the TMP has not yet been finalized and approved by the City, it cannot yet be determined that the project would adequately ‘improve other parts of the citywide transportation system in the vicinity of the project site.’ Accordingly, project impacts to intersections in the City of Sacramento are considered *significant*.”

Per Page 4.10-10 the following four intersections “currently operate at LOS D, E, or F: J Street/3rd Street/I-5 Off-ramps – LOS F during the AM peak hour and LOS E during the PM peak hour; L Street/3rd Street – LOS D during the PM peak hour; Tower Bridge Gateway/5th Street – LOS D during the PM peak hour; Richards Boulevard/16th Street – LOS E during the AM peak hour. The two intersections that operate at LOS E or F are key “gateway” intersections into Downtown Sacramento.” These intersections are J Street/3<sup>rd</sup> Street/I-5 Off-Ramps Intersection; Richards Boulevard/16<sup>th</sup> Street/SR 160 Intersection.

I33-21

However, in Table 4.10-31 (Page 4.10-89) **INTERSECTION OPERATIONS – CUMULATIVE CONDITIONS** 13 downtown intersections will have a LOS of F: I St./6<sup>th</sup> St.; I St./7<sup>th</sup> St.; I St./8<sup>th</sup> St.; J St./3<sup>rd</sup> St./I-5 Off-Ramps; J St./5<sup>th</sup> St.; J St./6<sup>th</sup> St.; J St./7<sup>th</sup> St.; J St./8<sup>th</sup> St.; K St./7<sup>th</sup> St.; L St./3<sup>rd</sup> St.; L St./5<sup>th</sup> St.; L St./6<sup>th</sup> St.; L St./7<sup>th</sup> St. Several other intersections degrade to LOS of D or E.

Page 4.10-90: “This congestion [shown in Table 4.10-31] would be due to overall increases in traffic into downtown as well as the extension of 5<sup>th</sup> and 6<sup>th</sup> Streets in the Railyards Specific Plan area. These facilities would substantially increase north/south traffic in the downtown core.”

Page 4.10-93: **Impact 4.10-2: The Proposed Project would worsen conditions on freeway facilities maintained by Caltrans.** “The addition of project trips would cause the following significant impacts to Caltrans freeway facilities: Existing LOS F operations during the AM peak hour on the northbound I-5 weave section between P Street and J Street would be worsened to a significant degree (based on the amount of project traffic added). The I-5 northbound weave section between I Street and Richards Boulevard would worsen from LOS E to F during the PM peak hour. Existing LOS F operations during the PM peak hour on the northbound I-5 weave sections between Richards Boulevard and West El Camino Avenue would be worsened to a significant degree (based on the amount of project traffic added).”

I33-22

“The degraded operation of these segments is considered a *significant impact*.”

While we are informed that a “fair-share contribution to fund planned transportation improvements” will be made for each building permit for the project that is issued, and that “the City is participating in a multi-agency effort to identify freeway, roadway, and transit improvements, included in the MTP [Metropolitan transportation Plan]” we are then informed: **Impact Significance After**



**Mitigation:** Although payment of the fair share contribution would assist in mitigating the project’s mainline freeway impacts, the impacts may not be fully mitigated with the planned transportation improvements and the timing and funding for the improvements are uncertain. Because payment of the fee does not ensure that the project’s impacts on the I-5 freeway would be fully mitigated, this impact is considered *significant and unavoidable.*”

I33-22  
cont.

It must be pointed out that any additional traffic backups on I-5 at rush hour will not only make it more congested for local drivers, it also slows interstate traffic. I-5 serves more than just Sacramento regional drivers. It is the major highway connection between Southern California and Northern California; between California, Oregon and Washington; and between Western Canada and Mexico.

**Page 4.10-94 “Impact 4.10-3: The Proposed Project would worsen queuing on the J Street freeway offramps from I-5.”** “The addition of project trips would cause vehicle queues on the southbound I-5 off-ramp at J Street to spill back beyond the gore point onto the freeway mainline during the AM and pre-event peak hours. The project would also cause vehicle queues on the northbound I-5 off-ramp at J Street to spill back beyond the gore point onto the freeway mainline during the AM peak hour. This degradation is considered *significant.*”

I33-23

Although the Mitigation Measure did identify some measures to benefit this queuing, such as increasing the green signal times for the off-ramps, implement TMP management strategies, and coordinate message signs with Caltrans, the outcome of this mitigation still remains “significant and unavoidable.”

**“Impact Significance After Mitigation:** The identified improvements would reduce vehicular queues on the I-5 off-ramps, but not to acceptable or “no project” levels. This mitigation measure is required as part of the ESC construction and/or operation. Therefore, this impact would remain *significant and unavoidable.*”

**Bridges, Freeway, Street and Transit Improvements May Not Come for Many Years**

**Page 4.10-77** of the Draft EIR gives some “anticipated travel conditions under cumulative (2035) conditions for the roadway, transit, and bicycle/pedestrian systems. The most recent version of the SACMET regional travel demand model was used to forecast cumulative traffic volumes within the study area.”

These cumulative assumptions include several roadway improvements: “I Street Bridge Replacement over the Sacramento River to new location slightly to the north; South Market Crossing Bridge (south of Pioneer Bridge) over the Sacramento River; Truxel Road Bridge over the American River; Carpool high occupancy vehicle (HOV) lanes on I-5 from the US 50/Capital City Freeway to I-80; 3rd Street Conversion Project - converts 3rd Street to two-way operations between Capitol Mall and L Street; I-5 Riverfront Reconnection Project (consisting of removal of the slip ramp from L Street/3rd Street to westbound Capitol Mall/Tower Bridge, and a new at-grade signalized intersection on Capitol Mall at Front Street/2nd Street); Extensions of 5th Street and 6th Street, Railyards Boulevard, and Bercut Drive into the Railyards Specific Plan area; and Sutter’s Land Parkway interchange on the Capital City Freeway, including its extension to SR 160/Richards Boulevard/16th Street.

I33-24

While it is known that some work has been done on the extensions of streets through the Railyards project, it was not stated in this section whether or not this work is funded for completion. However, nowhere could I find a timeframe for when this or other listed work will be completed; how much it will cost; if it has been funded; if funded, where will the money come from; if not funded where and when can possible funding be expected. Whether or not the funding aspects of this project may ordinarily be part of an EIR, funding is necessary for these transportation projects and these projects are necessary for the transportation well-being of the region. The public has a right to know this information.

Not mentioned as a project to be completed anytime soon is the light rail line extending to Natomas and the airport in order to serve those areas and connect to the transit hub in order to make it a true intermodal terminal. When will this be funded and completed? This project alone would take many vehicles off city streets, particularly if it goes to Natomas.

**Future Traffic Growth**

In addition to the arena traffic, future residential and business growth in the area will increase traffic and pollution. SACOG has estimated that nearly 1 million new residents will be added to the Sacramento region in the next 25 years. Some of them may live in downtown Sacramento; but many will likely work there and live elsewhere; and many of them will drive to their employment, thus significantly increasing traffic and pollution. It is highly unlikely that Regional Transit will have the funding to extend transit service, particularly light rail, to meet all these needs.

I33-25

We already know that the Railyards and Township 9 projects together have planned about 30,000-40,000 future residents. Although light rail will pass through these developments, one can reasonably expect that most of these households will have at least one

vehicle. There will be other central city residential projects also. While some of the residents may work downtown---which is why many of them will choose to live in one of these downtown developments---that does not mean that all working family members will be employed in the city core; and those non-downtown workers will likely have an automobile to transport them to their jobs. Even many downtown workers, who are also residents, may drive to their jobs for a variety of reasons.

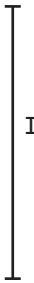


I33-25  
cont.

While the Kings organization states it has plans to construct several mix-used buildings around the arena, this development is not guaranteed to happen. In the meantime, the mall will be demolished for the arena building and the shopping that exists now may never fully be replaced there. This lack of shopping opportunity for downtown residents and businesses will force them to have to travel to other downtown locations to shop for items they may have previously been able to purchase at the existing mall. And because there may not be a major covered mall with free parking in the immediate area any time soon---with many different types of shopping possibilities under one climate-controlled roof---those residents will likely have to drive out of the city core to shop at a one-stop suburban mall. If they do shop in the city core, they probably will have to drive around to find parking. It is very inconvenient to tote packages on light rail.

**Transit Also Creates Traffic Congestion**

What this Draft EIR doesn't anticipate, that I can find, is that transit creates traffic and its own pollution. The more transit the city has to reduce personal vehicular traffic, there is a certain offset to that reduction. In the future, the intermodal hub will be home to Amtrak, light rail, Greyhound buses, RT buses, shuttles, taxis, vehicles dropping off and picking up travelers, and possibly high-speed rail. There will be bicycle and pedestrian traffic trying to reach the hub. It is estimated that this hub eventually could have as many as 15 million travelers passing through each year. While this transit hub is necessary to the city's future smart growth, to take a large amount of vehicles off the roads, it will also add to traffic congestion around the arena area. These various travel modes will jockey for space in order to pick up and drop off passengers and interfere with automobile traffic on its way to its destination. The intermodal hub will only be a few blocks from the arena and close to some of the busy intersections on I Street. Public transit may take some vehicles off the road, but it will add long light rail trains, which will slow or stop traffic, and have buses stopping, starting, clogging intersections and generally interfering with other street vehicles.



I33-26

There is talk about a street-car route through downtown; this will also add to the traffic congestion when it competes for space with automobiles and other modes of transportation on city streets. And there is effort by some RT supporters to get a ticket surcharge placed on arena tickets to help pay for transit. However, why should arena goers pay for RT when most attendees will not be using it and will instead be paying to park?



I33-27

**Other Traffic Issues**

An Event Transportation Management Plan may actually add miles to a vehicle's travel by forcing the vehicle to follow routes that are not in the direction that drivers want to go.



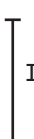
I33-28

Adjusting signals at certain intersections to have a longer green signal, such as at I-5 and J Street, may help relieve the traffic backup on I-5, but it will lengthen traffic waits at the streets crossing J Street, thus backing up traffic on those streets.



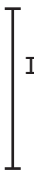
I33-29

In order to get more people onto light rail and buses, RT needs to be able to provide reliable service for ESC events, for downtown workers and for residents. RT has had a difficult time the last few years during this past recession providing service and security to passengers. This is something that comes and goes with the economic cycles and will happen again in the future. The city cannot depend on public transit to solve the traffic problems downtown. Consequently, many people will have to drive and park for ESC events.



I33-30

Another traffic problem is the streets that have been "calmed" over the past few years. The city---or whoever paid for these "devices"---spent a lot of money to interrupt traffic patterns through certain neighborhoods. Some of these diversion tactics were due to complaints in residential neighborhoods about the amount of traffic and the vehicles' speeding through them. Now these very devices, signage, and rerouting tricks may create more traffic congestion, pollution and vehicle miles traveled by causing disruptions in through traffic and forcing vehicles to detour to other streets. This will be frustrating and dangerous to drivers who are not familiar with the downtown street system and are trying to maneuver out of the city core.



I33-31

The boat section of I-5 near the J-Street off-ramp is notorious for flooding. Although new pumps were installed in recent years, severe storms could still trigger water problems in that area, thus causing traffic delays or stoppage. How will that be handled? How will traffic be detoured to the arena?



I33-32

Also, does 5<sup>th</sup> Street where it passes under the mall site have any flooding problems during heavy rains? If so, how will that be handled?

**More Than One Thing Happening at a Time**

While this Draft EIR suggests that there will be few overlapping major events at Raley Field and the ESC, there could be other events at the Convention Center, Community Center Theater, Music Circus, or Cal Expo that could result in traffic that will affect the city core travel when combined with the ESC traffic. While Cal Expo is not downtown, it is off a major freeway (Business 80) that has tremendous traffic backup during peak traffic hours every day. Events at Cal Expo could affect ESC attendees who may come via Business 80. And there is talk of a possible future expansion of the Convention Center, so that it can hold more and larger conventions. This would increase traffic in the central city, particularly when there are events at the arena.

I33-33

**LEED CERTIFICATION**

The problem with declaring this facility LEED certified and subject to Senate Bill 743 is that this building cannot be certified until one year after it is constructed. Consequently, how can it be proclaimed to meet the requirements of Senate Bill 743 before it is even built and these requirements can be measured? It can't and it will be too late by that time. This is a rouse to get this arena built no matter the circumstances and whether the citizens of Sacramento want it or not. This is to prevent lawsuits that might derail the project. See following statements:

**Page 1-2:** 1.3.1 **Senate Bill 743/Public Resources Code 21168.6.6:** Pursuant to PRC Section 21168.6.6, the Draft EIR and Final EIR shall include the following notice:

“THIS EIR IS SUBJECT TO SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE.”

**Page 4.10-33:** *Senate Bill 743/Public Resources Code 21168.6.6*

*On September 27, 2013, Governor Brown signed Senate Bill 743 (SB 743) which, among other things, added Section 21168.6.6 to the Public Resources Code (PRC Section 21168.6.6). PRC Section 21168.6.6 modifies certain CEQA procedures as they apply to qualifying projects.*

I33-34

*To meet the definition of “Downtown arena” under PRC Section 21168.6.6, the proposed ESC must receive Leadership in Energy and Environmental Design (LEED) Gold certification for new construction within one year of completion of the first NBA season. Strategies proposed to qualify the project for LEED Gold certification are described in Chapter 2, Project Description. The “Downtown arena” also must take the following steps to minimize operational traffic congestion and reduce global climate change impacts:*

- 1. Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases from private automobile trips (automobiles and light vehicles) to the Sacramento ESC as compared to the baseline, and as verified by the Sacramento Metropolitan Air Quality Management District (SMAQMD);*
- 2. Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035 achieved in the Sacramento Area Council of Governments (SACOG) sustainable communities strategy; and*
- 3. Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the ESC that is no more than 85 percent of the baseline.*

*The relationship of the proposed ESC to step 3 is discussed in this chapter. As presented in Tables 4.10-20 and 4.10-30, below, the Proposed ESC would achieve a per attendee VMT reduction greater than required under the threshold established in step 3 under existing plus project conditions as well as under cumulative conditions.*

**AIR QUALITY**

Public transit is imperative to help lessen vehicular pollution. But transit is not available to many arena patrons and they will have to drive, increasing traffic congestion and pollution, particularly as they circle block after block looking for a place to park, and stopping and idling at signals and stop signs.

I33-35



How well will the underground arena parking garages handle all the fumes from thousands of idling cars that will be leaving after events? Normally, the mall parking is not fully utilized every day and when it is, the shoppers are usually coming and going all day. Most of the arena patrons will all be trying to leave or enter at the same time, thus causing severe exhaust emissions accumulation, particularly as they stop when leaving to pay for parking.

I33-35  
cont.

**CULTURAL RESOURCES**

The Crocker may lose some of its parking as a result of the city’s plans to give away the parking near it to help finance the arena. That lot also serves as a source of income for the museum. This would be tragic and the city should reconsider the giving of this parking area to the arena investors.

I33-36

The Community Center Theater may lose a funding source for its necessary renovations. This is unacceptable to many theater attendees who have been waiting for years for this makeover. This could also result in costly lawsuits.

I33-37

Arena events may affect Old Sacramento’s businesses due to fewer visitors there because of the crowds, traffic and loss of parking spaces to ESC attendees, and increase in parking fees due to the arena. While the arena may increase some visitors to Old Sac, others will stay away.

I33-38

**LAND USE AND PLANNING**

The existing arena site in Natomas has plenty of parking that could be used to help pay for the ESC instead of having to use downtown parking fees to build it in the city core.

The downtown parking funds could then be available for other useful projects: getting infrastructure completed in the Railyards so that development can proceed there; continuing with expansion of the transit hub; proceeding with development along the riverfront. These three projects will help bring more central city dwellers, workers, visitors, and tourists, 24/7/365. An arena is only used a few hours a week.

I33-39

One development activity that the city should be focusing on is getting the riverfront developed. That will encourage more people downtown 24/7/365 days per year and have many more active hours than an arena. The riverfront could have residential and retail units, entertainment venues and recreation attractions, such as expanded water activities.

The city will make a huge mistake in getting rid of the Natomas land. If the city wants another type of sports team in the future, such as soccer, football, or baseball, it will need that land and the existing parking on it.

According to city leaders and central city business interests, the purpose of putting the arena downtown is to stimulate business activity there, accelerate development in the Railyards project, and to encourage more spending in the city core. However, replacing the mall with an arena is not the best use of that land. The future thousands of residents and workers are going to need a large, covered mall that is easily accessible, with plenty of free parking.

I33-40

Renovation or replacement of the existing mall, if done right, can do the very things that this particular arena project is supposed to do: bring more residents, new businesses, and consumers to the city core. If it includes the right mix of popular and specialty stores, the right mix of office and residential spaces, it can be a boom to downtown without the added traffic and crowds of an arena, which will not really be providing that much commerce. The “Economic Engine Report” published by Think Big only shows \$5 of “other retail” spending per arena attendee. That is not enough to have most businesses stay open during arena events, as shopping by attendees will be miniscule.

**PARKING: ON-STREET AND PARKING STRUCTURES**

How will the city handle the arena parking increases in the residential neighborhoods nearby, such as Alkali and Mansion Flats that will likely have many arena attendees trying to park in those neighborhoods?

How will the city handle the traffic as arena attendees circle block after block looking for a place to park, particularly spaces that do not have meters on them in residential areas?

How will traffic be directed into and out of the underground arena parking so that it will not create traffic jams and accidents?

How will the parking for the rest of the mall be separated from the arena parking so that mall parking for shoppers is not taken over by arena attendees? If there is not close-by parking for shoppers, they will stop going to the mall, thus hurting businesses there. In addition, shoppers will not want to walk several blocks in weather extremes with their purchases.

I33-41

**POPULATION AND HOUSING**

Since there is estimated to be 30,000-40,000 future residents in the Railyards and Township 9 projects alone, with many other residential projects that will eventually be built in the city core, there needs to be easy access from those residential areas to shopping. The location of the existing mall is handy for the thousands of downtown workers. It will be just a short drive, walk or light rail ride for thousands of residents in the area. While I understand that the Railyards and Township 9 projects will have retail spaces mixed with the residential units, there will still be the need for a large, covered mall where one can go and do the majority of ones shopping without having to get in a car and drive, or ride light rail, to assorted strip-malls. And light rail may not go to many areas where one needs to do business. That is why the current location of the mall is the best one. It is on the light rail line and near many central city businesses. But combining it with an arena will discourage many shoppers due to lack of parking directly next to it, or under it, which is exclusively for mall use, and the crowds around the arena. Many of those potential shoppers may end up driving to other large, covered regional malls for free, and easier, parking and the advantage of being shielded from the extreme heat or cold rain. A covered mall with a variety of stores, such as Macys, Sears, Penney’s, and other popular retailers, at a variety of income levels, will be a lot more convenient for most people for one-stop shopping. The plan to eliminate the majority of the existing mall for an arena does not make sense from a planning standpoint.

I33-42

**PUBLIC SERVICES**

With more people attending ESC events, often times as many as 18,000+, there will be a greater need for police service to control crowds, direct traffic and prevent or solve crime in the central city. There will also need to be fire and ambulance service. Since the city is hoping for more people to come early and stay late, there may be a longer time-frame for these services than is currently required at Sleep Train Arena. And if there are more nights of entertainment, due to a new arena drawing more people, at least initially, there will be a greater need for police, fire and EMT’s. What will be the availability of such personnel even if paid for by the Kings? Will that leave enough personnel for other parts of the city? There will need to be increased security at parking garages, particularly the ones near the arena? How much will that cost? Who will pay for it?

I33-43

Will there be parking directly under the arena? If so, how will it be protected from terrorist attacks? The NBA has said in the past that it doesn’t like parking under arenas. If cars have to be searched, it will be a nightmare.

I33-44

**RECREATION**

Too many recreational activities in a condensed area can actually discourage many people from going to that locale. Too many “assets” may actually become “liabilities.” While the ESC may draw many people who don’t live in the city, traffic, crowds, pollution, crime and high parking fees may keep many others away. Consequently, location of these assets must be carefully considered. The city already has, and is planning on adding, other entertainment and educational attractions in the future. Those must be carefully planned so that they complement each other and don’t discourage patronage to other venues by causing too much traffic, crowds, and parking problems in a concentrated area.

I33-45

**UTILITIES**

In my past EIR comments I asked: Can the sewer and waters systems handle all those ESC half-time flushes, which will be a heavy at intermission of arena events? Here is the answer per this DEIR:

I33-46

Page 2-58 of DEIR: *Wastewater*

*“The wastewater system for the proposed ESC would connect to the City’s Combined Sewer System (CSS) at a number of locations around the project site, including near 5th and J Street, 5th and L Streets, 7th and J Streets, and near on 7th near the alley between K and L Streets (see Figure 2-27). The system would employ internal temporary storage tank(s) to ensure that the peak discharges from the site during events would not exceed the receiving capacity of the existing system. The peak discharge from the proposed ESC is anticipated to occur during halftime of a sold-out NBA game. It is anticipated that temporary storage tank(s) would be located below the Event level, with pumping equipment sized sufficiently to permit discharge into the Combined Sewer System at a rate that would not exceed current peak rates. Preliminary estimates indicate that an approximately 11,000 gallon tank would be sufficient to hold peak flows for 30-40 minutes, allowing the system to normalize the discharge into the receiving conduits at flow rates that would not exceed current peak flows.”*

*“Future buildings constructed in the PUD area would be required to meet the City’s requirements for management of flows to the Combined Sewer System.”*

I33-46  
cont.

In other words, waste storage tanks may be required for the proposed construction surrounding the arena. If there are residential units constructed as planned, they will likely also be producing a lot of waste during most arena events: water from kitchen and bathroom functions and laundry. What happens if the arena tank, and these other tanks, leak or malfunction? When is the sewer system going to be updated to handle this and future capacity requirements? Who is going to pay for this?

**HYDROLOGY AND WATER QUALITY (Page S-11)**

*“For the most part, potential project effects related to flooding and water quality would be avoided through required compliance with a complex set of permits, codes, and other regulatory plans overseen by the City, County, the Sacramento County Regional Sanitation District, and the Central Valley Regional Water Quality Control Board. In the vicinity of the Downtown project site, the existing storm drainage facilities, including the Combined Sewer System and Basin 52, flood during intense storms due to insufficient capacity; thus, the management of runoff of storm drainage from the project site requires careful planning and design. Because the project drainage systems have not yet been designed, it is possible that the Proposed Project could exacerbate existing conditions. By designing the project stormwater systems to ensure that the project runoff entering the City’s drainage systems would not exceed current peak flows, the potential effect would be mitigated to insignificance.”*

I33-47

What are worrisome are these comments: “In the vicinity of the Downtown project site, the existing storm drainage facilities...flood during intense storms due to insufficient capacity...” and “the project drainage systems have not yet been designed, it is possible that the Proposed Project could exacerbate existing conditions.”

**OTHER ISSUES:**

**Economics**

It needs to be noted that the 3 million visitors that are touted [recently revised to 1.6 million] for the downtown are mostly redistributed arena patrons from Natomas to the city core. These are not all “new” visitors to the area, just relocated ones.

This proposal for a new arena at the site of the Downtown Plaza mall, with the city paying for 2/3 of the new arena, has the potential to put the city in economic harm by using its existing parking funds---and other city assets---to pay for the ESC. If the arena, and the surrounding development that is proposed, does not provide the amount of income from parking and tax revenues necessary to pay for the arena financing, the city will have to make up the bond payments in other ways.

I33-48

Renovating or replacing the existing mall, instead of substituting it with an arena, will help further the redevelopment of the K Street mall as well.

Economic downturns come every few years. All this development must be carefully planned in order to make sure that too much economic benefit isn’t planned too quickly, or too slowly, that may not materialize and leave the city worse off with half-completed projects, or ones that will not come to fruition because the others they are dependent on do not occur. Or the area is over-built and the development cannot be rented or sold.

A well-planned renovation of the existing mall site---without an arena---into multi-story mixed use retail, with popular stores, covering a wide range of income level, office, and residential space will be just as effective for economic benefit, if not more so, than a combination arena/mall complex. The resulting traffic, crowds, lack of on-site parking for shoppers, higher parking rates and safety issues caused by an arena may result in a mediocre or deficit economic return for the mall and the city.

I33-49

The new proposed arena is taking the place of a much needed mall. As the thousands of future residents move into the Railyards and Township 9 projects, they will need a large center for shopping. In order to make these two---and other city core residential projects--palatable to potential inhabitants, shopping must be convenient. So if the arena is built at the existing mall site, a new large mall should be built in the Railyards, north of the Amtrak tracks (not on the city’s transit land). It must have a roof in order to handle the extreme weather conditions we have here in Sacramento.

I33-50

But the best place for the mall is the existing site because of its proximity to the many city core workers at the state, county, federal and city government buildings, and the many nearby businesses.

**Location Alternatives:**

I33-51

“THE EIR WILL IDENTIFY AND EVALUATE ALTERNATIVES TO THE PROPOSED PROJECT.”

This DEIR did not vet the Natomas location enough to prove its worth because the city already had its mind made up that a downtown site was preferred. North Natomas has been identified as “urban center high” in the City’s 2030 General Plan. Keeping the arena there, will save existing businesses and prevent many of those folks from having to drive downtown for employment, adding even more downtown traffic. After all Natomas has almost ¼ of the city’s population. District 1, of which Natomas is a part, was the fastest growing district in the last 10 years, growing much faster than other city districts. Once the building moratorium is lifted, it could be fast-growing again.

I33-51  
cont.

The current arena site in Natomas already has the necessary infrastructure to the site (sewer, water, electrical, etc.), easy access to freeways, plenty of parking, and proper zoning.

Since most arenas only have a life expectancy of roughly 20-25 years before they need major renovation or replacement, where will a new one be located at that time if the city gives away the Natomas land?

While the city and many downtown businesses proclaim that the city core is the best location for economic reasons, the vast number of studies on sports facilities state that they do not produce the economic benefits decreed and often result in economic harm to the public entities financing them. Sports complexes just redistribute limited discretionary entertainment dollars from other entertainment activities. Actually, much of that money leaves the area with the entertainers who perform there. Many of the team’s players do not live full-time in the area, so they take large sums of their salaries out of the region also.

The supposed purpose of placing the ESC downtown, per marketing put out by the city for years, is to bring more activity to the city core to eliminate some of the blight areas there and to stimulate development in the 250+/- acre Railyards project. However, this really doesn’t make sense as an arena only has a few hours of operation per week. The businesses that will likely do well around it are arena-centric businesses like bars, nightclubs, restaurants and sports-related stores. These likewise will have limited hours of robust use and most of the workers in these types of businesses make low wages. Consequently, the purpose for making this drastic locale change from Natomas to the central city doesn’t seem logical. Yet, that relocation can cause great harm to Natomas because there are already many of these types of businesses that have established around the existing arena that will either go out of business or will have to move their locations.

I33-52

The city core will develop most successfully when the many future residents in the Railyards and Township 9 projects start moving in. Gradual growth is better than quickly throwing up lots of development around the proposed new location of the arena, at the Downtown Plaza site, as the types of development that grow naturally will be what is really needed by those future residents. Suddenly building a bunch of new structures, when there is plenty of empty real estate space already--to do development for the sake of doing development--that may sit idle because it is not the type of development that is really needed, will create more economic havoc than it will solve.

Consequently, the existing site in Natomas is the best location as it is easier for the majority of people to access than a city core site. The Natomas site also has easy freeway access, major streets to funnel the traffic to the freeways, plenty of parking, already handles the thousands of half-time flushes (sewer and water), has the right zoning, and has land next to it that could be used for additional sports facilities in the future that also could share the parking and other amenities.

**NORTH NATOMAS ECONOMIC EFFECTS (Page 5-18)**

This Draft EIR downplays the effect that moving the arena from Natomas to downtown will have on the Natomas economy. In 2010 and part of 2011 the Natomas Chamber of Commerce, supported by many Natomas businesses, presented a privately-funded proposal to the city to keep the Kings and the arena in Natomas. The time, money and effort that group put in to keep the arena in their neighborhood was because they felt it has a positive commercial benefit, plus is a dynamic and affirmative civic amenity for them. Their local economy will be affected.

I33-53

**MISCELLANEOUS COMMENTS**

If my comment is long, it is because of the length of this DEIR. There were still plenty of questions it did not answer. Another troubling aspect of it is the time allotted for public review. The public was given six weeks to review and comment on over 5,000 pages. This is nowhere near enough time for the average person, not versed in reading and evaluating environmental reports, to study it, review materials referenced in it, do other research and comment on it. This process was too rushed to thoroughly accomplish this arduous task.

I33-54

Yours truly,

Jean Fleury

fleuryj@surewest.net

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**Letter I33**      **Jean Fleury**  
**Response**      **January 30, 2014**

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- I33-1            The Proposed Project’s impacts on traffic and transit, air quality, and public utilities are addressed in sections 4.10, Transportation, 4.2, Air Quality, and 4.11, Utilities and Service Systems, respectively, in the Draft EIR.
- I33-2            The comment takes issue with the vehicle miles traveled (VMT) reduction estimates in the Draft EIR, but does not offer any evidence as to the specific concerns regarding those estimates. Please also see Responses to Comments I33-11 through I33-16.
- I33-3            The Draft EIR considered a range of alternatives to the Proposed Project. As is required under CEQA, alternatives that were considered by the City but eliminated from further consideration in the EIR are discussed, and presented in the Draft EIR, Chapter 6, section 6.3.1. In that discussion, it is noted that a substantially smaller ESC “would fail to achieve the basic objectives of the project in that it would fail to be a state-of-the-art ESC with 17,500 seats that could serve as the long-term home of the Kings, meet the applicant’s commitments to the City and the NBA, or be able to accommodate major entertainment and sporting events.” For those reasons, an alternative similar to the one briefly described in the comment was eliminated from consideration in the EIR.
- The comment also mentions an alternative involving construction of a new arena on City-owned land in Natomas. Alternative 3, presented in Section 6.4.4 of the Draft EIR on pages 6-34 through 6-41, describes and comparatively evaluates “a new ESC would be constructed on property owned by the project applicant and/or the City of Sacramento near the existing Sleep Train Arena.” The discussion concludes that Alternative 3 would achieve few of the stated project objectives, and would fail to achieve any of the objectives related to relocation of the facility to downtown Sacramento.
- I33-4            The refined design of the proposed ESC is presented in Chapter 2 of this Final EIR. The refined design is very similar to the earlier version of the ESC design that was presented in the Draft EIR, and has only changed in minor ways such as the physical layout of the event plaza, additional detail in presentation of the building façade, entries, and interior configuration. As is described in Chapter 2 of the Draft EIR, the ESC would be most visible from L Street and 5<sup>th</sup> Street, with other views primarily glimpses down streets such as K Street, 6<sup>th</sup> Street, and J Street. It is anticipated that a prominent view of the ESC would be available from the corner of J and 5<sup>th</sup> Streets, particularly to motorists, pedestrians, and bicyclists traveling south on 5<sup>th</sup> Street or east on J Street. As is noted on the refined version of Figure 2-4, it is anticipated that there will be a prominent view corridor focused on the

ESC main entry and Riverview Terrace created at that location by setting back the future mixed use development east on J Street approximately 60 feet, allowing for a major pedestrian entry from J and 5<sup>th</sup> Streets to the event plaza.

I33-5 The Draft EIR, under Impact 4.1-3, pages 4.1-76 and 4.1-77, addresses the potential for glare from the proposed ESC. Regarding the creation of reflective heat, shade in the plaza area would be largely provided by plantings of agricultural and native landscape trees in landscape planters at each of the plaza entries, in a “bosque” area that would include shaded seating, and by the upper levels of the proposed ESC which would cantilever over the southern edge of the plaza and provide shade as the sun passes in the southern sky. Although specific species of trees have not yet been selected, it is anticipated that the selection of trees would include deciduous species that would provide shade during the warmer months of the year and would allow sunlight during the cooler months.

In addition to shading during warmer months, the edge of the proposed ESC would include ten-foot high “green” or “living” walls in which living plants cover that portion of the façade. Further, both the ESC roof and the plaza areas would be designed to be reflective, with a reflectance of at least 0.63 for the roof of the ESC. This reflectance would reduce heat absorption.

I33-6 The ESC front entry doors would be opened when conditions permit, before and possibly after games, in such a way that enables the building’s mechanical systems to perform as required. A number of measures would be employed to ensure that the open doors do not adversely affect the mechanical performance of the building, including displacement ventilation, and use of natural ventilation to help air circulation when there are the proper atmospheric conditions.

During times that the entry doors are open, electronic and mechanical deterrents would be employed to prevent insects or birds from entering the ESC.

I33-7 As noted in the comment, there are state and local regulations that establish safety standards related to the number of people that can be accommodated in a building or public space. These regulations would avoid the creation of unsafe conditions. No evidence is provided to suggest that any particular hazards would be created by standing room areas of the Proposed Project.

I33-8 The comment is noted and will be conveyed to the City Council for its consideration.

I33-9 The commenter suggests that the City Code requirements regulating noise are applied inequitably and suggests that this is reflected in the Draft EIR. The commenter is incorrect. The City Code requirements regulating noise were incorporated into the noise impact analysis of the Draft EIR where applicable. These standards were applied quantitatively and, thus, objectively. Impact 4.8-1,



for example, quantitatively assessed project operational (transportation and non-transportation) noise impacts with respect to the City's 2030 General Plan and Noise Ordinance standards.

I33-10

The Draft EIR was prepared by the City of Sacramento and is an objective evaluation of the potential environmental effects of implementation of the Proposed Project. The analyses contained in the Draft EIR, including the assessment of transportation effects, are based on independent studies undertaken by environmental consultants working collaboratively with the City of Sacramento Community Development Department, Environmental Planning Services Division. The Draft EIR was not based upon studies undertaken by Think Big Sacramento, The4000, or any other group that is advocating for or against the merits of the Proposed Project.

In particular, the calculations of VMT, transportation effects, parking, greenhouse gas and other air pollutant emissions, and the like are based on comprehensive and detailed analyses that were independently prepared for inclusion in the EIR. Data used was collected and analytical models were used from independent parties or derived from agencies such as the City of Sacramento Department of Public Works, Sacramento Regional Transit, and SACOG. As is described at length in the Draft EIR, data was developed and analyzed by transportation and environmental planners and engineers solely for the purposes of conducting the thorough evaluation required by the City in its implementation of CEQA. There was no effort made to compare or reconcile the Draft EIR with The Capitol Corridor Report or any other reports that were prepared prior to the publication of the Draft EIR. The Renaissance Report, referenced in the comment, was published after the public release of the Draft EIR. While it reflects data about the proposed ESC that is reported in the Draft EIR, the Draft EIR does not report any data that is presented for the first time in The Renaissance Report.

The EIR will be part of the record of information and evidence that the City Council has before it when it considers the merits of the Proposed Project. The Council will also have before it information and evidence provided by parties that support and oppose approval of the Proposed Project. The City Council will exercise its independent judgment, informed by the EIR and by other materials made available to it, in making a determination as to whether to approve or deny the project application.

Please also see Response to Comment I20-11.

I33-11

This comment begins with a description of findings from the Capitol Corridor Impact Report prepared by Think Big Sacramento. That report, formally titled The Capitol Corridor Impact Report: An Analysis of the Entertainment and Sports Facility's Civic and Economic Benefits to the Capitol Region, was released by Think Big Sacramento on July 14, 2011. The Capitol Corridor Report was not

consulted or relied upon in preparing any part of the transportation impact analysis contained in the Draft EIR.

The comment suggests that VMT would increase due to Natomas residents driving a longer distance to the ESC than to Sleep Train Arena in Natomas. Trip origins/destinations from Natomas represent a small proportion of the overall trip-making to each facility. Although moving the ESC to downtown would increase trip lengths for Natomas residents, the trip lengths for the majority of trip origins/destinations would decrease because a large proportion of trip origins/destinations would be located closer to the ESC than they are to Sleep Train Arena. This was graphically illustrated in the Cell Phone Data map presented in Appendix D to the Draft EIR. As a result, regardless of the travel mode selected, the average trip length for all trips decreases with an ESC situated in downtown compared to Sleep Train Arena in Natomas. It is also noted that RT's Green Line light rail is planned to be extended through Natomas and was assumed under cumulative conditions. When constructed, this would provide Natomas residents the opportunity to use light rail transit to access the ESC.

The comment refers to Natomas residents now being 'deposited onto a congested freeway' to access the ESC. The analysis concludes that this would not typically be the case for evening events because those residents would be traveling southbound on I-5 at a time when the evening peak period travel direction is northbound (i.e., motorists leaving downtown). Further, the majority of the trips inbound to the ESC would occur from 6 to 7 PM after the PM peak hour commute concludes (between 4:45 PM and 5:45 PM), meaning that traffic levels on I-5 would be reduced compared to peak hour conditions.

- I33-12 A variety of parking garages/lots would be available for ESC attendees use within a one-half walk of the site. Attendees would be expected to select a parking garage that best achieves their objectives, which could range from minimal delays to enter or exit the garage, parking cost, proximity to the site, post-game traffic routing, and other considerations. While some garages would likely approach capacity during special events, most would have reserve capacity due to the overall parking surplus, meaning the level of inbound/outbound travel would be less than the facility was designed to accommodate. While some queuing would initially occur as motorists enter these garages, the degree to which queues and traffic tie-ups occurs would likely decrease over time as attendees select the garage that best meets their needs.
- I33-13 Please see Response to Comment O10-1 for a discussion of the analysis that led to the slight increase in Central City trip origins.
- I33-14 The Draft EIR includes analyses of ESC operations based on estimates of attendance presented in Table 2-4. These estimates are necessarily conservative in that they estimate high levels of attendance in order to ensure that environmental

effects are not understated. Ultimately, the level of attendance at the ESC will be dependent on a variety of factors, such as those mentioned in the comment, and including but not limited to the competitiveness of the Kings, the marketing programs implemented by the Kings, the cost of tickets to NBA basketball games and other events, and the number and popularity of touring musical acts and other performances. The comment is noted and will be conveyed to the City Council for its consideration.

I33-15 The cell phone data enabled the City to identify the origin (at the census block group level) of approximately 1,530 trips that traveled to the Sleep Train Arena to watch seven different weekday evening Kings games. A similar sample of post-event outbound trips was obtained through the cell phone data. This data is substantially more accurate, reliable, and state-of-the-practice than other potential forms of data. The recent availability of this valuable data source has enhanced the technical sophistication of various corridor studies (e.g., High Occupancy Toll Lane projects in the Bay Area and Southern California) that rely heavily on trip origin and destination patterns for analysis results. The study approach was independently reviewed and endorsed by SACOG (see Comment Letter A14).

The analysis and the estimated increase in Central City trip origins is not based on a presumption that many more event attendees would be Central City residents. Rather, the estimate suggests that more trip origins would start in the Central City. To be conservative, the analysis left the trip destinations (after the game) unchanged, assuming that there would be no change in the places of residence for event attendees.

I33-16 Please see Response to Comment O10-1.

I33-17 Please see Response to Comment O10-2.

I33-18 Please see Response to Comment O10-3.

I33-19 Please see Response to Comment O10-4.

I33-20 Please see Response to Comment O10-5.

I33-21 Please see Response to Comment O10-6.

I33-22 Please see Response to Comment O10-7.

I33-23 Please see Response to Comment O10-8.

I33-24 Please see Response to Comment O10-9.

I33-25 Please see Response to Comment O10-10.

- I33-26 Please see Response to Comment O10-11.
- I33-27 As described on page 4.10-79 of the Draft EIR, the proposed Downtown Streetcar system is assumed in place under Year 2035 cumulative conditions based on the Regional Transit Master Plan. The effects of the Streetcar system are currently being analyzed as part of a separate environmental review process.
- I33-28 Initially, post-event street closures could cause some motorists to be routed in directions more circuitous than they would prefer to travel. Based on typical driver behavior, it is reasonable to expect that, over time, most attendees' travel behavior would adapt to the street closures and select parking garages from which post-event traffic handling enables them to travel in their preferred direction after the event concludes.
- I33-29 Shifting signal green time at the 3<sup>rd</sup> Street/J Street intersection, from the 3<sup>rd</sup> Street approaches to the I-5 off-ramps, could cause longer delays and backups on the 3<sup>rd</sup> Street approaches. However, those volumes are a small fraction of the level of traffic expected to access J Street from the I-5 off-ramps and would not materially impede traffic on 3<sup>rd</sup> Street.
- I33-30 The transportation analysis contained in the Draft EIR does not assume any increases in transit service for the existing plus project condition. The comment is noted and will be conveyed to the City Council for its consideration.
- I33-31 Although local trips from Midtown and East Sacramento may pass through certain "calmed streets", the majority of motorists accessing the ESC from non-downtown origins are expected to use arterial streets such as 10<sup>th</sup> Street, 12<sup>th</sup> Street, 16<sup>th</sup> Street, I Street, and J Street to access the ESC. There is no evidence provided to support an argument that the Proposed Project would conflict with traffic calming measures that have been installed in Central City neighborhoods. Further, local motorists who travel through the "calmed streets" would be generally familiar with these devices.
- I33-32 As discussed on page 4.1-38 of the Draft EIR, Mitigation Measure 4.11-5 on page 4.11-38 of the Draft EIR requires that the applicant manage drainage and dewatered groundwater in a manner that ensures that the existing capacity of the CSS and Basin 52 are not exceeded. The Proposed Project would not cause or exacerbate flood conditions.
- I-5 is a Caltrans facility and Caltrans is responsible for overseeing detours when segments of the freeway are closed for any reason, including flooding of the "boat section". There are numerous routes from the freeways to the project site, and multiple exits before and after the "boat". Similarly, 5<sup>th</sup> Street is only one access to the Downtown project site. Attendees will be able to find their way to the ESC

even in those rare times when an event coincides with substantial flooding on I-5 and/or on 5<sup>th</sup> Street.

- I33-33 Larger events at Cal Expo (e.g., the California State Fair) can exacerbate congested conditions on the Capital City Freeway (Business 80). However, such overlapping activities would be infrequent. For example, the State Fair does not overlap with the NBA season. However, a concert or other ESC event could occur on the same day the State Fair is in operation. In such a situation, inbound concert trips would occur about the time many fair attendees are departing. Outbound concert trips would occur after nearly all activities at the fair are closed. Overlapping activities are common and nearly inevitable in large metropolitan areas. Scheduling, information, special transportation provisions, and related actions are undertaken to reduce their occurrence and plan for them when are scheduled to occur. Please also see Response to Comment O9-11 for further discussion of concurrent events.
- I33-34 Public Resources Code section 21168.6.6 (a)(3)(A)(i) states that to meet the definition of “downtown arena” that would mean that the provisions apply to the project, it must be one that “[r]eceive Leadership in Energy and Environmental Design (LEED) gold certification for new construction within one year of completion of the first NBA season.” The Proposed Project has committed to achieving this certification. LEED certification is granted by the U.S. Green Building Council (USGBC). The USGBC has established procedures which mean that it is not possible to receive certification until after a building is constructed and in operation. In Chapter 2 of this Final EIR, the description of LEED compliance features that would be included in the proposed ESC has been updated since its first presentation in Chapter 2 of the Draft EIR. These features would be required as a condition of approval and their inclusion in the proposed ESC would be monitored through the Mitigation Monitoring Plan.
- I33-35 The primary localized pollutant associated with traffic congestion and idling is CO. CO emissions for the worst-case locations were assessed in Impact 4.2-5 in the Draft EIR and were found to be less than significant. Underground and enclosed garages are required to have mechanical ventilation systems. These systems are used to bring in outside air to minimize increases in indoor pollutant concentrations resulting from vehicle exhaust. These ventilation systems are designed to handle the maximum vehicle capacity that can be handled by the garage.
- I33-36 The future disposition of the proposed transfer properties, including Lot Y which is adjacent to the Crocker Art Museum, has not been determined. As is noted on page 2-82 of the Draft EIR, “[t]he project applicant may elect to retain ownership of the parcels, or may sell the parcels and invest the proceeds in the planning, design, development and construction of the proposed ESC.” At the time that there is a proposal to develop or otherwise change the use of any of the transfer properties,

the City would comply with CEQA as appropriate. The comment is noted and will be conveyed to the City Council for its consideration.

I33-37 Please see Response to Comment O4-17 for a discussion of the consideration of social and economic impacts under CEQA. The comment is noted and will be conveyed to the City Council for its consideration.

I33-38 Please see Response to Comment O9-3 for a discussion of effects of the Proposed Project on businesses in Old Sacramento.

I33-39 The comment is noted and will be conveyed to the City Council for its consideration.

I33-40 If the Proposed Project is implemented, the arena at Natomas would no longer operate as a sports facility. No plans for other uses of that land are known or proposed. If and when a project is proposed for that area, whether it is a sports arena or other use, it will be subject to full CEQA analysis and City approval.

As stated on pages 2-3 and 2-6 of the Draft EIR, the project objectives include a number of objectives related to economics and the downtown, such as strengthening the downtown by providing a framework for successful development around Downtown Plaza, catalyzing redevelopment of previously blighted areas, providing connections within the downtown, and creating a regional economic catalyst. Other objectives relate to constructing a state-of-the-art entertainment and sports facility in an area that is served by adequate streets and highway infrastructure, parking, and public transportation. Redevelopment of the existing Downtown Plaza as a covered retail mall might meet some of the objectives that are not related to the development of a downtown entertainment and sports complex, but only if a downtown mall would be economically viable. As shown in Appendix K of the Draft EIR, the Downtown Plaza mall has been losing tenants for the last 10 years, suggesting that this type of mall is not economically advantageous in this location.

The Proposed Project provides for up to 1.5 million square feet of space in addition to the ESC, including 150,000 square feet of retail development, which is comparable to the current amount of occupied retail space, and 100,000 square feet of restaurant uses, which would be a substantial increase over existing conditions (see Table 2-2 on page 2-11 of the Draft EIR). These retail and restaurant uses, as well as the movie theatres and fitness center, would be available to residents of the downtown area, including the future Railyards development and the Proposed Project.

I33-41 Please see Response to Comment O4-1 regarding parking in the Alkali Flats and Mansion Flats neighborhoods. While some motorists may “circle blocks” looking for on-street parking, the majority of residents are likely to park in off-street

lots/garages, which are situated near the ESC and would have available parking. Similar to what occurs at AT&T Park (home of the San Francisco Giants), parking garage operators are likely to post signs indicating parking availability and cost. Many of these garages also include the technology to calculate available parking and would need a means to publish it. The Vail Ski Resort in Colorado (<http://m.vail.com/parking-at-vail.html>) provides a good example of real-time parking supply information system.

Some parking on the Downtown project site may be reserved for certain users and other spaces may be open to the public or managed for shared use. The details of how the future garage operations would be coordinated have not yet been developed. Prior to the approval of development projects in the SPD area, the provision of parking for those uses and how that parking would be coordinated with parking assets under and adjacent to the ESC would have to be established by the ESC operator.

- I33-42 The comment is noted and will be conveyed to the City Council for its consideration. Please note that Alternative 1, the No Project Alternative, and Alternative 3, the Natomas ESC Alternative, all assume the retenancing of the existing Downtown Plaza shopping center.
- I33-43 As described in section 4.9, Public Services, of the Draft EIR, the City of Sacramento is responsible for providing police, fire, and emergency medical response services within the city limits, including to the Downtown project site. Police, fire, and medical response services could be temporarily relocated to the Downtown project site from other portions of the city as needed to respond to demand. Private parking garages near the Downtown project site would supply their own private security as they deem appropriate to protect their properties and users of those parking garages. Please also see Response to Comment I20-10.
- I33-44 The ESC design as presented in Figure 2-10 of the Draft EIR, would not accommodate publicly accessible parking immediately under the footprint of the ESC facility, although parking would be included under the practice facility and would be accommodated adjacent to the Event level. Security measures would vary depending on the type and nature of specific planned events. The security measures implemented would meet the requirements of the NBA, the U.S. Department of Homeland Security, and the City of Sacramento Police Department, or other security agencies as appropriate.
- I33-45 The comment is noted and will be conveyed to the City Council for its consideration.
- I33-46 The estimates of wastewater generation and stormwater runoff for the Proposed Project include all of the proposed uses—retail, office, hotel, residential and the ESC. Mitigation Measure 4.11-5 requires that the project applicant demonstrate

that wastewater and drainage will not exceed the capacity of the existing CSS and Basin 52 system (see page 4.11-38 of the Draft EIR). Installation of a holding tank is one option for achieving compliance with this requirement. Another option is to design and implement offsite improvements to increase the capacity of the existing system. In either case, the applicant must demonstrate to the City that the option will be designed to operate successfully and with enough capacity to accommodate the project flows. Holding tanks and sewer and drainage infrastructure are common features of many systems, and can be successfully implemented with standard design and engineering.

The City of Sacramento has identified a number of improvements to the City's combined sewer system (see page 4.11-30 and 4.11-31). The timing for completion of these proposed facilities was not known at the time the Draft EIR was written, so the improvements were not assumed to be in place in the analysis of project impacts.

I33-47 Please see Responses to Comments A1-3 and I33-46. Because mitigation requires that the Proposed Project construct infrastructure to ensure that the capacity of the sewer and drainage system would not be exceeded, the Proposed Project would not create or exacerbate flooding in the downtown.

I33-48 The comment is noted and will be conveyed to the City Council for its consideration. Please also see Responses to Comments I32-2 and I33-43.

I33-49 The comment suggests that a mall is necessary in downtown Sacramento to serve residents. Although the Proposed Project would replace the existing Downtown Plaza, the Proposed Project would develop 350,000 square feet of retail/commercial uses on the Downtown project site. This development would serve both residents of downtown Sacramento as well as visitors to the area. The comment is noted and will be conveyed to the City Council for its consideration.

I33-50 Please see Response to Comment I33-49.

I33-51 Please see Responses to Comments O19-7 and I26-3 for a discussion of the Natomas alternatives.

In its evaluation of the potential for the Proposed Project to cause urban decay, the Draft EIR considered the economic impact on North Natomas of the closure of the Sleep Train Arena, and concluded that the arena was only one of many sources of demand for restaurant and retail services in North Natomas (see page 5-19 of the Draft EIR). As shown in Table 5-2 on page 5-19 of the Draft EIR, changes in arena attendance do not correlate with changes in retail and restaurant sales levels in North Natomas. It is not likely that the loss of the Sleep Train Arena would result in extensive job losses in the North Natomas area.



In addition, it is not necessarily the case that employees at businesses that do have arena attendees as patrons necessarily live in North Natomas or would obtain jobs in the downtown. The potential for job losses related to the closure of Sleep Train Arena would not be expected to substantially alter traffic conditions. In any case, the Draft EIR traffic analysis includes assumptions for employees working during events at the ESC (see Table 4.10-12 on page 4.10-49 of the Draft EIR), so the impacts of employee travel are accounted for in the impacts identified in Section 4.10, Transportation.

The lifetime of the Proposed Project is not known at this time, and it would be highly speculative to anticipate its potential relocation 20 to 25 years in the future. An EIR need not address speculative considerations (CEQA Guidelines Section 15145).

I33-52 Please see pages 5-18 through 5-20 of the Draft EIR and Response to Comment I26-23 for a discussion of the effects of closure of Sleep Train Arena on North Natomas businesses as they relate to the potential physical environmental effects of the Proposed Project. Please also see Response to Comment I26-24 for a discussion of the relevance of the economic impact of sports facilities to the urban decay analysis presented in the Draft EIR. As discussed on pages 2-15 through 2-17 of the Draft EIR, the ESC is anticipated to be used 189 days per year for events that occur during the day, evening, and night. The comments on the merits of the project are noted and will be conveyed to the City Council for its consideration.

I33-53 Please see pages 5-18 through 5-20 and Response to Comment I26-23 for a discussion of the effects of closure of Sleep Train Arena on North Natomas businesses. As is noted in Appendix H and Response to Comment I26-23, the assessment of the potential effects of closure of Sleep Train Arena included direct discussion with commercial real estate brokers with knowledge of the North Natomas commercial real estate market, as well as comparative evaluation of retail sales data and attendance data over recent years. The evaluation found the lack of a strong connection between Natomas arena attendance and retail sales in the area, which was confirmed by local real estate experts.

The discussion of past arena siting efforts presented in Chapter 6.3 of the Draft EIR reflects the prior presentations of concepts for a new arena in Natomas (see pages 6-8 through 6-10 of the Draft EIR).

The comments are noted and will be conveyed to the City Council for its consideration.

I33-54 The length of the comment period for a Draft EIR is prescribed under CEQA. Section 15105(a) of the State CEQA Guidelines states that “[t]he public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not

be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.” The Draft EIR was submitted to the State Clearinghouse, consistent with the requirements of sections 15205 and 15206 of the State CEQA Guidelines. The City of Sacramento, as matter of standard practice, meets the requirements for public review of Draft EIRs, and provided a 45-day review for the Draft EIR, similar to what they have previously done for EIRs of similar or larger scale, such as the Railyards Specific Plan, the City’s 2030 General Plan, and others.



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January 31, 2014

**VIA E-MAIL**

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**Re: Draft Environmental Impact Report for the Sacramento  
Entertainment and Sports Center & Related Development Project (P13-  
065) (SCH#:2013042031)**

Dear Mr. Johnson:

Thank you for the opportunity to comment upon Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development Project (ESC). This firm represents C-III Asset Management LLC, as Special Servicer, and U. S. Bank National Association, as Trustee<sup>1</sup> (Owners), as owner of real property improvements and related real property interests in the property located at 600 K Street, Sacramento, California. The purpose of this letter is to bring the City's attention to the DEIR's failure to establish that the ESC qualifies as a "Downtown arena" within the meaning of Senate Bill 743, as codified in California Public Resources Code section 21168.6.6, and its various deficiencies under the California Environmental Quality Act (CEQA) and the CEQA Guidelines. Cal. Pub. Res. Code § 21000 *et seq.*, Cal. Code Regs. § 15000 *et seq.* Accordingly, we ask that the City adequately revise and recirculate the DEIR before taking further substantive action on the ESC.

**The Project does not Qualify as a "Downtown Arena" under SB 743**

SB 743 was enacted last fall to provide a variety of notable "reforms" to CEQA. Among other things, the bill would expedite judicial review of the ESC to the extent

<sup>1</sup> The record title owner is U. S. Bank National Association, as Trustee, successor-in-interest to Bank of America National Association, as Trustee, successor by merger to LaSalle Bank National Association, as Trustee, for the Certificate Holders of Bear Stearns Commercial Mortgage Securities Inc., Commercial Mortgage Pass-Through Certificates, Series 2002-TOP8.

I34-1

Scott Johnson  
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that it meets the definition of "Downtown arena" under Public Resources Code section 21168.6.6. To qualify as a "Downtown arena," the ESC must receive Leadership in Energy and Environmental Design (LEED) Gold certification for new construction within one year of completion of the first NBA season.

The ESC must also take the following steps, under SB 743, to minimize operational traffic congestion and reduce global climate change impacts:

1. Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases from private automobile trips (automobiles and light vehicles) to the Sacramento ESC as compared to the baseline, and as verified by the Sacramento Metropolitan Air Quality Management District (SMAQMD);
2. Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035 achieved in the Sacramento Area Council of Governments (SACOG) sustainable communities strategy; and
3. Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the ESC that is no more than 85 percent of the baseline.

CEQA requires that a project description must state the objectives sought by the proposed project and that it should be clearly written to guide the selection of alternatives to be evaluated in the EIR. 14 Cal. Code Regs. § 15124(b). The DEIR claims that the ESC is being designed to achieve LEED Gold certification, See DEIR at S-7, Table S-1 (Comparison to SB 743 Targets), fn. 1; see also DEIR at 2-36 - 2-38, which achievement is a required element of meeting SB 743's definition of a "Downtown arena." In sharp contrast to that dubious assertion, however, the applicant's stated project objectives say nothing about sustainability or any kind of LEED certification. See DEIR at 2-3.

The DEIR acknowledges that "the details of the design process are not yet complete and, thus, many of the design details that would be measured to achieve LEED Gold certification have yet to be determined." See DEIR at 2-36. The DEIR highlights several types of strategies that are "being investigated" to achieve sustainability targets required to obtain LEED Gold certification, but it further acknowledges that the ESC may exceed or fall short of those targets, depending on final project designs.

If the applicant desires to construct and operate a large basketball arena and related development project that is compliant with SB 743's definition of a "Downtown arena," the project objectives expressed in the DEIR need to be revised to reflect



I34-1  
cont.

I34-2



Scott Johnson  
January 31, 2014  
Page 3

that desire. The DEIR also needs to discuss and analyze the strategies under consideration against the sustainability targets required to obtain LEED Gold certification. The DEIR must disclose how and the extent to which the ESC may exceed or fall short of the LEED sustainability targets and, in order to fall within the ambit of SB 743, demonstrate exactly how the ESC will nevertheless achieve LEED Gold certification.

I34-2  
cont.

The DEIR also fails to demonstrate how the ESC will achieve and maintain vehicle-miles-traveled (VMT) per attendee for NBA events at the ESC that is no more than 85 percent of the baseline. Instead, the DEIR asserts that construction of the ESC will result in a reduction in VMT of 18.8% based upon a SACOG SACMET travel demand model that relies upon undisclosed cell phone data and speculative assumptions about trip origins and destinations that could result from the construction and operation of the ESC. See DEIR at 4.10.69-70, Tables 4.10-19 and 4.10-20.

The assumptions are particularly troubling because they result in several arbitrary "adjustments" to the attendee base of Sacramento Kings games. In particular, the adjustments are based on information provided by the Kings organization regarding an increase in season ticketholders in the current 2013-14 National Basketball Association season compared to the previous three seasons. With no justification for doing so, the DEIR arbitrarily increased the proportion of the attendee base originating in the Central City from 10-13% and proportionally decreased the attendee base "throughout the remainder of the region." See DEIR at 4.10-40. The DEIR simply fails to provide any evidence, much less substantial evidence, that these adjustments are reasonable and appropriate for the ESC.

I34-3

For example, the DEIR cites no research and includes no study of its own to show that the geographic location of sports franchise ticketholders will shift with the construction of a new facility. And, contrary to the DEIR's unsupported statement that "[s]ports facilities, along with other major civic structures such as cultural and entertainment centers, are often perceived as an economic development tool to rebuild cities," see DEIR at 5-22 and Appendix H at 7, there is a substantial body of research that shows just the opposite. See, e.g. Roger G. Noll and Andrew Zimbalist, *Sports, Jobs, and Taxes: The Economic Impact of Sports Teams and Stadiums*, The Brookings Institution (1997); Neil deMause and Joanna Cagan, *Field of Schemes: How the Great Stadium Swindle Turns Public Money into Private Profit*, The University of Nebraska Press (2008).

The DEIR must be revised to document how the ESC will cause a 3% shift in the origin of arena attendees. Without such disclosure and analysis, it is not reasonable to conclude that the ESC will reduce VMT by a sufficient amount to meet SB 743's definition of a "Downtown arena." And the DEIR must be revised to objectively address the economic impact research regarding sports facilities, which research seriously undermines the notion that sports facilities such as the ESC will facilitate economic development.

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**The DEIR Fails to Adequately Disclose Impacts and Mitigation Measures and does not Adequately Analyze Project Alternatives**

Impacts 4.10-3 states that the ESC would worsen queuing on the J Street freeway off-ramp from Interstate 5 in the southbound and northbound directions. See DEIR at 4.10-94. The DEIR discloses that this impact is both significant and unavoidable, despite the fact that a physical improvement that would apparently reduce the impact below the level of significance was identified, because consultations with Caltrans led to the conclusion that "certain geometric design standards" could not be met. See DEIR at 4.10-96. The DEIR fails to discuss or analyze both the nature of the improvement that would reduce the impact and the specific geometric design standards that, according to Caltrans, render this potential improvement infeasible. Given the substantial safety threat posed by vehicles queuing back onto I-5 and the ESC's inability to adequately mitigate that impact, it is critical that the DEIR be revised to adequately disclose these issues.

I34-4

The DEIR and its analysis of alternatives to the ESC are heavily biased in favor of the ESC. See DEIR at 6-1 – 6-52. Perhaps most critically, the alternatives analysis fails to discuss the impacts of the ESC on surrounding land uses, including any increased development that is desired to result from the completion of the project.

I34-5


**Conclusion**

The DEIR fails to establish that the ESC qualifies as a "Downtown arena" within the meaning of Senate Bill 743, as codified in California Public Resources Code section 21168.6.6, and fails to adequately disclose impacts and mitigation measures and to adequately analyze project alternatives. Accordingly, we ask the City must adequately revise and recirculate the DEIR before taking further substantive action on the ESC.

I34-6

Sincerely,

MILLER STARR REGALIA

  
Bryan W. Wenter, AICP

BWW

cc: Client  
George B. Speir, Esq.

**Letter I34**      **Miller Starr Regalia**  
**Response**      **January 30, 2014**

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I34-1            The comment provides an opinion regarding the project’s compliance with Senate Bill 743 and does not raise any environmental issue related to the Proposed Project or its potential environmental effects. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project’s relationship to that statute have been forwarded to the City Attorney for consideration. The commenter’s specific comments are addressed below.

I34-2            In describing the requirements for the project description in an EIR, State CEQA Guidelines section 15124(b) states that the project description must include “[a] statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.” In describing the requirement for a statement of objectives, the State CEQA Guidelines does not require that the objectives address any particular aspect of a project’s architecture, design, or other physical characteristics. Rather, the objectives are intended to articulate the “underlying purpose of the project” and to assist the lead agency in developing the range of alternatives. LEED certification does not necessarily address any of these required elements.

The statement of project objectives in Chapter 2 of the Draft EIR is articulated in two parts: a statement of objectives of the project applicant, and a statement of objectives of the City of Sacramento. This approach is reflective of the public-private partnership nature of the joint investment that is part of the financing of the Proposed Project. The collective statement of objectives of the private applicant and the public agency partner has been used in other EIRs for similar facilities in other jurisdictions. The combined objectives of the applicant and the City represent the “statement of objectives sought by the proposed project.” On page 2-6 of the Draft EIR, the following objective is presented: “Sustainable Project: Develop a sustainable entertainment and sports center project that is certified LEED-Gold, supports smart growth principals, and encourages public transit use as well as pedestrian and bicycle transportation.” Contrary to the comment, the design of the proposed ESC to meet LEED Gold criteria is expressly stated in the project objectives.

The Draft EIR confirms that the ESC would be designed to meet LEED Gold criteria by stating that “[t]he proposed ESC would be designed and constructed to meet the certification requirements of the US Green Building Council’s Leadership in Energy and Environmental Design (LEED) Gold certification.” The description



then outlines specific performance targets that have been established for the design, including targets for energy efficiency, water conservation, use of local and recycled materials, etc. The proposed ESC continues to be designed to meet the targets presented in Table 2-6. The Draft EIR acknowledged that in the final design, some of the targets may be exceeded and the project could fall short of other targets based on the implementation of specific strategies through the final project architecture and engineering design. In describing how the targets would be achieved, the Draft EIR acknowledged that at the time of its writing the specific strategies that would receive the correct number of points in the U.S. Green Building Council LEED program to achieve LEED Gold certification had not yet been selected by the project architects. Rather, the project description included a range of strategies that were being explored at that time.

Please also see Responses to Comments A15-2 and O5-8 for additional discussion of measures that would be included in the proposed ESC in order to achieve compliance with LEED Gold certification requirements.

I34-3 Please see Response to Comment O10-1 regarding VMT methodology and calculations.

Appendix H states that “[s]ports facilities, along with other major civic structures such as cultural and entertainment centers, are often perceived as an economic development tool to rebuild cities.” The examples of San Diego and Columbus, Ohio, that are presented in Appendix H provide comparisons to situations that are similar to downtown Sacramento. Based on the examples provided, Appendix H concludes that “sports facilities can serve as economic development catalysts, impacting how and where people spend money. The attraction of large crowds creates economic activity that helps leverage development. Thus, sports facilities, along with entertainment complexes and cultural facilities, can renew downtown areas, create new images, and generate real economic development.” While the examples provided in Appendix H provide a basis to conclude that the ESC could provide an economic development catalyst, the Draft EIR does not claim that it will do as such. Please also see Response to Comment I26-23.

I34-4 Please see Response to Comment O19-27.

I34-5 The purpose of the alternatives analysis is to identify and evaluate alternatives that could meet most of the basic project objectives and lessen or avoid significant impacts (please also see Response to Comment O19-7). The Draft EIR contains a full analysis of constructing a new arena at the Natomas site (see pages 6-34 through 6-41 of the Draft EIR), including potential environmental effects on surrounding land uses, such as increased noise, traffic congestion and changes in visual character. These issues are also analyzed for the Proposed Project throughout the EIR.

I34-6 Please see Responses to Comments I34-1, I34-2, and I34-3.



**Scott Johnson**

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**From:** Rick Bettis <rckbettis40@gmail.com>  
**Sent:** Friday, January 31, 2014 4:51 PM  
**To:** Scott Johnson  
**Subject:** Sorts and Entertainment center EIR Comments

Dr. Mr Johnson

I have the following comments regarding the subject EIR.

Second Two Air Quality

The mitigation measure required to insure that the construction and operations of this project does not result in adverse air quality impacts do not appear to be explicitly documented. The Sacramento region remains an Unattainment area and the net air quality impacts should result in an improvement in air quality. Detailed analysis should be provided to substantiate this result.

I35-1

Section five Global Climate Change

Definitive analysis should be provided that project mitigation measures will not result in an increase in Greenhouse Gas Emmissions. given the large scale nature of the project and the removal of existing structures a definitive Life Cycle Analyses should be conducted that would accurately reflect the GHG impacts for the entire project life. This should include the demolition of the existing structures and the complete life cycle of the new facilities. The Lifestyle should include the acquisition of materials starting with mining transportation, manufacturing and fabrication, transportation of manufactured components, construction and finally operations and maintenance.

I35-2

It should be noted that it is the adopted policy of the state of California to reduce GHG emission by eighty percent ( 80%) below 1990 levels by the year 2050. the report should demonstrate how this project will help meet this goal.

I35-3

Section Seven Hydrology and Water Quality

Projected available water supplies will be reduced based on including the current statewide drought in the analysis of future supplies. this should be reflected in the EIR assessment. Available water supplies may also be reduced by the resolution of ongoing challenges to water rights by upstream water users including El Dorado County unresolved claim for American river water now used by the City. The requirements for downstream water supply as a result of pending flow standards by the California Water Resources control board should also be considered.

I35-4

thank you for your consideration

sincerely  
Rick Bettis  
1716 P street  
Sacramento. Ca.  
95811

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**Letter I35**      **Rick Bettis**  
**Response**      **January 30, 2014**

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- I35-1      Specific mitigation measures to be incorporated during construction and operation of the Proposed Project are described in the Draft EIR and are either required or recommended by the SMAQMD, which are based on documented emission reduction benefits. These include Mitigation Measures 4.2-2a (SMAQMD Basic Construction Emission Practices), 4.2-2b (SMAQMD Enhanced Exhaust Control Practices), 4.2-2c (SMAQMD off-site fees to offset construction NOx), and 4.2-3 (Transportation Management Association membership as recommended by SMAQMD). CEQA requires a project to mitigate its adverse impacts on existing conditions to the extent feasible; it does not require a project to improve existing conditions, such as existing air quality.
- I35-2      As noted in the Draft EIR, the project would be built to LEED Gold standards, and would be consistent with the City of Sacramento's Climate Action Plan (CAP). The City's CAP was prepared to be consistent with AB 32 and ARB's Scoping Plan. As described in Draft EIR's discussion of greenhouse gas (GHG) emissions, the automobile and light duty truck travel to and from the proposed ESC would be carbon neutral as compared to the baseline, and the proposed ESC would reduce CO2 emitted from automobiles and light trucks per attendee by 36% by 2020 and 45% by 2035 when compared to the same CO2 emissions per attendee at the existing Sleep Train Arena (see discussion on pages 4.5-11 to 4.5-13 of the Draft EIR). The City of Sacramento's recommended approach used to evaluate the potential significance of the Proposed Project's GHG emissions by comparing the project to the City's CAP consistency checklist is consistent with CEQA and the State CEQA Guidelines, including CEQA Guidelines section 15064.4.
- I35-3      The City of Sacramento's CAP includes multiple initiatives intended to help the City achieve its overall goals of reducing community-wide emissions by 15% below 2005 levels by 2020, 38% below 2005 levels by 2030, and 83% below 2005 levels by 2050. The CAP outlines seven strategies to meet these goals. To determine the consistency of a project with the CAP, the City developed a CAP consistency checklist that provides a review process for proposed new development projects subject to CEQA. As described in the Draft EIR, the Proposed Project would be consistent with the City's checklist and, therefore, is consistent with AB 32 and the Scoping Plan. Please see the completed CAP Consistency Checklist in Appendix B of the Draft EIR.
- I35-4      The water supply analysis (Appendix E of the Draft EIR) is based on the City's 2010 Urban Water Management Plan, which considers average, dry and multiple

dry year conditions (see for example, Table 4.11-5 on page 4.11-8 of the Draft EIR), which captures reductions in water supply that could occur due to drought conditions and/or existing legal agreements. The comment does not specify what flow standards would further reduce the City's water supply, and the City is not aware of any.

January 31, 2014

Scott Johnson, Associate Planner  
Community Development Department  
City of Sacramento  
Environmental Planning Services  
300 Richards Blvd., Third Floor  
Sacramento, CA 95811

RE: Comments on the Draft EIR for the ESC Arena Project

45- Day Public Comment Period:

At the outset I object to the minimum 45-day comment period for a project of this magnitude involving arguably over \$258 million in public financing including multiple city-owned parcels, 6 signage sites and demolition of approximately 2300 parking spaces. In addition, providing one public workshop was insufficient to inform the public about the details and conclusions of the DEIR. I would have been able to provide additional comments had I had more time and I'm sure that is true of many other concerned citizens.

I36-1

Project Alternatives 3:

The analysis of project alternatives failed to give sufficient analysis to the Natomas site but based its rejection on comments by several of the mayor's task force who "raised concerns" with a localized economic impact of the ESC project in Natomas as opposed to a greater impact of a downtown facility.

The analysis of the Natomas project clearly shows it to be a preferred alternative. There are no impacts due to known contaminated sites, or cultural resources, no spillover lighting onto residential properties, no significant construction noise impacts or emissions, fewer impacts on Caltrans facilities, city and West Sac streets, and no air quality or traffic problems.

I36-2

The analysis dismisses Natomas because "it is not conducive" to meeting objectives to create a multifaceted community attraction that embodies smart growth principles nor would it likely become a "world class destination" because it lacks supporting amenities like lodging, restaurants, and other urban attractions. At no time did the analysis recognize that the Natomas site has these amenities that now support arena attendees but that it also has sufficient adjacent acreage to build a multifaceted, mixed-use entertainment district. Google searches show that Natomas has 16+ hotels and over 50 restaurants, plus many more within 2 miles of Natomas' borders. The truth is that Natomas has more amenities than the downtown area proposed for the arena.

Natomas is home to almost half of the city's population today and at build out it will grow to over 130,000 even before thousands of acres surrounding Natomas are likely to be annexed into the city. The FEMA moratorium will likely be lifted in the next few months and development in Natomas will continue to lead the city in new grown and revenue.

It is true that the Natomas ESC would not catalyze development of the downtown, but the analysis neglected to consider other developments downtown such as a performing arts center with multiple

I36-3

theaters that would attract patrons to year--round events. An arts and entertainment district would meet all the objectives of creating a world-class community attraction at far less cost to taxpayers and would likely have the public’s support because it would not benefit private millionaire/billionaire NBA owners and developers.

I36-3  
cont.

The analysis failed to note Philadelphia’s success in revitalizing its downtown with the \$265 million Kimmel Center for the Performing Arts, which the Sac Metro Chamber visited in September. As reported in the Bee (Jan.26, 2014), the Kimmel Center fueled the surrounding development of restaurants, hotels and residences. Hotel developer, Carl Dranoff, reported that the Kimmel Center proved “beyond a reasonable doubt that (performing arts venues) are economic engines, and that arts and culture are an economic engine.”

I36-4

New downtown performing arts centers are opening in Orlando, Las Vegas and Kansas City with partial funding coming from the sale of naming rights for \$15-25 million.

A performing arts and culture center in downtown Sacramento should be considered as a preferred alternative to a publicly funded arena and meet all the objectives identified in the DEIR. Keeping the sports complex in Natomas as proposed in the Natomas ESC would require no public funding. The end result would be two economic engines for the city –one downtown and one in Natomas.

I36-5

Transportation

The “experts” who prepared the technical analysis relied on estimates, approximations, and assumptions that are not all reasonable. The analysis failed to analyze traffic impacts of overlapping events in Old Sac, West Sac and Midtown because they would be “infrequent” during the 2013-12014 season. No analysis was made for future years when events will likely increase as the population grows.

I36-6

Not a Qualifying Project Under SB 743

The conclusion that the Project would meet SB 743’s definition of “Downtown Arena” and qualify for modified CEQA procedures is not justified when air quality would be reduced and traffic congestion would increase. The “experts” unreasonably based vehicle trip projections on a sampling of cell phone data rather than more accurate zip code data of ticket purchasers. Had zip code data been used, it would have shown that over 40% of ticketholders live outside the city north on the I-80 corridor as representative as the Kings told members of the Natomas Chamber a few years ago. It is reasonable to assume that this percentage has increased as populations in cities like Roseville, Loomis and Rocklin have increased dramatically in the past decade.

I36-7

Only 10 percent of Kings pre-game trips originate from the Central City and 5 percent of Kings post-game trips return to the Central City according to the cell phone data. Yet the analysis increased the percentage of future city sales from 10 to 13 percent and reduced sales elsewhere in order to qualify for modified CEQA provisions under SB 743.

I36-8

To further meet SB 743 provisions, the analysis assumes that 11% of the remaining 90% of arena attendees from outside the city will use transit, especially light rail even though RT does not operate after arena events and even if RT extended evening hours, arena attendees are unlikely to buy 2 passes at limited fare vending locations near the arena.

I36-9

The unreasonable conclusion that 21.9% reduced VMT per attendee vs. the Sleep Train VMT is based on proposed infill surrounding the arena that may or may not be constructed. With arena events generating over twice the daily trip over non-arena events, it is illogical to assume the Project would

I36-10

qualify for modified CEQA procedures. The increased VMT would create a nightmare scenario on I-5 and I-80 freeways as well as on other streets adjacent to the arena.

I36-10  
cont.

The city’s past technical review reports related to the rail yard arena project do not support the conclusion that there will be reduced greenhouse gas emissions and fewer trips to qualify under SB 743. Residents aren’t fools. They know mitigation measures will not improve air quality or reduce traffic impacts of the arena Project no matter what the DEIR says.

I36-11

Nor do residents believe the applicant will pay for required transportation improvements. Furthermore, how will the city fund several new bridge crossings, HOV lanes, street conversions and extensions, RT improvements and extensions, sidewalk improvements—the list goes on of improvements included in a draft TMP that has not been approved by any party nor have funding sources been identified. Proposed mitigation costs incurred by the city must be added to the estimated taxpayer subsidy of \$258 million.

I36-12

North Natomas Economic Effects/Urban Decay

The analysis failed to include South Natomas businesses in its conclusion that Sleep Train attendee sales are not a significant portion of Natomas sales and closure of the arena would not result in undue hardship on businesses. The analysis based its conclusions on interviews of real estate brokers and examination of one restaurant that concluded 5% of its sales was arena related.

I36-13

As a former member of the Natomas Chamber involved in gathering petitions from Natomas business owners, I know first-hand that several hundred businesses that supported keeping the arena in Natomas did so because their businesses will suffer if the arena moves downtown. I have talked with owners of Sizzler and On the Border who opened in Natomas mostly because of arena business and who will be substantially negatively impacted by closing the Natomas arena. The manager of Malabar restaurant near the arena, claims the Kings patrons spend \$1,500 a night game, and other arena events bring in \$3,000 more a night.

I36-13

City Acknowledges Negative Impact

In a letter to Anaheim officials in 2011, city attorney Eileen Teichert stated that the Kings relocation from Arco Arena would have a negative impact to Natomas in the range of \$188 million. “Restaurants, bars, and businesses already weakened by the region’s prolonged recession may fail leading to many additional “Board ups” of vacant properties.” There’s no question that moving the Kings from Natomas to the central city would divert millions of dollars from Natomas and have a substantial negative impact on businesses in North and South Natomas.

I36-13

Minimal Economic Effects

Because the Project would have approximately the same number of permanent and temporary event-related employees as the current Natomas arena, the economic effects of operations of the Project would not materially change as a result of the ESC.

I36-14

The DEIR estimates an increase in employment in surrounding new development of over 2000 jobs yet the Project applicant has not committed to any specific projects or timetable for development. By overstating the multiplier effect, the analysis estimates 3,766 jobs would be created indirectly by employees of the project. Yet, the analysis fails to consider jobs lost in Natomas using similar

I36-14

multipliers.

The analysis ignores the substitution effect when touting economic benefits. Increased spending at the downtown project will mean decreased spending at other entertainment facilities in Natomas, Midtown, West Sac, and throughout the region. The analysis does not consider that most families have fixed entertainment budgets and out-of-town visitors' may not be in town for arena events and their spending should not be included in multiplier estimates.

I36-14  
cont.

The public has good reason to question the DEIR analysis by city staff and consultants who are proponents of the Project. The positive economic impacts the Project is projected to bring to the city are based on reports commissioned by the mayor's political action committees.


The DEIR fails to address how the Project provides a sufficient ROI to justify the enormous public subsidy of \$258 million that does not include the market value of several digital signs, 2300 parking spaces and properties included in the Project.

I36-15

Most troubling is the fact that the city's Economic Development Department has never performed an economic impact analysis of either the rail yard arena or present downtown Project nor has the department done any peer review studies of the reports commissioned by the mayor's pacs that predict \$11.5 billion in economic activity.

The DEIR should have analyzed the specifics of the proposed economic impacts of the Project, including the non-binding prospects of ancillary development and the sufficiency of the public's return on its investments to finance the Project.

Respectfully submitted by,

  
Marni Leger  
Sacramento, CA



**Letter I36**      **Marni Leger**  
**Response**      **January 30, 2014**

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- I36-1      The comment provides an opinion regarding the project's compliance with CEQA requirements for public review of the Draft EIR and does not raise any environmental issue related to the project or its potential environmental effects. The City actually provided a 47-day comment period for the Draft EIR, starting on December 16, 2013 and ending on January 31, 2014, exceeding the minimum requirements established in State CEQA Guidelines section 15105(a). Senate Bill 743 required the provision of a public workshop within five days of publication of the Draft EIR. The workshop was conducted on December 18, 2013, two days following the publication of the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- I36-2      The alternatives analysis in the Draft EIR does not "reject" any alternative; rather, a discussion of the relationship of each alternative to the project objectives is provided for consideration by the public and the decision makers. The relationship of the Natomas alternative to project objectives is provided on pages 6-40 and 6-41 of the Draft EIR, and does not include comments from or reference to any task force. The Natomas site does not have the same level of lodging and services in proximity to the arena that would be present in the downtown, and existing commercial areas in Natomas are not easily reached from the arena by pedestrians (within ¼ mile) and bicyclists or transit. If such commercial development occurred at the Natomas site, it would still be remote from other dense residential and commercial areas.
- I36-3      A performing arts center would not meet the project objectives related to creation of a new sports and entertainment center, so it was not considered in the analysis. It should be noted that the ESC would provide a venue for non-sport events, including concerts and other cultural events.
- I36-4      The comment is noted and will be conveyed to the City Council for its consideration.
- I36-5      Please see Response to Comment I36-3.
- I36-6      The transportation analysis presented in Section 4.10 of the Draft EIR was undertaken by professional transportation engineers and planners from the firm Fehr and Peers, who possess decades of experience studying the effects of projects in the Sacramento region in general and in downtown Sacramento in particular. Fehr and Peers is a firm that has been prequalified for such studies by the City of Sacramento and numerous other transportation and planning agencies around the region, the State of California, and the western United States. The qualifications of

the professionals involved in preparation of the EIR are presented in the Draft EIR, Chapter 7, pages 7-1 through 7-3. More expansive resumes for all professionals who assisted in the preparation of the EIR are available from the City of Sacramento, Community Development Department.

An analysis of overlapping events was not prepared due to their infrequency, lack of predictability, and uncertain and unique event characteristics (how many events, at which locations, what hours of operations, what travel modes, attendees drawn from different parts of the region, etc.). Any analysis results would be considered speculative. Furthermore, such analysis would be comparable to studying the traffic impacts of a regional mall for the day after Thanksgiving or Christmas season. Mitigating for such conditions would result in an ‘over-design’ of infrastructure that is not necessary for the vast majority of the year.

Nevertheless, the Revised Draft Event Transportation Management Plan addresses the steps necessary to plan for conditions that could occur if there were concurrent major events at the proposed ESC, in Old Sacramento, at Raley Field, and/or at the Sacramento Convention Center :

“The ESC Transportation Coordinator and the City Special Events team will meet with representatives of each major event. The purpose of the collaboration is to identify the schedule, size and attendee travel characteristics for each event; develop a joint parking, transit, and bicycle plan; and establish a coordinated traffic control and communications plan.

“It is anticipated that the joint parking, transit, and bicycle plan may include the following elements.

- Designated parking for each event
- Special transit service, as coordinated with transit providers
- Remote parking and associated shuttles
- Designated temporary transit pick-up and drop-off areas
- Bicycle valet parking areas.”

Please see Responses to Comments O4-7 and O33-33 for additional information on concurrent events.

The number of events assumed for the proposed ESC and presented in Table 2-4 of the Draft EIR is considered conservative and would be unlikely to be exceeded, even in the future as the population of the region grows. The factors that affect the number of events are largely driven by the building tenants, the availability of touring acts, and the number of potential users. As an example, the NBA

Sacramento Kings would be the primary tenant. There could be other future professional sports tenants, such as an indoor soccer team or a women's professional basketball team, but the ESC as proposed would be unlikely to become the home to a professional hockey team because a permanent ice floor is not included in the project design. There were years when Sleep Train Arena (then Arco Arena) was home to the Kings, the Sacramento Monarchs (WNBA), and the Sacramento Knights (indoor soccer). During those years, the number of events and the attendance never exceeded the estimated number of event days or attendance that is assumed for the proposed ESC. Typically, if there were more sporting events due to additional professional franchises that become tenants of the ESC, there would be a corresponding decrease in the number of non-sporting events. In summary, the estimates of number of events and event attendance included in the Draft EIR are considered conservative and unlikely to be exceeded in the foreseeable future.

I36-7

With the passage of Senate Bill 743, Section 21168.6.6 was added to the Public Resources Code (PRC Section 21168.6.6).<sup>19</sup> In order to meet the definition of "Downtown arena" under PRC Section 21168.6.6, the proposed ESC must receive Leadership in Energy and Environmental Design (LEED) Gold certification for new construction within one year of completion of the first NBA season. The "Downtown arena" also must take the following steps to minimize operational traffic congestion and reduce global climate change impacts:

1. Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases from private automobile trips (automobiles and light vehicles) to the Sacramento ESC as compared to the baseline, and as verified by the Sacramento Metropolitan Air Quality Management District (SMAQMD);
2. Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035 achieved in the Sacramento Area Council of Governments (SACOG) sustainable communities strategy; and
3. Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the ESC that is no more than 85 percent of the baseline.

Information presented on pages 4.5-11 through 4.5 13 of the Draft EIR describe how the ESC would meet the requirements set forth by Senate Bill 743.

Please also see Response to Comment O1-6.

<sup>19</sup> A copy of PRC Section 21168.6.6 is contained in Appendix F of the Draft EIR and Appendix A of the Final EIR.

- I36-8            The transportation analysis presented in Section 4.10 of the Draft EIR used both zip code data and cell phone data in order to develop a comprehensive understanding of the travel patterns of attendees of events at Sleep Train Arena, and projection of the travel patterns of future ESC event attendees.
- Zip code data was helpful for evaluating year-over-year trends in ticket purchase characteristics for certain geographic areas. It was used to determine that proportionally higher percentage of season tickets have been purchased by downtown residents and businesses for the 2013/2014 season, presumably in anticipation of the ESC being constructed. However, the zip code data provides information on the mailing address of a ticket purchaser, and does not provide any details regarding the geographic distribution of the actual inbound or outbound trip being made to and from the venue, whereas cell phone data does. The use of zip code to estimate trip distribution for the pre-event peak hour would have resulted in less accurate results than the use of cell phone data. This is because the zip code listed for the ticket is typically either a business or residence. If the zip code is residence, and the season ticketholder leaves for the arena directly from work or a restaurant, or other intervening origin, then using the zip code data to predict a trip origin would be inaccurate. In contrast, the cell phone data accurately describes actual trip origins that end at the arena, making the cell phone data a much more accurate and appropriate source of information on trip origins and destinations. Please see Response to Comment O10-1 regarding the estimated shift in downtown attendees.
- I36-9            The comment states the analysis assumes 11 percent of the remaining 90 percent of arena attendees from outside downtown would use transit. This is not correct. Under cumulative conditions, 11 percent of all ESC event attendees (including the 13% that are expected to originate their trips in the Central City) are expected to use transit. RT currently operates light rail trains after ESC events would end, and has indicated they would work with the ESC operator to increase transit service if necessary and appropriate (see Comment Letter A7).
- I36-10           Please see Responses to Comments O10-1 and I14-1 for a discussion of VMT calculations presented in the Draft EIR. The Draft EIR disclosed those segments of I-5 and I-80 which would experience increases and decreases in traffic resulting from Kings games being played at the ESC versus Sleep Train Arena. Project impacts to I-5 were analyzed and mitigation measures were identified for significant impacts.
- I36-11           The analyses of transportation, air quality, and greenhouse gas emissions presented in sections 4.10, 4.2, and 4.5 of the Draft EIR are the results of studies specifically undertaken for the Proposed Project. They are not based on any prior studies, including studies that may have been undertaken for prior proposals to develop entertainment and sports centers at other locations in Sacramento, including at the

Railyards. As is presented on page 4.10-70 of the Draft EIR, the analysis concluded that the proposed ESC would do better in reducing the vehicle miles traveled per attendee than would be required to meet the threshold established for compliance with Senate Bill 743. As is presented on pages 4.5-11 through 4.5-13, the proposed ESC would fully satisfy the carbon neutrality and per attendee greenhouse gas emission reduction thresholds established for compliance with Senate Bill 743.

- I36-12 The comment addresses funding issues for transportation infrastructure that is not proposed as part of the Proposed Project such as additional bridge crossings and HOV freeway lanes. If the City Council chooses to certify the EIR, they will also take action to formally approve the Revised Draft Event TMP. The City's formal adoption of the Revised Draft Event TMP commits the project applicant to implement the measures contained within it.
- I36-13 Please see pages 5-18 through 5-20 of the Draft EIR and Response to Comment I26-23 for a discussion of the effects of closure of Sleep Train Arena on North Natomas businesses as they relate to the physical environmental impacts of the Proposed Project. As is noted in Appendix H and Response to Comment I26-23, the assessment of the potential effects of closure of Sleep Train Arena included direct discussion with commercial real estate brokers with knowledge of the North Natomas commercial real estate market, as well as comparative evaluation of retail sales data and attendance data over recent years. The evaluation, presented on pages 5-18 through 5-20 of the Draft EIR, found no strong connection between Natomas retail sales and Sleep Train Arena attendance; this was confirmed by local real estate experts. In fact, the quantitative analysis presented in Table 5-2 showed that during 2011, when there was a reduction in attendance at Sleep Train Arena of 0.8%, general retail sales fell by 2.3% and restaurant sales increased by 13.2%. In 2012, when there was a reduction in attendance at Sleep Train Arena of over 20%, overall retail sales in Natomas were unchanged, and restaurant sales increased by 4.7%.

Appendix H of the Draft EIR provides further detail "that while Natomas businesses benefit from offsite spending by Sleep Train Arena visitors, this spending does not appear to comprise a significant portion of the sales. Furthermore, no restaurants or retailers have been known to close in parallel with the Arena's declining attendance." The analysis does not mean to suggest that no businesses would be adversely affected, but rather that there is no evidence that businesses would close and no evidence to suggest that urban decay would result. As is stated on pages 48 and 49 of Appendix H, "...while Natomas restaurants and retailers may experience some sales losses due to the closure of Sleep Train Area, these losses will likely not be of sufficient magnitude to impact the overall viability of the business. Further, any such business losses will likely be more than offset by

increases in household retail demand once the building restrictions in Natomas are lifted and new residential construction proceeds.”

It should further be noted that social and economic effects are not considered physical environmental impacts. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic impacts under CEQA.

I36-14 Please see Response to Comment I26-24 for a discussion of the focus of the economic and growth related analyses in the EIR.

I36-15 The EIR is a document required under State law to evaluate and disclose the significant physical environmental impacts of the Proposed Project. State CEQA Guidelines section 15002(a) states that the basic purposes of CEQA are to:

1. Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
2. Identify the ways that environmental damage can be avoided or significantly reduced.
3. Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
4. Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

It is not the purpose of the EIR to justify any aspect of the Proposed Project.

Please also see Response to Comment I26-24 regarding the relationship of the urban decay study presented in the EIR and economic impact analysis. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA.

The comments regarding the merits of the project are noted and will be conveyed to the City Council for its consideration.

Scott Johnson

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**From:** Adrian <adriantdewald@yahoo.com>  
**Sent:** Friday, January 31, 2014 1:23 PM  
**To:** Scott Johnson  
**Subject:** comments on EIR

Dear Scott,

I have reviewed the Environmental Impact Report for the proposed downtown arena (and supporting development) and have some comments that I would like to submit.

Comment #1) Table S-2 in the introduction: The letter codes LS and S are not defined anywhere, which makes it difficult to interpret the information in the table. I37-1

Comment #2) Transportation plan 4.10-41: The logic of increasing the pre-game trip initiation for the central city from 10% to 13% seems faulty. The EIR cites a 30% increase in current season ticket sales to the central city and also cites that 5% of attendees return to the central city after the game. The 5% that return to the central city are a better estimate for the number of attendees that are central city residents (not the 10% that leave from there before the game) so the increase to the pre-game trip initiation from the central city should be 1.5% (30% of 5%) not 3% (30% of 10%). I37-2

Comment #3) The EIR does not make an effort to adjust for a change in the demographics of the attendees with the proposed downtown arena site. The EIR forecasts a greater than 60% increase in arena attendance (less than 1M currently to greater than 1.6M annually), but at the same time assumes these people are coming from the same regions/neighborhoods as they are currently. If you're going to bring in greater than 60% more people, and if those people are going to spend more money than the current attendees (cost of attendance will obviously increase with a new arena), there is undoubtedly going to be a change in demographics. More people from outside of the area will come to the arena and that will probably be disproportionately shifted to the wealthier neighboring communities. This is going to have a significant impact on the vehicle miles driven and other metrics. This should be reflected in the EIR. I37-3

Comment #4) The light rail/transit usage assumptions are not adequately supported and are not consistent with historical/current trends. 1) Light rail "nighttime" service has not been consistent over the years. As recently as 1.5 years ago the trains did not leave downtown after approximately 9:00 pm. If nighttime service were again cancelled, this would make taking the train to a nighttime arena event impractical. 2) Current light rail usage at night does not support the ridership claims made in the EIR. People getting into and out of downtown at night do not take light rail in any significant quantity. I37-4

Thanks,  
Adrian

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**Letter I37**      **Adrian DeWald**  
**Response**      **January 30, 2014**

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- I37-1            The comment notes that two terms used in Table S-2 are not defined in the legend. As a result, the legend in Table S-2 is revised as follows:
- LTS = less than significant; LS = less than significant; PS = potentially significant; S = significant; SU = significant and unavoidable; NI = no impact; NA = not applicable.
- I37-2            The analysis reasonably applied a 30 percent increase in pre-event trip origins in downtown to reflect the actual increase in downtown season ticketholder purchases that occurred during the 2013/2014 season. The analysis conservatively assumed no increase in post-event trips to downtown. Please see Response to Comment O10-1 for additional information on this topic.
- I37-3            No data are available to determine whether events held at the ESC would translate into a different customer demographic or socioeconomic characteristics than occurs at Sleep Train Arena. Further, if the demographic or socioeconomic characteristics were to change, there is no data to support that a greater proportion of attendees would be in higher income wage brackets and that those persons reside in locations further from the Central City, thereby resulting in greater VMT increases (as indicated by the comment). In fact, the opposite could actually occur. The ESC could attract top entertain acts that currently bypass Sacramento. To the extent the Sacramento region's residents currently travel to more remote locations (e.g., Oracle Arena in Oakland or the Concord Pavilion) to watch these acts, they would instead be traveling much shorter distances if the same event were held at the ESC. Similarly, if musical artists instead chose to perform at the proposed ESC and not at the Sleep Train Amphitheater in Marysville, a net reduction in VMT would also occur.
- There is no evidence upon which to base an assumption regarding a change in demographic or socioeconomic characteristics of future ESC event attendees compared to attendees of events at Sleep Train Arena. It is not clear whether such changes in demographic or socioeconomic characteristics as asserted by the comment would increase or decrease VMT. Any attempt to quantify changes in VMT associated with a change in demographics due to additional annual events would be highly speculative. Section 15145 of the State CEQA Guidelines specifically notes that if an agency finds an impact "to speculative for evaluation," it should terminate the discussion of that impact.
- I37-4            CEQA requires analysis of project impacts based on the conditions that exist at the time that the Notice of Preparation is published (April 2013). Currently these

conditions include two-car light rail trains that depart downtown every 30 minutes after 9 PM. Table 4.10-18 of the Draft EIR indicates that the analysis concluded that the light rail trains would have adequate capacity to accommodate existing passengers plus ESC attendees without assuming any increases in train service. The Proposed Project's estimated level of light rail usage could be realized by the existing level of transit service. Data from basketball arenas in downtown settings adjacent to light rail lines in Portland, Salt Lake City, and Denver show significant (i.e., double-digit) levels of transit mode use. In its letter on the Draft EIR (Comment Letter A7), Regional Transit validated the transit mode split, noted the experience of transit agencies in the cities noted above, and stated that "[t]he provision of adequate transit supply and user amenities will facilitate the achievement of similar goals and environmental benefits to the Sacramento community."

Scott Johnson

From: Adriana Saltonstall <agsaltonstall@gmail.com>
Sent: Friday, January 31, 2014 7:24 PM
To: Scott Johnson
Subject: DEIR for ESC Project

Dear Mr. Johnson,

I wrote you a rather long e-mail commenting on the DEIR for the ESC project. Unfortunately, before I was able to send the e-mail my computer crashed and I'm unable to retrieve the document.

I write this is a former director of the California Department of Transportation (Caltrans), who happens also to be the person who cut the ribbon after Caltrans finished building the last segment of I-5. Most of my comments in this e-mail relate to I-5, a four-mile segment of which is within the project's transportation study area.

1. IMPORTANCE OF I-5. The DEIR treats I-5 basically as a local/regional route for cars and light trucks. In fact, I-5 is an extremely important part of the Interstate Highway System, designed specifically to handle long-distance travel not only by car and light truck but by heavy trucks engaged in interstate commerce with substantial freight loads. The freeway runs not only the full length of California but also through Oregon and Washington and to Mexico and Canada. It is constructed to the highest engineering standards and has the highest speed limits allowed in California.

I38-1

Such impacts as may occur from construction of the ESC project will affect not just local traffic but long-distance, including interstate and international traffic, as well. The DEIR should discuss the character of I-5 and the impacts of the ESC project above and beyond congestion and inconvenience suffered by local commuters and other drivers.

2. LEVELS OF SERVICE..Current Levels of Service (LOS) on the four-mile segment of I-5 within the service area studied are, as laid out in the DEIR, very poor. Several sections are at LOS F, meaning traffic is basically gridlocked or stop-and-go at certain times of day. While the LOS information in the DEIR is revealing, it presents a rather circumscribed picture of conditions on the freeway. LOS D and LOS E, as well as LOS F, involve bad congestion.. The prevalence of these only-somewhat-better-than-F conditions should be discussed.

I38-2

Additionally, a footnote repeated at the bottom of several tables in the DER points out that the model used to come up with traffic flows does not take account of back-up queues due to bottlenecks ahead, at ramps for example. The footnotes state that such back-ups and queueing was obvious from field observations, and that the LOS designations on the freeway now and predicted for the future are probably worse than reported in the DEIR. Surely this point is worth more than a footnote or two.

I38-3

One further point. Information provided on the off-ramp at J and 3rd Street shows that, delays which will develop at this location when the ESC project is built will amount to 879.3 seconds during the pre-event peak. The text of the DEIR says this delay will amount of 10 minutes, which is of course very high. However, by my calculation 789.3 seconds amounts to nearly 15 minutes, a truly horrendous situation deserving a G or worse LOS, were there such a thing

I38-4

3. PROJECT IMPACTS AND MITIGATION. The DEIR mentions in different parts of the document (some found in the material on air quality) various projects which supposedly will be constructed, some of which will

I38-5

have the effect of mitigating the very serious impacts of the ESC project on the freeway. On page 4.10-77 for example, the statement is made that "the cumulative analysis assumes a variety of reasonably foreseeable planned roadway improvements in the study area..." A list of these "reasonably foreseeable" improvements is provided.

I38-5  
cont.

.Information more definitive than the above-mentioned list should be put together. There should be presented a consolidated list of all projects in the pipeline which will affect (presumably favorably) the freeway. For each project there should be a description, a date of construction, cost, status of funding commitment, who will pay the cost (federal, state or government or private entity. At the very least, this listing should include all relevant projects in Caltrans' multi-year highway program

4.VEHICLE MILES TRAVELLED. Since a specific "vehicle miles travelled" (VMT) goal must be met for the ESC project to come under the favorable provisions of SB748, the treatment of VMT data in the DEIR is very important. VMT data, of course, results from the pattern of trip origins and destinations. To this reader, the foundation for the VMT data used in the DEIR is shaky at best.

I38-6

On page 4.10-41, the following statement is made: "Cell phone data show that 10 percent [sic] Kings pre-game trips originate from the Central City. To account for greater ticket sales in Central City, the pre-game percentage was increased from 10 to 13 percent [sic]." The statement goes on to say no similar change was made to post-game trips. No logical foundation is provided for the selection of a 3 per cent change in trip origins (as opposed, say, to 2 per cent, or 5 per cent, or for that matter any particular number that might prove useful in shaping VMT numbers calculated to meet the qualifying provision in SB748.)

I38-7

The issue of the location of trip origins is treated quite differently later in the DEIR. On page 4.10-78 reference is made to "lack of a supportable methodology upon which to estimate this future redistribution of future event attendees." Adding to the confusion, this same paragraph states that the analysis in question makes exactly the kind of assumption for which, according to the earlier language, no supportive methodology exists.

I appreciate this opportunity to provide input on the environmental consequences of the proposed ESC project.

Sincerely,

Adriana Gianturco.

**Letter I38**      **Adriana Gianturco**  
**Response**      **January 30, 2014**

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- I38-1                      Although the Draft EIR did not explicitly describe the function of I-5 in terms of inter-regional travel and freight movement, the analysis of its ramps, weave sections, and mainline considered the percentage of traffic made up of heavy vehicles. These percentages are shown within the freeway LOS calculations included in Appendix D to the Draft EIR.
- The Draft EIR analyzes project impacts on 18 different segment types of I-5 between I-80 and the Highway 50 Freeway. Impacts 4.10-2 and 4.10-13 describe the project's effects on various facilities under existing and cumulative conditions. Page 4.10-64 describes how the relocation of Sacramento Kings basketball games from Sleep Train Arena to the proposed ESC would cause some freeway segments to experience increased traffic, while others would experience decreased traffic. The analysis concludes that a net reduction of 17.4 percent VMT would occur for all freeways associated with the relocation of basketball games to the ESC. On a systemwide basis, the Proposed Project would improve conditions on area freeways, including I-5.
- I38-2                      Page 4.10-17 lists not only those freeway facilities that operate at LOS F, but also facilities that currently operate at LOS E. This comment does not raise any issues regarding the environmental analysis. According to the *Interstate 5 Transportation Corridor Concept Report*,<sup>20</sup> a Concept LOS F is expected for this corridor. The concept LOS represents the minimum acceptable service condition over the next 20 years. Page 5 of the TCCR indicates that for existing LOS F conditions, no further degradation is permitted as indicated by the applicable performance measure. Thus, Caltrans' documents recognize over-saturated conditions currently present in the corridor which is projected to remain in the foreseeable future. The Draft EIR uses appropriate significance criteria to analyze project impacts on I-5.
- I38-3                      This footnote was provided because the Highway Capacity Manual (HCM) analysis methods did not yield results that matched field observations due to upstream and/or downstream bottlenecks. Table 3 of the *Revised Final Traffic Report for the Interstate 5/Richards Boulevard Interchange Project Study Report*<sup>21</sup> includes a similar note regarding HCM method limitations on I-5 across the American River. This traffic report was reviewed and approved by Caltrans staff, which concurred in the methodology used to analyze the I-5 corridor, recognizing

<sup>20</sup> Caltrans, 2010. *Interstate 5 Transportation Corridor Concept Report*. Approved September 13, 2010. pp. 4-5.

<sup>21</sup> Fehr & Peers, 2010. *Revised Final Traffic Report for the Interstate 5/Richards Boulevard Interchange Project Study Report*. April 28, 2010.

its inherent limitations. The use of footnotes such as this to explain results is standard practice where observed conditions do not match model-predicted conditions. Please also see Response to Comment I38-2.

I38-4 The calculation provided in the comment is correct. Page 4.10-71 of the Draft EIR specifically says that the delay at the I-5 Ramps/J Street/3<sup>rd</sup> Street intersection during the pre-event peak hour under existing plus project conditions would be “over ten minutes per vehicle”. Please also see Response to Comment O2-70 regarding traffic that may divert from the J Street off-ramp to other off-ramps in the vicinity.

The comment suggests that this condition receive a LOS G grade or lower rating is noted. However, neither the Highway Capacity Manual (HCM) nor almost any transportation engineering resource uses or recognizes a LOS G grade. Please also see Response to Comment I38-2. This comment is noted and will be conveyed to the City Council for its consideration.

I38-5 The vast majority of the roadway improvements listed on page 4.10-78 are included in the MTP/SCS as Tier 1 projects, meaning they have programmed funding sources and are assumed in place by 2035 for air quality conformity analysis and transportation modeling. The MTP/SCS shows the expected cost of these improvements and the anticipated open-to-traffic date. Similarly, the I-5 Transportation Corridor Concept Report (Caltrans, 2010) also describes planned improvements to this facility. It is not appropriate for an EIR to include planned future capacity improvements that do not meet the definition of reasonable foreseeability. Please also see Response to Comment O10-11.

I38-6 Please see Response to Comments O10-1 and I14-1 for additional discussion of the VMT estimate contained in the Draft EIR. In its letter on the Draft EIR (see Comment Letter A14), SACOG considered the VMT calculation to be “sound and reasonable.”

I38-7 Text on page 4.10-78 of the Draft EIR discusses the lack of available information to estimate how many ESC attendees would live in future residential areas in Railyards Specific Plan and Township 9 projects under cumulative conditions. Due to the lack of available data as to how many ESC attendees would end their trips at these locations (i.e., shift away from other, more remote locations), no shift in trip origins/destinations was made under cumulative conditions. This approach is in contrast to the pre-event shift from 10% to 13% in the Central City, which was substantiated by season ticketholder zip code data (see Response to Comment O10-1).

**From:** nmag [<mailto:nmag@surewest.net>]  
**Sent:** Thursday, February 06, 2014 4:35 PM  
**To:** Max Fernandez  
**Cc:** [rilllis@sacbee.com](mailto:rilllis@sacbee.com); [cosmog@newsreview.com](mailto:cosmog@newsreview.com)  
**Subject:** ESC DEIR Comment Period Shortened

To Whom It May Concern:

I am concerned about the 45-day comment period noticed by the City of Sacramento for the arena DEIR that was shortened when the third floor Community Development offices at 300 Richards Blvd. were closed at 4 pm on January 31, 2014. The Notice of Availability of the DEIR dated December 16, 2014 stated the comment period was from December 16, 2013 **until 5pm on January 31, 2014** and comments were to be submitted to Associate Planner Johnson at 300 Richards Blvd, Third floor.

I attempted to drop off my comments at the stated address between 4 and 5pm but found ALL the doors on the third floor locked and windows shuttered. After waiting several minutes I was successful in encouraging an employee leaving the restroom to deliver my comments to the associate planner named on the notice, Scott Johnson. I noticed others who had arrived after 4pm. left before me after finding the third floor offices locked.

The result is that the city shortened the comment period without notifying the public. With a project of the magnitude of the downtown arena, the public should be confident that city officials are following the letter and intent of the law. Sadly, that is clearly not the case when it comes to the proposed arena.

Thank you,  
Marni Leger  
Sacramento

I39-1

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**Letter I39**      **Marni Leger**  
**Response**      February 6, 2014

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I39-1              As stated on page 1-6 of the Draft EIR, the City of Sacramento accepted written public comments on the Draft EIR until 5:00 PM on January 31, 2014. The public counter at the Community Development Department 300 Richards Boulevard, Third Floor did close at 4:00 PM that day, consistent with normal office hours. However, City Staff was available and regularly checked the lobby area, including waiting the final 30 minutes outside of the Community Development Department Planning Counter to accept written comments until 5:00 PM. No additional persons arrived during that time to submit written comments. In addition, the City has accepted written comments received after January 31, 2014, posted those comment letters to the City's website, and responded to them in this Final EIR.

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MADELINE COREN  
600 I Street #1004  
Sacramento, CA 95814  
(916) 440-0476

February 9, 2014

John Dangberg, Assistant City Manager,  
Office of the City Manager  
Sacramento City Hall  
915 I Street  
Sacramento, CA 95814

RE: ARENA ENVIRONMENTAL IMPACT

Dear Sir:

*Among the 70 public comments you received regarding the environmental impact of the "new arena" , I am submitting #71 for your consideration and support.*

*It is a fact that Senior Citizens represent the "ground cover" of residents downtown. "Each affordable high rise building houses hundreds of seniors ages 55 -65 and over. These include, Riverview Plaza, The Wong Center, Ping Yuen, The Marshall Hotel and among the newest Senior buildings is The Edge Water; All within a few blocks of the proposed arena.*

*Mr. Biejak's article in the Sac BEE /Business Leaders in Old Sacramento fear arena traffic impacts/ made us realize it's time to educate people on what it means to be 65 and over. That article completely ignored the most vulnerable human element in downtown, who are Seniors -- Seniors living on fixed incomes. -- The same Seniors who the City abandoned claiming they could no longer financially support The Senior Nutrition Program. -- The same seniors who don't qualify for food stamps, if they receive only \$1 of SSI to supplement their Social Security. These are downtown Seniors declining in health and many near death's door. These Seniors deserve and require reasonable consideration for inclusion in City decisions.*

*"What it means to be 65 and over" and living downtown is to tolerate the noise of daily business traffic, frequent police and ambulance sirens, unnecessarily loud buses beeping down the wheelchair ramp at every stop, and explosive motorcycles rumbling up and down J Street on (otherwise) quiet Sundays. These bikers roam freely without any City enforcement; despite the City's keen eye for writing Parking Tickets.*

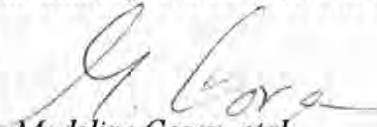
I40-1  
I40-2  
I40-3

Page 2

*While City projects provide the infrastructure that improves the quality of City life, The City has shown no regard for Senior residents by ignoring time of day or night the City works on its projects. For example, when road work was done to extend the freeway, only a couple of blocks away jack hammering began at 9:30 PM until dawn. This stressful situation went on for months. In summer, when double paned windows are closed to avoid the heat and the noise, we bore the cost of running air conditioners night and day to accommodate City improvements. However, the City did not appear to be concerned about accommodating us.*

I40-3  
cont.

*It is my hope that I have contributed a little more insight into "what it means to be 65 and over," so that improvements to this lovely City will bring the highest good to all concerned.*

Sincerely,   
Madeline Coren, etal  
For Tenants residing at Riverview Plaza

*P.S. The Westfield Mall across the street has eliminated as much seating in the shopping areas as possible. That eliminates Seniors to a large extent from resting so they can shop and walk the expanse of the Mall. I believe they think Seniors only want to sit in the sun (at the front entrance) or just watch children playing in the play court. After my letter to them, I see that they have removed all the bolted down seating upstairs (including) Macy's benches.*

I40-4

*Westfield has replaced normal 2<sup>nd</sup> story seating overlooking the mall with shaky aluminum "high chairs" or bar chairs waiting for an accident to happen. Macy's excuse for removing their 2 nice benches is that street people fill up the benches. This doesn't wash. There are guards who do a wonderful job at the Mall. I visit the Mall daily and I have never seen one street person on their bench. They have also removed almost every guest chair in Macy's. Therefore, Seniors are discouraged from shopping more than their hip replacement or other aging conditions allow. This will give you some idea of the depth of disenfranchisement Seniors feel and why we need to educate our decision makers on what it means to be 65 and older.*

**Letter I40**      **Madeline Coren**  
**Response**      February 9, 2014

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- I40-1            The comment notes there are several buildings in downtown that house senior ages 55 and older. The comment is noted and will be conveyed to the City Council for its consideration.
- I40-2            The comment cites an article published in the Sacramento Bee on February 5, 2014, “Old Sacramento Business Leaders Fear Arena Impacts” by Tony Bizjak. The comment does not comment on the environmental impacts of the Proposed Project or the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- I40-3            Noise impacts of the Proposed Project, including construction and operational noise, are discussed in section 4.8, Noise, of the Draft EIR. Noise measurements were taken around the Downtown project site, including at the Wong Center, the residential tower at 6<sup>th</sup> and I Streets, and at 6<sup>th</sup> and N Streets near Capitol Towers (see Table 4.8-1 in the Draft EIR). Impact 4.8-2 in the Draft EIR evaluates the potential for noise generated by the Proposed Project to cause interior noise levels to exceed established thresholds. As stated on page 4.8-25, “The nearest existing residential receptors (in the Riverview Plaza, Ping Yuen Apartments, and Wong Center) would be exposed to interior noise levels less than 45 Ldn (assuming 20 dBA exterior-to-interior attenuation by the building structure). The approximately 100 foot tall practice facility would completely block the line of site of the ESC from the Hotel Marshall and Jade Apartments residences, which would substantially reduce noise exposure at these receptors and ensure interior noise levels less than 45 Ldn.”
- All construction and operational activities associated with the Proposed Project would be required to comply with the maximum noise levels identified in the EIR and implement mitigation measures to reduce construction noise levels, as necessary. Construction noise is exempt in the city between the hours of 7:00 AM and 6:00 PM Monday through Saturday, and between the hours of 9:00 AM and 6:00 PM on Sunday (see City Code Section 8.68.080).
- I40-4            The comment expresses the desire for seating options such as benches and chairs in the outdoor area of Downtown Plaza. The ESC Plaza would also provide an outdoor area for people to walk through or sit in. Public amenities such as trash cans and benches would be provided.

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PUBLIC HEARING  
  
PLANNING AND DESIGN COMMISSION  
  
ITEM 4. P13-065 Entertainment and Sports Center

January 23, 2014  
5:36 p.m.

915 I Street  
Sacramento, California

Francine R. Dais, CSR No. 8855



PUBLIC HEARING  
PLANNING AND DESIGN COMMISSION

January 23, 2014  
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COMMISSION MEMBERS PRESENT

- Kiyomi Burchill (Chair)
- Edmonds Chandler
- Rommel Declines
- Philip Harvey
- Todd Kaufman
- Alan LoFaso
- Kim Mack
- Phyllis Newton
- David Nybo (Vice-Chair) (RECUSED)
- John Parrinello
- Tim Ray

CITY STAFF MEMBERS

- David Kwong, AICP, Planning Director
- Jeffrey Heeren, Senior Deputy City Attorney
- Greg Bitter, AICP, Principal Planner
- Gregory Taylor, AIA, LEED AP BD+C, Urban Design  
Manager

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PLANNING AND DESIGN COMMISSION

January 23, 2014

The following public hearing took place.

(The recorded portion of the public hearing commenced at 5:36 p.m.)

CHAIR BURCHILL: All right. So that takes us to our next agenda item, which is Item 4, P13-065 Entertainment and Sports Center. This is the first of four items which have this evening on this downtown arena.

And let me welcome our city staff on this. Mr. Tom Buford. Good evening.

MR. BUFORD: Good evening, Madam Chair, members of the commission.

MR. PARRINGTON: Recusals?

CHAIR BURCHILL: Pardon me. Before you begin your presentation, thank you, any commissioner recusals or disclosures? And we will begin with commissioner -- pardon me, Vice-Chair Nybo?

VICE-CHAIR NYBO: I need to recuse myself.

CHAIR BURCHILL: Thank you. Any other commissioner disclosures?

COMMISSIONER NEWTON: Yes.

CHAIR BURCHILL: Okay.

T1-1



1           COMMISSIONER NEWTON: I just had a  
2 communication with the applicant representative.

3           CHAIR BURCHILL: Great. Any other  
4 commissioners?

5           I've also been in communication with the  
6 applicant's development team and have heard from many  
7 people about the downtown arena, so I will just put  
8 that there. And go back to our staff presentation.

9           Mr. Buford, please.

10          MR. BUFORD: Thank you very much, Madam Chair,  
11 and members of the commission. I'm Tom Buford, senior  
12 planner with environmental planning services. We are  
13 with the community development department. The  
14 entertainment and sports center project involves  
15 construction of a 17,500 seat capacity indoor multi  
16 use arena at the location of the existing Downtown  
17 Plaza Shopping Center. The project also includes  
18 475,000 square feet of office, 350,000 square feet of  
19 retail and commercial, and up to 550 new residential  
20 units, and up to 250 hotel rooms. Adjacent  
21 development would total up to 1.5 million square feet.

22          Environmental review for the development of  
23 the arena including demolition, construction, and  
24 operation of the facility, and construction and  
25 operation of the adjacent 1.5 million square feet of



T1-1  
cont.



1 development has been evaluated in the Draft DIR. I  
 2 have a copy of it here with me this evening, which  
 3 includes a complete project description,  
 4 identification of potential significant effects,  
 5 mitigation requirements, and an evaluation of  
 6 alternatives.

7           The Draft EIR was released for a 45-day public  
 8 review period on December 16, 2013, and the public  
 9 review period will end on January 31, 2014.

10           Senate Bill 743 was signed by the Governor in  
 11 2013 and applies to transit oriented in-fill projects.

12           The new law applies to the entertainment and  
 13 sports center project if the project complies with  
 14 various requirements regarding public notice.

15           One of the main features of the law is that it  
 16 requires any litigation require -- regarding the  
 17 environmental review to be completed within a defined  
 18 time frame. The requirements for coverage include  
 19 holding an informational workshop and holding a public  
 20 hearing to receive testimony on the Draft EIR.

21           On December 18th, 2013, in compliance with  
 22 this law, the city hosted a public workshop to inform  
 23 the public of the key analyses and conclusions of the  
 24 Draft EIR for the proposed project.

25           The hearing this evening satisfies the second



T1-1  
cont.



1 requirement I mentioned, which is a public hearing to  
2 take testimony on the Draft EIR. These comments will  
3 be transcribed by a court reporter and will receive a  
4 written response from the city in the final EIR to the  
5 extent that they deal with any environmental issues.

6           Once the public period -- comment period  
7 closes, the written comments submitted, and the  
8 comments received at this evening's hearing will be  
9 reviewed, and all comments regarding environmental  
10 issues will receive a written response.

11           A document that includes comments, responses,  
12 and any text changes to the Draft EIR will then be  
13 prepared and presented to the commission for  
14 consideration as part of its recommendation for action  
15 to the city council.

16           This then would be the only hearing, this  
17 evening, held by the commission for the purposes of  
18 actually receiving comments from the public on the  
19 Draft EIR.

20           The focus of the Draft EIR is the physical  
21 effects of the environment that may occur as a result  
22 of the project, and comments should be directed to  
23 that aspect of the project and not whether commenters  
24 necessarily support or oppose the project.

25           At this point we recommend that the chair open



T1-1  
cont.



1 the floor to those who wish to testify regarding the  
2 Draft EIR.

3 Based on what is set forth in SB 743 and the  
4 noticing for the hearing to receive public comment, we  
5 recommend that the commission only receive public  
6 comments and not discuss those comments.

7 The commission is scheduled to review the  
8 project entitlement, as I indicated, on February 27th,  
9 for its recommendation to city council, and that would  
10 be an appropriate time for comment.

11 In addition, of course commissioners may  
12 submit written comments on the Draft EIR.

13 I'm here this evening. I'm joined by Scott  
14 Johnson in our office, who is one of the leads on the  
15 environmental. Desmond Parrington is here, who is the  
16 ESC project manager. And Brian Boxer and Christine  
17 Irwin of ESA, our environmental consultants, are also  
18 here.

19 Thank you.

20 CHAIR BURCHILL: Thank you, Mr. Buford. So I  
21 will read some things into the record in terms of  
22 instructions.

23 But first just an on overview as Mr. Buford  
24 announced we are receiving public testimony on the  
25 Draft Environmental Impact Report this evening, which



T1-1  
cont.



1 means we are hearing that testimony, Commissioners.  
2 Please refrain from commenting or -- or asking  
3 followup questions.

4 Any member of the public, including ourselves,  
5 can submit of course written comments.

6 And we are here because of SB 743 authored by  
7 Senator Darrell Steinberg, which provides for this  
8 public hearing in order for the downtown arena to  
9 qualify for certain provisions to allow it to move  
10 forward.

11 With that, let me enter into the public record  
12 and provide some instructions for those in the  
13 audience. And as a reminder for those who have joined  
14 us since the commission meeting began, if you would  
15 like to address the commission, please fill out a  
16 public speaker slip at the rear of the chamber and  
17 bring it up here to our city clerk. She will make  
18 sure I get it so I can acknowledge you when it's the  
19 appropriate time.

20 So at this time we will open the public  
21 hearing to receive testimony on the Draft  
22 Environmental Impact Report for the Sacramento  
23 Entertainment and Sports Center and related  
24 development.

25 The project number assigned by the City of



T1-1  
cont.



1 Sacramento is P13-065. The Draft EIR was has been  
2 assigned a State Clearing House Number of SCH  
3 Number 2013042032.

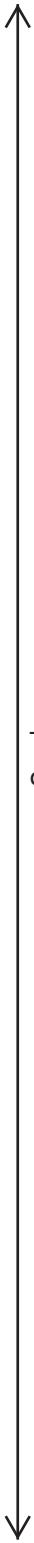
4 There is a court reporter here. And welcome,  
5 Ms. Dais; is that correct? You have a microphone  
6 there if you need to let us know if anyone needs to  
7 slow down or repeat what they've said.

8 Because we have this court reporter, persons  
9 wishing to comment on the Draft EIR at this meeting  
10 are being asked to provide your name and address for  
11 identification purposes. And as with all of our  
12 commission meetings to limit your comments to three  
13 minutes. And there will be a timer up here on the  
14 screen to show you that time.

15 The court reporter will transcribe your  
16 comments, and a transcript of the comments received at  
17 this hearing will be included in the Final EIR for  
18 this project.

19 Each comment that relates to an environmental  
20 impact will -- environmental issue, rather, will  
21 receive a written response in the final -- Final  
22 Environmental Impact Report.

23 Again, you will have three minutes, so brevity  
24 is welcomed. And if another speaker has said  
25 something with which you agree, we encourage you to



T1-1  
cont.





1 associate yourself with their comments.

2           Written comments can be received as well on  
3 this Draft EIR and those are due next Friday,  
4 January 31st, 2014. They should be directed to Scott  
5 Johnson, who is an associate planner with the  
6 Community Development Department, and his address is  
7 300 Richards Boulevard, 3rd Floor, Sacramento,  
8 California 95811.

9           Written comments in addition to being mailed  
10 can be e-mailed, and Mr. Johnson's e-mail is  
11 srjohnson@cityofsacramento.org.

12           If you have any questions regarding submitting  
13 written comment, which you are welcome to do in  
14 addition to submitting oral comment today, please see  
15 any of our staff over here on the left-hand side, and  
16 they can answer any questions you have.

17           So I just noticed that this is a pretty full  
18 room that we have this evening, so thank all of you in  
19 advance for joining us to discuss the environmental  
20 impacts of the downtown arena.

21           And, Commissioners, what I will do is then go  
22 through these public speaker slips that I have, and  
23 then I will close the item. So that is what is going  
24 to take place next.

25           Any questions on the process?



T1-1  
cont.



1 All right. Seeing none.

2 I have a handful of public speaker slips. I  
3 will announce two speakers so you know when you're  
4 ahead in the cue.

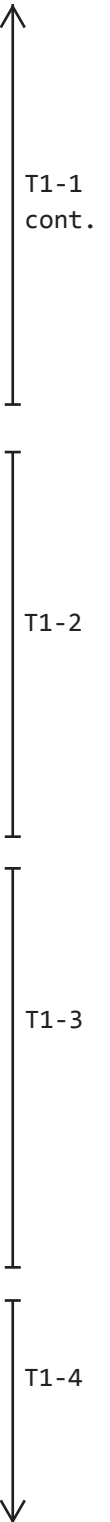
5 Our first speaker will be William Lowell who  
6 will be followed by Mark Barnbaum.

7 Welcome and good evening.

8 WILLIAM LOWELL: Thank you, Madam Chair.  
9 William Lowell of West Sacramento. At last month's  
10 meeting, one of the things that I saw on display part  
11 of the plan was to relocate the Yolo bus stops between  
12 5th and 7th Streets over to B Street.

13 Now, I understand that's been changed, and  
14 that's no longer part of the plan. But my reaction  
15 was if that remains part of the plan, then I think we  
16 could take away the need for that by changing the what  
17 has been called the Broadway 15th Street Bridge and  
18 change that to a south port South Sacramento Bridge,  
19 and that would dramatically reduce traffic on both  
20 sides to each way, and that would reduce the traffic  
21 on the Pioneer Bridge and also on the Tower Bridge.

22 And again that's what indeed necessitates the  
23 need for moving the Yolo buses from L Street over to  
24 P Street where we would have to have more shelters and  
25 more restrooms and things like that.



1                   But my latest word from one of my audience  
 2 members was that instead of P Street, you were going  
 3 to move the stop over to the old greyhound station,  
 4 and so maybe that wouldn't be necessary either. But I  
 5 still stay it would serve the public a lot better if  
 6 we had a south port South Sacramento bridge.

7                   Thank you.

8                   CHAIR BURCHILL: Thank you for your comments,  
 9 Mr. Lowell. Our next speaker is Mike Barnbaum, who  
 10 will be followed by Bill Reany.

11                   Welcome, Mr. Barnbaum.

12                   MIKE BARNBAUM: Good evening, Chair Burchill  
 13 and members of the Planning and Design Commission.

14                   My name is Mike Barnbaum. And in late  
 15 April of last year I founded the grass roots  
 16 organization Here We Ride after the 7-0 recommendation  
 17 vote of the NBA relocation committee to keep our town  
 18 and our team and move ahead with the downtown  
 19 entertainment sports complex. We have been very  
 20 active attending meetings of the Sacramento Regional  
 21 Transit District who is here by the way in your  
 22 audience tonight over my right shoulder represented by  
 23 James Drake in the planning department. Thank you for  
 24 coming.

25                   We have attended meetings of the Transit

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T1-4  
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T1-5  
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1 Coordinating Council of the Sacramento Area Council of  
 2 Governments. We have attended Sacramento area council  
 3 government board meetings. And we've attended a  
 4 variety of unmet transit needs hearings throughout the  
 5 6-county 22-city Sacramento region commonly referred  
 6 to as SACOG.

7 We are fully committed in being held  
 8 accountable by President Pro Tem Steinberg in the  
 9 implementation of bolstering transit service levels  
 10 according to the language written in Senate Bill 743,  
 11 which we helped get that provision in the Bill.

12 But we realize that it's not so much that we  
 13 feel that there are any negative impacts on the  
 14 environment, but what we are working towards now  
 15 before it's too late is getting the right funding in  
 16 place to get those transit services bolstered for any  
 17 events coming to town bigger than basketball, making  
 18 sure that our community is best in the world.

19 We are regulars at the regional transit board  
 20 meetings, which are coming up this Monday at  
 21 6:00 p.m., and are working very closely with staff.

22 We identified in our electronic communication  
 23 testimony to Sacramento Area Council of Government  
 24 Staff that work on unmet transit needs around a dozen  
 25 regional transit routes and additional Yolo County

↑  
 T1-5  
 cont.  
 T1-6  
 ↓



1 transportation district routes that need to run a  
2 greater level of span of service and a greater  
3 frequency.

4 This is the time to do it because we want to  
5 get everything in place by the start of fiscal year  
6 2017 that starts on July 1st, 2016.

7 So we are very pleased about the Environmental  
8 Impact Report, but we know that we are -- our work is  
9 far from finished, and we're working hard again to  
10 bring events bigger than basketball and make our  
11 community best in the world.

12 We will reserve our other comments by City  
13 direction on February 27th to come back before you.  
14 Thank you.

15 CHAIR BURCHILL: Great. Thank you very much  
16 for your comments, Mr. Barnbaum.

17 Our next speaker is Bill Reany, who will be  
18 followed by Jean Fleury.

19 Welcome and good evening, Mr. Reany.

20 BILL REANY: Good evening, Madam Chairwoman  
21 and the members of the Planning and Development  
22 Commission.

23 My name is Bill Reany. I'm a 35-year resident  
24 of East Sacramento.

25 And I'm here tonight -- well, actually happy

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T1-6  
cont.  
T1-7  
T1-8  
↓ T1-9



1 to hear in part that the hearing was -- is a part of  
 2 the discussion involved in -- from SB 743, because I  
 3 would like to speak with you this evening about the  
 4 transportation analysis, Section 410 of the EIR. And  
 5 particularly where that meets the requirements of  
 6 SB 743 with respect to the procedural changes in  
 7 environmental -- in the environmental handling of the  
 8 downtown arena, and with respect to the question  
 9 concerning the eminent domain -- the accelerated  
 10 eminent domain provisions that are contained in  
 11 SB 743.

T1-9  
cont.

12           The gentleman from the City -- and, I'm sorry,  
 13 I didn't get his name earlier -- sat and mentioned  
 14 that part of the Section 70743 that opens the door for  
 15 the use of the easing prescriptions under CEQA and the  
 16 eminent domain questions which were to follow later in  
 17 the text of Section 7 had three requirements that were  
 18 attached to them in terms of their air quality and  
 19 then there was a building standard for the energy  
 20 tightness of the building.

T1-10

21           And Number 3 involved the amount of traffic  
 22 demand that comes from the -- comes from the facility.  
 23 And it require -- it set up a requirement that there  
 24 should be a comparison between the -- one measure of  
 25 -- of traffic, and that's called vehicle miles



1 traveled. It's basically the extent -- the length of  
2 miles that it takes to take people to -- to take  
3 people to basketball games specifically with respect  
4 to NBA customers.

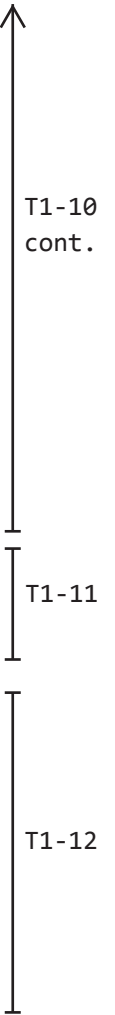
5 And the standard is that the -- the standard  
6 was provided for in that Section 3, is that the amount  
7 of the -- well, number of vehicle miles traveled that  
8 needs go to -- well, heck, let me stop there. I don't  
9 want to get caught in the middle of numbers.

10 I have a -- I have a written statement here  
11 that I would like to enter into -- into the record.

12 And the issue that I have here is that I  
13 believe that there are a series of severely  
14 inappropriate assumptions, changes to the web of  
15 origins and destination trips which the traffic  
16 department has put in place in the case for the arena  
17 alone.

18 CHAIR BURCHILL: We are at time, Mr. Reany. I  
19 would ask that you provide your written comments here  
20 to our City Clerk, so we will receive those. And any  
21 further comments you would like to make, you're  
22 invited to make in writing by next Jan -- by next  
23 Friday, January 31st.

24 BILL REANY: I only -- I only apologize for  
25 not being able to use my time a little bit more



1 efficiently. Next time I'll be better I hope.

2 CHAIR BURCHILL: Thank you very much for  
3 joining us this evening.

4 Our next speaker is Jean Fleury, who will be  
5 followed by James Battles.

6 JEAN FLEURY: Good evening.

7 CHAIR BURCHILL: Welcome and good evening,  
8 Ms. Fleury.

9 JEAN FLEURY: I'm confused. The information  
10 being disseminated in support of this arena is  
11 conflicting. In July 2011 Think Big put out a report  
12 entitled the Capitol Corridor Impact Report.

13 In that report were statistics that show that  
14 75 percent of the arena attendees do not come from the  
15 City of Sacramento. A chart showed that 39 percent of  
16 them come from other regional cities and counties and  
17 arrive in Natomas via routes that do not pass through  
18 downtown.

19 Most arrive at the existing arena via I-5 and  
20 Highway 99 from the north and I-80 from the east and  
21 west.

22 Now this Draft EIR claims that via a few --  
23 few cell phone pings it is able to say that many arena  
24 goers will already be downtown and will not have to  
25 drive to the arena. This contradicts the report from

T1-13  
T1-14





1 Think Big.

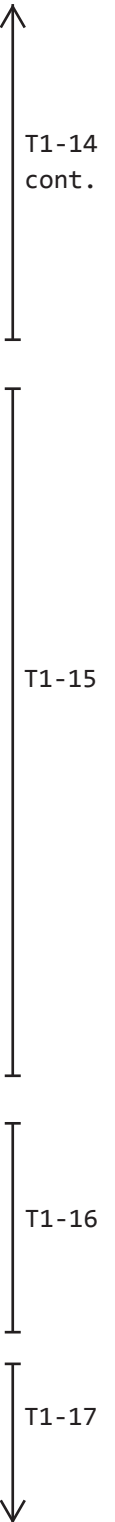
2           And what about Natomas residents? They  
3 constitute nearly three -- one-quarter of the city's  
4 population. Some may work downtown, but many will be  
5 driving from Natomas to the city core to attend  
6 events. This seems like a wash to me.

7           In addition, the Draft EIR points out that  
8 many downtown intersections will be severely impacted  
9 by this infusion of traffic. Yet we are told that  
10 this is okay because sometime in the future the City  
11 and Caltrans may have the money to build a couple of  
12 bridges over the river. Light rail may be extended.  
13 There may be improvements in street freeway design and  
14 public transit that will help alleviate this problem.

15           Where will this funding come from? When will  
16 these improvements happen? Will the arena have served  
17 it's 20 year NBA lifespan by that time and need  
18 replacement?

19           But here is the kicker: In many places in  
20 this EIR we are told that certain levels of service  
21 grade F are significant and unavoidable. To me that  
22 means we're stuck with the problem.

23           The city may have many future developments in  
24 the works and will add thousands of residents to the  
25 city core in the railroads and township nine projects



1 that are projected to bring 30 or 40,000 residents  
2 between them. There will be many other residential  
3 units built downtown, including nearly 2,000 likely  
4 residents with this project.

T1-17  
cont.

5 What about RT? RT has had financial problems  
6 in the past and has only recently recovered enough to  
7 back some service. What makes you think that that  
8 will not happen in the future?

T1-18

9 Under Section 410 of the EIR, quote, analysis  
10 of mitigation, is this warning: Maintain operation  
11 levels of service at A to E at all times, including  
12 peak travel times, unless maintaining this LOS would  
13 in the City's judgement be infeasible and/or a  
14 conflict with achievement of other goals. Level of  
15 service F conditions may be acceptable provided that  
16 other provisions made to improve the overall system  
17 and/or promote non-vehicular transportation --

T1-19

18 CHAIR BURCHILL: Ms. Fleury, we are at -- we  
19 are at time.

20 JEAN FLEURY: -- and transmit -- and transient  
21 as a part of an ongoing improvement. This  
22 improvement --

23 CHAIR BURCHILL: Please complete your remarks.

24 JEAN FLEURY: -- may be -- may not be in the  
25 City core.



1                   Again, the problems are not going away. Thank  
2 you.

3                   CHAIR BURCHILL: Thank you very much for your  
4 comments.

5                   Any environmental issues will receive a  
6 written response in the Final Environmental Impact  
7 Report.

8                   Our next speaker is James Battles, who will be  
9 followed by Chris Holm.

10                  Welcome, Mr. Battles.

11                  JAMES BATTLES: Madam Chair, Members of the  
12 Commission, I can't quite speak so eloquently as the  
13 people that spoke before me, but I did jot down a few  
14 notes as I was sitting here.

15                  THE REPORTER: Could you slow down a little  
16 bit?

17                  JAMES BATTLES: Excuse me?

18                  THE REPORTER: Slow down a little bit.

19                  CHAIR BURCHILL: Could you please --

20                  JAMES BATTLES: Sure.

21                  CHAIR BURCHILL: Our court reporter is asking  
22 you to slow down --

23                  JAMES BATTLES: Sure. I do talk fast.

24                  CHAIR BURCHILL: -- slow down as she  
25 transcribes it. Thank you, Mr. Battles.

↑ T1-19  
| cont.

↑ T1-20



1           JAMES BATTLES: One of the things that the  
 2 Draft Environmental Impact Report may not address  
 3 directly is we're correcting a mistake. And that  
 4 first -- the mistake that we're correcting is the  
 5 arena that was located out in the farm fields way back  
 6 in 1985.

T1-21

7           We're going to relocate it to the city center.  
 8 It's going to be adjacent to the freeways, heavy and  
 9 light rail, pedestrian and bicycle access. It's going  
 10 to encourage higher density in transit oriented  
 11 residential development.

T1-22

12           And it is going to encourage people to move  
 13 downtown. I may be one of the first people. I have  
 14 got a house in District 8, and I just moved downtown  
 15 because I want to be a part of this. This project is  
 16 going to bring people downtown.

17           We know over 100,000 people work downtown  
 18 every day. They come in. They leave about 4:30.  
 19 People that come downtown for a game come in about  
 20 6:00 o'clock. So there is not going to be that much  
 21 overlapping.

T1-23

22           I do want to point out when the Kings  
 23 announced that they were going to stay in Sacramento,  
 24 there were about 15,000 people that came down to Cesar  
 25 Chavez Park at that time. And that was right in the

T1-24



1 middle of the commute time. There wasn't any backups.  
2 There wasn't any major tie-ups. There wasn't any  
3 major street closures.

↑  
T1-24  
cont.

4           Since I have to get my car in and out of  
5 800 J, it is going to be important for the City to get  
6 this right as far as traffic goes. But it's important  
7 that we be able to locate this in an area of town  
8 where people are going to have the best access to it.  
9 And, again, as I pointed out pedestrian, bicycle, and  
10 light rail.

↑  
T1-25

11           And probably Mr. Barnbaum will be happy to  
12 know that since I have moved downtown, I have been  
13 using regional transit for the first time in my life.

↑  
T1-26

14           These -- these people will be using light  
15 rail. They will be using buses. And that will --  
16 that will hopefully address some of the other things  
17 that -- that ail our city.

18           In conclusion, I would just say that the --  
19 the alternatives, which would be a site in the rail  
20 yard of course would interfere with the planned  
21 intermodal facility.

↑  
T1-27

22           The other alternative not building it to me is  
23 not -- not an option for a vibrant city.

24           This project not only connects -- or corrects  
25 the primary mistake of locating it in Natomas, but it

↑  
T1-28  
↓



1 -- I think it also will help enhance this region and  
2 make it more attractive for building higher densities  
3 and helping to stop some of the sprawl in our region.

4 Thank you.

5 CHAIR BURCHILL: Thank you, Mr. Battles. Our  
6 next speaker is Chris Holm.

7 The speaker slip I have after that is for  
8 Elizabeth Wong, and I'm not sure if it's on this or  
9 another item we have. So, Ms. Wong, if you could come  
10 forward in the next and let us know if you wanted to  
11 speak on this or another of our Entertainment and  
12 Sports Center items this evening, that would be  
13 helpful.

14 Welcome, Mr. Holm.

15 CHRIS HOLM: Thank you, Chair Burchill,  
16 Commissioners. I'm Chris Holm with Block Sacramento.

17 I would like to just present a few questions  
18 about Impact 4.10-8 which has to do with facilities or  
19 failing to provide access for pedestrians.

20 Mitigations under Subsection B talk about add  
21 -- widening crosswalks, primarily on north south  
22 routes on some of the major intersections around the  
23 arena. But I feel that's going to be inadequate  
24 because people aren't going to just want to go in a  
25 straight line north or south. When they get to a

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T1-28  
cont.  
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T1-29  
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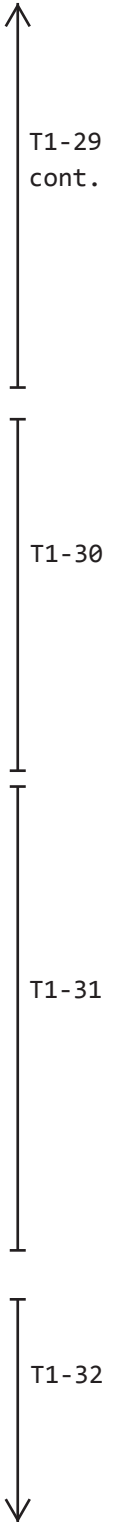


1 signal, and it's red, people will flow like water.  
 2 The signal -- they will be able to cross to the right,  
 3 so they will go to the right, and then they will  
 4 continue their journey down on the south.

5           So especially on those four corners around the  
 6 ESC site, but all of those corners need to have fully  
 7 widened crosswalks. Now, there are some other  
 8 crosswalks further south of the arena that aren't  
 9 included on the list. Some other intersections that  
 10 have crosswalks on only one side of the intersection  
 11 at like Capitol Mall I think we need to get crosswalks  
 12 on all legs of the intersections, especially south of  
 13 the arena.

14           The other thing I would like to mention is  
 15 that in the NOP response we said we would like to see  
 16 pedestrian LOS considered because we want some metrics  
 17 as to what's occurring in the environment for  
 18 pedestrians.

19           And I was pleasantly surprised to see in the  
 20 traffic appendix that there was one sheet that  
 21 indicated there was some pedestrian level of service  
 22 analysis done. But it doesn't seem to have applied to  
 23 the infrastructure for pedestrians, and primarily I'm  
 24 thinking of corners. There is a lot of corners around  
 25 the arena that won't be changed. They're small. When



1 you get the huge numbers of pedestrians, especially  
2 after the events all coming out at once, and the  
3 holding area is small, people are going to get either  
4 pushed around, jostled out into the street.

5           The LOS analysis sheet had figures for illegal  
6 crossings of the street. So that's being looked at.  
7 And I'm concerned that if there is not enough room to  
8 handle all of the pedestrians at the intersection  
9 corners, people will take chances and try to get  
10 across, or they will get pushed by the crowd out to  
11 the -- out into the street.

12           And I will be submitting more comments in  
13 depth, but I just wanted to get a couple of them  
14 important ones right now.

15           Thank you.

16           CHAIR BURCHILL: Thank you, Mr. Holm.

17           Our next speaker is Elizabeth Wong, and who  
18 will be followed by Serene Morgan.

19           And, Ms. Wong, this is the item on the Draft  
20 Environmental Impact Report specifically. So if you  
21 wanted to speak about the Entertainment and Sports  
22 Center in that context of providing feedback on the  
23 Draft Environmental Impact Report, this is your time.  
24 Otherwise, you may want to hold to another agenda item  
25 as we have a number on this.

T1-32  
cont.



PUBLIC HEARING  
PLANNING AND DESIGN COMMISSIONJanuary 23, 2014  
27

1           Would you like to speak now?

2           ELIZABETH WONG: Yes. My name is Elizabeth  
3 Wong, and I do represent a District 4, which is the  
4 downtown area, just for reference.

5           And I think it's good that the person before  
6 me talked about pedestrian traffic because that's  
7 exactly what I'm looking at too. So if it's off,  
8 please correct me. Okay?

9           So when he mentioned about pedestrians, I'm  
10 sure many of the people in this room including the  
11 people behind me know there is a Chinatown Mall which  
12 actually sits and will be sitting directly across the  
13 street from the arena, the proposed arena site.

14           And I will talk about pedestrians. They have  
15 to go from public transportation, which is the light  
16 rail Amtrak station to the arena. What sits right in  
17 the middle? There is this area called the Sleeping  
18 Dragon. It's Chinatown Mall. It's dead. It died  
19 over 20 years ago. And yet it was built in the 1970s  
20 as the center of town. And it probably will be the  
21 most prime piece of real estate in all of downtown  
22 because there is so much potential for it.

23           But what I want to bring up is if we tie it in  
24 with pedestrian traffic, people have to go around  
25 Chinatown Mall or go through it. If they're going to

T1-33

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1 go through it, why not enhance it, revitalize it.

2 I just read today that Sacramento is the 11th  
3 -- Number 11 -- most expensive city in the United  
4 States. It was just in the news.

5 And with that in mind, what else is there?  
6 Well, Sacramento as a city also is known  
7 internationally. The people in China call it second  
8 city, "Yee Fow", second city to San Francisco.

9 And which country right now has the most  
10 worldwide travelers from their country? It's China.  
11 They have the most tourists. Wouldn't that all tie it  
12 in together internationally? We're looking at not  
13 just the people who live in Sacramento, but the ones  
14 who can come in both as tourists.

15 And most important of all, there is a vital  
16 community of an Asian community, Asian American  
17 community. And Chinatown Mall is just a site.  
18 Wouldn't it be great to revitalize that? To bring the  
19 people back in, to celebrate not just for the two  
20 isolated housing projects for seniors. They have  
21 nowhere to go. They don't even have a stone bench to  
22 sit on right now. But they have two inches of leaves  
23 to wade through. The leaves have been sitting there  
24 ignored since fall.

25 So please don't ignore. Let's revitalize

↑ T1-33  
cont.

T1-34



1 Chinatown Mall as part of this project. We're only  
 2 right across the street. That's less than a thousand  
 3 feet. We're in the neighborhood. Let's be good  
 4 neighbors, enhance each other, enhance Sacramento  
 5 because we are Number 11 as the most expensive and  
 6 most beautiful city in the United States.

7 Thank you.

8 CHAIR BURCHILL: Thank you, Ms. Wong, for your  
 9 comments.

10 Our next speaker is Serene Morgan, who will be  
 11 followed by Jim Brown.

12 And then I don't have any other public speaker  
 13 slips on this item. So if you would like to address  
 14 the Commission, please fill one out, and bring it  
 15 forward to our City Clerk.

16 Welcome, Ms. Morgan.

17 SERENE MORGAN: Hello. I'm been a residence  
 18 of Sacramento area for 46 years.

19 THE REPORTER: I'm sorry, could you speak up  
 20 and a little slower.

21 SERENE MORGAN: Sorry.

22 THE REPORTER: Thank you.

23 SERENE MORGAN: I've been a residence of  
 24 Sacramento for 46 years. And I wanted to know there  
 25 is going to be when that -- they bring the arena to

↑  
T1-34  
cont.

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T1-35  
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1 downtown, the crowd congestion is going to be  
2 astronomical. So there -- how are they going to keep  
3 that under control?

4           The other thing is is that they're talking  
5 about that they're building this thing to create all  
6 of these jobs for people, but what about all of the  
7 jobs they're going to take away by taking out all of  
8 those businesses?

9           And also I want to know the astronomical  
10 expense that they're going through to build this new  
11 arena is they have a perfectly good one where they're  
12 at. So why would they -- I mean, to me you're just  
13 trading places and paying a whole lot of money. I  
14 mean where they're at is more able to take the crowd  
15 flow. Like they don't have the congestion problem  
16 there because where they're at it's like wide open.

17           And so I was just concerned about those  
18 issues, and the money to me I feel like is in my  
19 opinion that they're going to be spending is not  
20 merited for moving what they already have totally --  
21 it's fine for what they're doing.

22           CHAIR BURCHILL: Thank you, Ms. Morgan, for  
23 your comments.

24           Any environmental issues from your comments  
25 will receive a written response in the Final

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T1-35  
cont.  
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T1-36  
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T1-37



1 Environmental Impact Report.

2 SERENE MORGAN: Thank you.

3 CHAIR BURCHILL: The final speaker slip I have  
4 for this item is Mr. Jim Brown.

5 Welcome.

6 JIM BROWN: Hi. Thank you. Jim Brown,  
7 Sacramento Area Bicycle Advocates.

8 Chairperson, last week you stated that -- your  
9 hope that the discussions about the arena project  
10 would eventually get around to talking about bike  
11 access. Today we submitted our comments on the Draft  
12 EIR for the project, and bike access is the main focus  
13 of what we're covering.

T1-38

14 As currently conceived, the project fails to  
15 provide for adequate access for people traveling by  
16 bikes. And this is a significant adverse impact in  
17 three particular ways.

18 It fails to provide for enough bike parking of  
19 the right kind in the right places.

T1-39

20 It fails to provide for adequate access to  
21 that bike parking from adjacent streets.

T1-40

22 And it fails to provide adequate access to the  
23 arena site from the downtown neighborhood.

T1-41

24 Access by bike to this part of the city is  
25 currently quite poor, and it has to improve



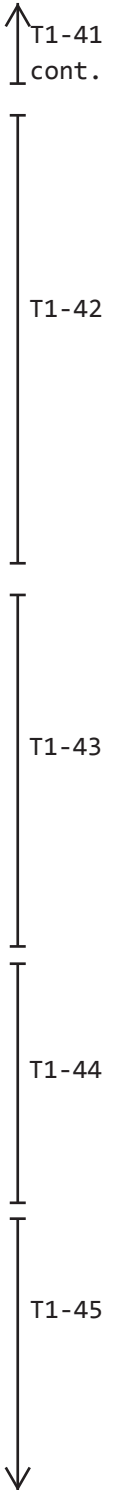
1 significantly if this project is going to realize its  
 2 ambitious goal of being a vibrant destination for  
 3 everyone. The project -- project proposes to prepare  
 4 and implement an event transportation management plan  
 5 to mitigate significant impacts to intersection  
 6 operations, transit operations, and pedestrian access.  
 7 As currently described, this plan does not adequately  
 8 mitigate these predicted impacts. And therefore the  
 9 measures relying on the plan do not comply with CEQA  
 10 requirements for mitigation.

11 Infrastructure -- infrastructure improvements  
 12 will need to be included in the mitigation for these  
 13 impacts.

14 At the same time, we're optimistic these  
 15 impacts can be mitigated by including specific  
 16 infrastructure improvements as part of the project and  
 17 by producing a traffic management plans that has  
 18 performance standards for what it will achieve, how  
 19 its efficacy will be managed and measured, and how it  
 20 will be adjusted over time to ensure its success.

21 We propose expanding the bicycle section of  
 22 the project description to do three things.

23 Describe by parking to be included in the  
 24 parking that will fully comply with the City's bicycle  
 25 parking requirements, including the number of spaces



1 and the specifics of its operation.

2 Describe how the project will provide adequate  
3 access to the bicycle parking from all directions from  
4 the site.

5 And describe the bicycle infrastructure  
6 improvements included as part of this project that  
7 will protect people on bikes from conflicts with motor  
8 vehicles and pedestrians on the streets surrounding  
9 the arena site.

10 Protected bicycle facilities will be the key  
11 to making the site accessible to the widest variety of  
12 people who will want to travel to the arena by bike  
13 and not just the strong and fearless who brave what  
14 are currently pretty unfriendly streets.

15 We urge the Commission to recommend that the  
16 City and the project applicants work with all of the  
17 relevant transportation management entities and  
18 advocates for active transportation to create a  
19 successful and enforceable traffic management plan  
20 that includes the above elements.

21 Please see our comment letter for specific  
22 recommendations.

23 CHAIR BURCHILL: Thank you very much --

24 JIM BROWN: Thank you.

25 CHAIR BURCHILL: -- Mr. Brown, for your

↑ T1-45  
cont.

T1-46

T1-47

T1-48



PUBLIC HEARING  
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34

1 comments.

2 I have no other public speaker slips for this  
3 item on the Draft Environmental Impact Report for the  
4 downtown arena.

5 That said, if there is anybody from the public  
6 who does wish to address the Commission, this is your  
7 moment to come forward to the podium.

8 Okay. Seeing no other members of the public  
9 that wish to comment, I would just remind the public  
10 that written comments can be received up until next  
11 Friday, January 31st.

12 And, again, I will repeat the address, which  
13 is the contact is Scott Johnson who is an associate  
14 planner with the Community Development Department with  
15 the City of Sacramento. His address is 300 Richards  
16 Boulevard, Third Floor, Sacramento, California, 95811.

17 Written comments can also be e-mailed to  
18 Mr. Johnson at [srjohnson@cityofsacramento.org](mailto:srjohnson@cityofsacramento.org).

19 With that, I don't think that there is  
20 anything further on this item, so I will close the  
21 public hearing on this item. Thank you.

22 (The recorded portion of the public hearing  
23 concluded at 6:14 p.m.)

24

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REPORTER'S CERTIFICATION

I, FRANCINE DAIS, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing proceeding was taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 5th day of February, 2014.



FRANCINE DAIS, CSR No. 8855

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**Letter T1      Planning and Design Commission Public Hearing –Transcript**  
**Response      January 23, 2014**

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- T1-1            The comment provides introductory information about the Proposed Project, the reason for the public hearing, and instructions on how to provide testimony on the Proposed Project.
- T1-2            This speaker also submitted written comment letters on the Draft EIR (Letters I5 and I8). Please see Response to Comment A11-9.
- T1-3            Please see Response to Comment I8-3.
- T1-4            Please see Response to Comment I8-2.
- T1-5            The comment is noted and will be conveyed to the City Council for its consideration.
- T1-6            Please see Response to Comment A7-25.
- T1-7            The comment is noted and will be conveyed to the City Council for its consideration.
- T1-8            This speaker also submitted a written comment letter on the Draft EIR (Letter I14). The comment is noted and will be conveyed to the City Council for its consideration.
- T1-9            Please see Responses to Comments O1-6 and O18-2.
- T1-10           Please see Response to Comment O1-6.
- T1-11           A comment letter was not received at the public hearing on this date. However, the speaker previously submitted a comment letter (Letter I14), which is included in and responded to in this Final EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- T1-12           Please see Response to Comment O10-1.
- T1-13           This speaker also submitted a written comment letter on the Draft EIR (Comment Letter I33). Please see Response to Comment I33-11.
- T1-14           Please see Responses to Comments I33-11 and I33-15.
- T1-15           Please see Responses to Comments O10-3 and O10-11.

- T1-16 Please see Response to Comment O10-3.
- T1-17 The cumulative analysis in the Draft EIR accounts for a variety of future projects throughout the City and in the Central Business District, as included in the regional transportation models overseen by SACOG. These models are based on economic and demographic projections of growth, and would account for the potential growth that the commenter's project would represent, in the event that it is approved and constructed. As appropriate, these models account for growth that would occur in planned development such as the Railyards and Township 9. Please also see Response to Comment O10-10. The comment is noted and will be conveyed to the City Council for its consideration.
- T1-18 Please see Response to Comment O10-1.
- T1-19 Please see Response to Comment O10-5.
- T1-20 The comment is noted and will be conveyed to the City Council for its consideration.
- T1-21 The comment is noted and will be conveyed to the City Council for its consideration.
- T1-22 The comment is noted and will be conveyed to the City Council for its consideration. Please also see Response to Comment T1-17.
- T1-23 Please see Response to Comment O10-2.
- T1-24 The comment is noted and will be conveyed to the City Council for its consideration.
- T1-25 A full traffic analysis was presented in section 4.10, Transportation, in the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- T1-26 Multi-modal transportation options are available in downtown Sacramento, and it is anticipated that some patrons of the Proposed Project would use transit services to access the Downtown project site. A full traffic analysis was presented in section 4.10, Transportation, in the Draft EIR. The comment is noted and will be conveyed to the City Council for its consideration.
- T1-27 Alternative 2, ESC at the Railyards, is analyzed in the Draft EIR on pages 6-24 through 6-34. Alternative 1, No Project Alternative, is analyzed on pages 6-20 through 6-24. The comment is noted and will be conveyed to the City Council for its consideration.

- T1-28 The comment is noted and will be conveyed to the City Council for its consideration.
- T1-29 This speaker also submitted a written comment letter on the Draft EIR (Letter O13). Please note that there is an error in the transcript. The commenter is affiliated with Walk Sacramento. Please see Responses to Comments O13-4, O13-5, and O13-6.
- T1-30 Please see Responses to Comments O13-4, O13-5, and O13-6.
- T1-31 Please see Response to Comment O13-2.
- T1-32 Please see Responses to Comments O13-2, O13-4, O13-5, and O13-6.
- T1-33 This speaker also submitted written comment letters on the Draft EIR (Letters I4 and I7). The comment is noted and will be conveyed to the City Council for its consideration.
- T1-34 The comment is noted and will be conveyed to the City Council for its consideration.
- T1-35 Please see Responses to Comments O2-57 and I20-7.
- T1-36 Please see Response to Comment O12-3.
- T1-37 The cost of the Proposed Project is an economic issue. Please see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA.
- T1-38 This speaker's organization also submitted a written comment letter on the Draft EIR (Letter O2). Please see Responses to Comments A3-8 and O2-7.
- T1-39 Please see Response to Comment O2-7.
- T1-40 Please see Responses to Comments A3-8 and O2-7.
- T1-41 Please see Responses to Comments O2-14, O2-15, and O2-16.
- T1-42 Please see Responses to Comments O2-15, O2-17, O2-18, O2-19, and O2-20.
- T1-43 Please see Response to Comment O2-20.
- T1-44 Please see Response to Comment O2-20.
- T1-45 Please see Response to Comment O2-7.
- T1-46 Please see Response to Comment O2-7.

T1-47 Please see Response to Comment A3-8.

T1-48 Please see Response to Comment A16-4.

Public Resources Code  
Section 21168.6.6





Senate Bill 743, approved by the Governor and filed with the Secretary of State on September 27, 2013, added Section 21168.6.6 to the Public Resources Code, the full text of which states as follows:

21168.6.6

(a) For the purposes of this section, the following definitions shall have the following meanings:

(1) "Applicant" means a private entity or its affiliates that proposes the project and its successors, heirs, and assignees.

(2) "City" means the City of Sacramento.

(3) "Downtown arena" means the following components of the entertainment and sports center project from demolition and site preparation through operation:

(A) An arena facility that will become the new home to the City of Sacramento's National Basketball Association (NBA) team that does both of the following:

(i) Receives Leadership in Energy and Environmental Design (LEED) gold certification for new construction within one year of completion of the first NBA season.

(ii) Minimizes operational traffic congestion and air quality impacts through either or both project design and the implementation of feasible mitigation measures that will do all of the following:

(I) Achieve and maintain carbon neutrality or better by reducing to at least zero the net emissions of greenhouse gases, as defined in subdivision (g) of Section 38505 of the Health and Safety Code, from private automobile trips to the downtown arena as compared to the baseline as verified by the Sacramento Metropolitan Air Quality Management District.

(II) Achieve a per attendee reduction in greenhouse gas emissions from automobiles and light trucks compared to per attendee greenhouse gas emissions associated with the existing arena during the 2012-13 NBA season that will exceed the carbon reduction targets for 2020 and 2035 achieved in the sustainable communities strategy prepared by the Sacramento Area Council of Governments for the Sacramento region pursuant to Chapter 728 of the Statutes of 2008.

(III) Achieve and maintain vehicle-miles-traveled per attendee for NBA events at the downtown arena that is no more than 85 percent of the baseline.

(B) Associated public spaces.

(C) Facilities and infrastructure for ingress, egress, and use of the arena facility.

(4) "Entertainment and sports center project" or "project" means a project that substantially conforms to the project description for the entertainment and sports center project set forth in the notice of preparation released by the City of Sacramento on April 12, 2013.

(b) (1) The city may prosecute an eminent domain action for 545 and 600 K Street, Sacramento, California, and surrounding publicly accessible areas and rights-of-way within 200 feet of 600 K Street, Sacramento, California, through order of possession pursuant to the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure) prior to completing the environmental review under this division.

(2) Paragraph (1) shall not apply to any other eminent domain actions prosecuted by the City of Sacramento or to eminent domain actions based on a finding of blight.

(c) Notwithstanding any other law, the procedures established pursuant to subdivision (d) shall apply to an action or proceeding brought to attack, review, set aside, void, or annul the certification of the environmental impact report for the project or the granting of any project approvals.

(d) On or before July 1, 2014, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for the project or the granting of any project approvals that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to subdivision (f).

(e) (1) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE. A COPY OF SECTION 21168.6.6 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(2) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this section.

(3) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.

(4) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.

(5) (A) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency and applicant shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(B) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(C) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years experience in land use and environmental law or science, or mediation. The applicant shall bear the costs of mediation.

(D) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(E) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency, the applicant, and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial project approvals.

(6) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(A) New issues raised in the response to comments by the lead agency.

(B) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(C) Changes made to the project after the close of the public comment period.

(D) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(E) New information that was not reasonably known and could not have been reasonably known during the public comment period.

(7) The lead agency shall file the notice required by subdivision (a) of Section 21152 within five days after the last initial project approval.

(f) (1) The lead agency shall prepare and certify the record of the proceedings in accordance with this subdivision and in accordance with Rule 3.1365 of the California Rules of Court. The applicant shall pay the lead agency for all costs of preparing and certifying the record of proceedings.

(2) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency or submitted by the applicant after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(3) Notwithstanding paragraph (2), documents submitted to or relied on by the lead agency that were not prepared specifically for the project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.

(4) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(5) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(6) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to paragraph (6) of subdivision (e) and need not include the content of the comments as a part of the record.

(7) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and

shall provide an electronic copy of the record to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(8) Within 10 days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.

(9) Any dispute over the content of the record of the proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.

(10) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

(g) (1) As a condition of approval of the project subject to this section, the lead agency shall require the applicant, with respect to any measures specific to the operation of the downtown arena, to implement those measures that will meet the requirements of this division by the end of the first NBA regular season or June of the first NBA regular season, whichever is later, during which an NBA team has played at the downtown arena.

(2) To maximize public health, environmental, and employment benefits, the lead agency shall place the highest priority on feasible measures that will reduce greenhouse gas emissions on the downtown arena site and in the neighboring communities of the downtown arena. Mitigation measures that shall be considered and implemented, if feasible and necessary, to achieve the standards set forth in subclauses (I) to (III), inclusive, of clause (ii) of subparagraph (A) of paragraph (3) of subdivision (a), including, but not limited to:

(A) Temporarily expanding the capacity of a public transit line, as needed, to serve downtown arena events.

(B) Providing private charter buses or other similar services, as needed, to serve downtown arena events.

(C) Paying its fair share of the cost of measures that expand the capacity of a public fixed or light rail station that is used by spectators attending downtown arena events.

(3) Offset credits shall be employed by the applicant only after feasible local emission reduction measures have been implemented. The applicant shall, to the extent feasible, place the highest priority on the purchase of offset credits that produce emission reductions within the city or the boundaries of the Sacramento Metropolitan Air Quality Management District.

(h) (1) (A) In granting relief in an action or proceeding brought pursuant to this section, the court shall not stay or enjoin the construction or operation of the downtown arena unless the court finds either of the following:

(i) The continued construction or operation of the downtown arena presents an imminent threat to the public health and safety.

(ii) The downtown arena site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the downtown arena unless the court stays or enjoins the construction or operation of the downtown arena.

(B) If the court finds that clause (i) or (ii) is satisfied, the court shall only enjoin those specific activities associated with the downtown arena that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

(2) An action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency granting a subsequent project approval shall be subject to the requirements of Chapter 6 (commencing with Section 21165).

(3) Where an action or proceeding brought pursuant to this section challenges aspects of the project other than the downtown arena and those portions or specific project activities are severable from the downtown arena, the court may enter an order as to aspects of the project other than the downtown arena that includes one or more of the remedies set forth in Section 21168.9.

(i) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(j) (1) This section does not apply to the project and shall become inoperative on the date of the release of the draft environmental impact report and is repealed on January 1 of the following year, if the applicant fails to notify the lead agency prior to the release of the draft environmental impact report for public comment that the applicant is electing to proceed pursuant to this section.

(2) The lead agency shall notify the Secretary of State if the applicant fails to notify the lead agency of its election to proceed pursuant to this section.



MAYOR/COUNCIL OFFICE  
CITY OF SACRAMENTO

DEC 03 2013

November 26, 2013

Max Fernandez, Director  
Community Development Department  
City of Sacramento  
300 Richards Boulevard, Third Floor  
Sacramento, California 95811

Shirley Concolino, MMC  
City Clerk  
City of Sacramento  
915 I Street  
Sacramento, California 95814

Re: Notice of Election to Proceed under Public Resources Code section  
21168.6.6 for the Sacramento Entertainment & Sports Center

Dear Mr. Fernandez and Ms. Concolino:

As provided in Public Resources Code section 21168.6.6, Sacramento Basketball Holdings LLC provides this notice to the City of Sacramento, as lead agency under the California Environmental Quality Act, that Sacramento Basketball Holdings LLC hereby elects to proceed under Public Resources Code section 21168.6.6 in connection with the Sacramento Entertainment & Sports Center Project.

If you have any questions regarding the above, please do not hesitate to contact the undersigned.

Very truly yours,

SACRAMENTO BASKETBALL HOLDINGS LLC

By   
John Rinehart

cc:  
Jeffrey K. Dorso, Pioneer Law Group, LLP

Mediator's Report Concerning  
Sacramento Entertainment  
and Sports Center & Related  
Development Draft  
Environmental Impact Report  
SB 743 Mediation (Public  
Resources Code Section  
21168.6.6)





*Richard L. Gilbert*  
Judge, Retired

***Richard L. Gilbert***  
Judge of the Superior Court, Retired  
Resolution Arts Building  
2630 J Street  
Sacramento, Calif. 95816  
Tel (916) 442-0414/Fax (916) 442-7046  
www.rgilbertadr.com

*Amanda C. Gilbert*  
Attorney at Law

February 19, 2014

**Mediator's Report Concerning**  
**SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED**  
**DEVELOPMENT**

**DRAFT ENVIRONMENTAL IMPACT REPORT SB 743 MEDIATION**  
(Public Resources Code §21168.6.6)

The purpose of this report is to confirm the conduct of and participation in the “mediation” referred to in subsection (e) of section 21168.6.6 of the Public Resources Code (the “Code”) in connection with the Draft Environmental Impact Report (“DEIR”) concerning the Sacramento Entertainment and Sports Center & Related Development proposed for the City of Sacramento (Commonly known as the “Kings Arena Project”). In accordance with the provisions of the Code, the undersigned (“Mediator”) was contacted by representatives of the City of Sacramento and engaged to conduct the mediation described in the Code with the participation of the City, as lead agency; the applicant and commenters on the DEIR.

Mediation sessions were conducted at the offices of the undersigned on February 13, 2014 and February 18, 2014. The City identified commenters on the DEIR who had requested to participate in the mediation. The commenters and their areas of concern<sup>1</sup> were noted to be as follows:

- William Reany (VMT forecasts and freeway traffic congestion)
- Smith Law Firm (representing SPRAWLDEF and others) (Various concerns)
- Sacramento Housing Alliance (Effects on homeless population, low income and related housing impacts broadly, transportation and impact on neighborhood retail.)

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<sup>1</sup> These descriptions do not include and are not intended to reflect the complete scope of the DEIR issues raised by the commenters and are included only to generally described the "areas of concern". Reference should be made to the comment documents and public hearing transcripts to determine the scope and substance of the issues.

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- Safe Ground/Sacramento Regional Coalition to End Homelessness (Effects on homeless and SRO units, issues relating to low income housing broadly)
- Sacramento Coalition for Shared Prosperity (Similar those of the Sacramento Housing Alliance)
- Friends of the Sacramento River (Traffic mitigation and impacts, funding for Sacramento River Parkway)

The Mediator communicated with representatives of the City, the applicant and the commenters in advance of the first mediation session to identify a proposed process and to confirm the agenda proposed by the City. (The proposed agenda is attached.) In the course of those discussions, question was raised whether the “mediation” referred to in the Code would be conducted in accordance with the confidentiality and non-disclosure provisions referred to in California Evidence Code §§1115, et seq. and/or Evidence Code §1152 as the Code makes no specific reference to those provisions or confidentiality in general.<sup>2</sup> In order to avoid controversy with respect to that subject and in light of the overall public nature of the DEIR and EIR review and approval process, the Mediator advised the participants that the mediation should not be considered as confidential or privileged within the meaning of the potentially applicable provisions of the Evidence Code.<sup>3</sup> All participants agreed to go forward under those circumstances.

Additionally, a number of participating commenters dispute the legality of one or more provisions of SB 743, including the provisions pertaining to mediation. The Mediator confirmed that participation in the mediation would be noted to have been without waiver of any objection or future challenge to the provisions of SB 743.

As noted above the, first mediation session was conducted on February 13, 2013. The broad “areas of concern” identified for inclusion in the first it session were transportation (including a variety of subtopics), retail impacts, and a variety of general concerns raised by SPRAWLDEF and others concerning impacts on surrounding business areas, billboard impacts and General Plan consistency. Attendees at the first mediation session included representatives of the lead

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<sup>2</sup> The cited provisions of law provide, generally, that communications and information exchanged during a mediation, typically involving litigation, and settlement proposals exchanged between parties are "confidential" and cannot be disclosed or used in subsequent litigation.

<sup>3</sup> The Mediator noted that the section 21168.6.6 mediation process is part of a broader process of public input and discourse between members of the public, the applicant and City (lead agency). Additionally, comments on the DEIR are part of the public record and any tentatively agreed remedial matters would also become public record. The Mediator noted the possibility that the citizen organizations submitting comments could not be expected, reasonably, to assure confidentiality despite best efforts. The risk that the participants may feel some inhibition to candidly advance compromises without the normal mediation privilege was recognized but it was the Mediator’s conclusion that, in the absence of clear statutory guidance, the generally public nature of the process and the opportunity for progress outweighed this concern.

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agency, City of Sacramento and a representative of the applicant. The commenters participating included William Reany, an individual, and representatives from the following organizations: SPRAWLDEF, the Sacramento Coalition for Shared Prosperity, Sacramento Housing Alliance, and Friends of the Sacramento River Parkway.

The second mediation session was conducted on February 18, 2014. The area of concern identified for that session was housing, with an emphasis, generally, on impacts on low income housing and business and amenities availability. Participants included representatives of the City of Sacramento and the applicant as well as representatives of the Sacramento Housing Alliance, Sacramento Coalition for Shared Prosperity, Sacramento Safe Ground, and the Sacramento Regional Coalition to End Homelessness.

A representative of ESA, the EIR consulting firm, attended both sessions of the mediation.

No measures to be adopted as conditions of approval were agreed between the lead agency, the applicant or any participating commenter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard L. Gilbert', with a long horizontal flourish extending to the right.

Richard L. Gilbert



**PROPOSED MEDIATION SCHEDULE**

**Location: 2630 J STREET (OFFICES OF JUDGE RICHARD GILBERT)**

\* \* \* \*

**February 13, 2014**

**9:00 – 11:00 Transportation**

**Subject: Trip Estimates  
Transportation Management Plan (TMP)  
Transit  
Bike Access and Parking**

**Attendees:**

- Judge Richard L. Gilbert (Retired)
- Darryl Rutherford- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Tamie Dramer- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Veronica Beaty- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Mark Lovington- Attorney-at-Law
- Jim Brown- Sacramento Area Bicycle Advocates (SABA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Jordan Lang- Sacramento Area Bicycle Advocates (SABA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Jim Houpt, Friends of the Sacramento River Parkway
- Dan Gorfain, Friends of the Sacramento River Parkway
- Jim Geary, Friends of the Sacramento River Parkway
- Desmond Parrington, ESC Project Manager, City Manager's Office
- Sheryl Patterson, Senior Deputy City Attorney, City Attorney's Office
- Andrea Matarazzo, Founding Partner, Pioneer Law Group (lead counsel to Sacramento Basketball Holdings LLC)
- Brian Boxer, Vice President, ESA (EIR consultant)

**11:00 – Noon Retail**

**Subject: Retail Impacts**

**Attendees:**

- Judge Richard L. Gilbert (Retired)
- Darryl Rutherford- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Tamie Dramer- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)

- Veronica Beaty- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Mark Lovington- Attorney-at-Law representing SCSP
- Kelly Smith, Attorney-at-Law, The Smith Firm, representing SPAWLDEF et al.<sup>1</sup>
- Desmond Parrington, ESC Project Manager, City Manager's Office
- Sheryl Patterson, Senior Deputy City Attorney, City Attorney's Office
- Andrea Matarazzo, Founding Partner, Pioneer Law Group (lead counsel to Sacramento Basketball Holdings LLC)
- Brian Boxer, Vice President, ESA (EIR consultant)

**1:30 – 2:30 PM      Transportation**

**Subject: 3<sup>rd</sup>/J Street and I Street Interchange  
VMT calculation**

**Attendees:**

- Judge Richard L. Gilbert (Retired)
- William Reany
- Kelly Smith, Attorney-at-Law, The Smith Firm, representing SPAWLDEF et al.<sup>1</sup>
- Desmond Parrington, ESC Project Manager, City Manager's Office
- Sheryl Patterson, Senior Deputy City Attorney, City Attorney's Office
- Andrea Matarazzo, Founding Partner, Pioneer Law Group (lead counsel to Sacramento Basketball Holdings LLC)
- Brian Boxer, Vice President, ESA (EIR consultant)

**2:30 – 5 PM            Other**

**Subject: K Street  
Old Sacramento  
Existing Arena  
Billboards  
General Plan Consistency**

**Attendees:**

- Judge Richard L. Gilbert (Retired)
- Kelly Smith, Attorney-at-Law, The Smith Firm, representing SPAWLDEF et al.<sup>1</sup>
- Desmond Parrington, ESC Project Manager, City Manager's Office
- Sheryl Patterson, Senior Deputy City Attorney, City Attorney's Office
- Andrea Matarazzo, Founding Partner, Pioneer Law Group (lead counsel to Sacramento Basketball Holdings LLC)
- Brian Boxer, Vice President, ESA (EIR consultant)

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<sup>1</sup> It is unclear how many others represented by Kelly Smith will be attending this session.

**February 18, 2014**

9:00 – 5:00 PM      Housing

Subject: Project Housing  
Housing Decay  
Homeless and Low Income Housing  
Workforce Housing  
Housing Affordability in Downtown area  
Housing Element/General Plan Consistency

**Attendees:**

- Judge Richard L. Gilbert (Retired)
- Darryl Rutherford- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Tamie Dramer- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Veronica Beaty- Sacramento Housing Alliance (SHA) & Sacramento Coalition for Shared Prosperity (SCSP)
- Mark Lovington- Attorney-at-Law
- Stephen Watters, Sacramento Safe Ground & SCSP (*awaiting confirmation*)
- Bob Erlenbusch, Sacramento Regional Coalition to End Homelessness & SCSP (*awaiting confirmation*)
- Desmond Parrington, ESC Project Manager, City Manager's Office
- Sheryl Patterson, Senior Deputy City Attorney, City Attorney's Office
- Andrea Matarazzo, Founding Partner, Pioneer Law Group (lead counsel to Sacramento Basketball Holdings LLC)
- Brian Boxer, Vice President, ESA (EIR consultant)

**March 5, 2014**

*If needed. Subject(s) and attendees to be determined.*





Sacramento Entertainment  
and Sports Center & Related  
Development EIR Errata –  
May 13, 2014





# memorandum

date May 13, 2014

to Scott Johnson, Environmental Planner, City of Sacramento

cc Desmond Parrington, ESC Project Manager, City of Sacramento

from Brian D. Boxer, AICP and Christina Erwin, Environmental Science Associates

subject Sacramento Entertainment and Sports Center & Related Development EIR Errata – May 13, 2014

The Draft and Final Environmental Impact Reports for the Sacramento Entertainment and Sports Center & Related Development project (EIR) described the environmental effects of development of the Proposed Project, and included a description of land parcels that would be transferred to Sacramento Basketball Holdings, LLC from the City. For those parcels that are part of the Downtown project site, the EIR includes analysis of the environmental effects of use of those parcels for implementation of the project. For parcels that are not part of the Downtown project site, the EIR does not describe environmental effects since no proposed future actions on those parcels are included in the project. Subsequent to the publication of the Final EIR, the City identified several additional small land parcels that would be part of the Downtown project site described in the EIR and that would be transferred to Sacramento Basketball Holdings, LLC as part of the project (see Table E-1).

**TABLE E-1  
 ADDITIONAL PARCEL TRANSFERS**

Parcel Name	Assessor Parcel Numbers	Acres	Built Space (sf)
J Street Garage Entry – Access Parcel	006-0087-038	0.29	0
5 <sup>th</sup> and L Street Walkway	006-0087-041	0.06	0
M-1	No APN	0.00	0
E-1	006-0087-039	0.00	0

SOURCE: City of Sacramento, 2014

## J Street Garage Entry – Access Parcel

The J Street Garage Entry – Access Parcel is located between 5<sup>th</sup> Street and 6<sup>th</sup> Street on the south side of J Street, just south of J Street entry to Downtown Plaza Central Parking Garage. The parcel also includes the garage exit from the Downtown Plaza Central Parking Garage directly to the J Street/6<sup>th</sup> Street intersection.

## **5th and L Street Walkway**

The 5<sup>th</sup> and L Street Walkway consists of a narrow, ramped pedestrian walkway along 5<sup>th</sup> Street on L Street at Downtown Plaza at the northeast corner of 5<sup>th</sup> and L Streets.

## **M-1 and E-1**

The M-1 and E-1 parcels are portions of an elevator shaft at the north-central area of Downtown Plaza between 5<sup>th</sup> and 6<sup>th</sup> Streets and K and L Streets. Parcel M-1 is physically above parcel E-1 within the same elevator shaft.

## **Analysis and Conclusion**

There are no new environmental issues raised by the inclusion of the parcels specified above. All potential environmental effects resulting from development of these parcels were described in the Sacramento Entertainment and Sports Center & Related Development EIR because the parcels are within the boundary of the Downtown project site (as identified in the Draft EIR, Figure 2-3). The addition of these transfer parcels would not result in any environmental effects beyond those described in the Sacramento Entertainment and Sports Center & Related Development EIR, and no further analysis is required.

Sacramento Entertainment  
and Sports Center & Related  
Development EIR Errata –  
May 20, 2014





# memorandum

date May 20, 2014

to Scott Johnson, Environmental Planner, City of Sacramento

cc Desmond Parrington, ESC Project Manager, City of Sacramento

from Brian D. Boxer, AICP and Christina Erwin

subject Sacramento Entertainment and Sports Center & Related Development EIR Errata – May 20, 2014

Following the close of the Draft Environmental Impact Report (EIR) public comment period (December 16, 2013 through January 31, 2014), several letters were submitted to the City of Sacramento regarding the proposed Sacramento Entertainment and Sports Center & Related Development project (Proposed Project). Some of these letters were submitted to the City’s Current Planning Department or the City Manager’s Office as opposed to the City’s Environmental Planning Department, the entity responsible for preparing the EIR. Several letters were received after the close of the Draft EIR public comment period. As a result, some of the correspondence sent to the City was not included in the Final EIR, but is addressed herein.

Table 1 identifies letters received by the City on the Proposed Project that were not included in the Final EIR.

**TABLE 1  
 LATE COMMENT LETTERS RECEIVED REGARDING THE PROPOSED PROJECT**

Letter #	Entity	Author(s) of Comment Letter/e-mail	Date Received	Author Submitted Comment Letter on the Draft EIR
1	United Auburn Indian Community (UAIC)	Gene Whitehouse, Chairman	February 20, 2014	Comment Letter O20
2		Kevin Dayton	April 9, 2014	
3	Unite Here, Local 49	Ty Hudson	April 9, 2014	Comment Letter O12
4		Glenda Marsh	April 9, 2014	
5		Matthew Korve	April 10, 2014	
6	Plaza Five Fifty Five	William Chang, Manager	April 10, 2014	Comment Letter I29
7	Sacramento Area Bicycle Advocates (SABA)	Jim Brown, Executive Director	April 10, 2014	Comment Letter O2
8	Old Sacramento Business Association (OSBA)	Terry Harvego, Vice Chairman	May 14, 2014	Comment Letters O9 and O15
9		J. Bolton Phillips	May 15, 2014	
10		Will Rowe	May 15, 2014	
11		Martha Sward and John Farrell	May 16, 2014	
12	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
13	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
14	Friends of the Swainson’s	Judith Lamare	May 6, 2014	

**TABLE 1**  
**LATE COMMENT LETTERS RECEIVED REGARDING THE PROPOSED PROJECT**

	Hawk			
15	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
16	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
17	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
18	The Smith Firm	Kelly T. Smith	May 16, 2014	Comment Letter O19
19		Karen Redman	May 16, 2014	
20		Christine Hansen	May 16, 2014	
21		Jeanie Keltner	May 18, 2014	
22		Maggie Coulter	May 19, 2014	
23		Ron Emslie	May 19, 2014	
24		Heather Fargo	May 19, 2014	
25	Environmental Council of Sacramento	Ron Maertz	May 20, 2014	Comment Letter O11
26		Kevin Coyle	May 20, 2014	Comment Letter I20
27		Sarah Foster	May 20, 2014	
28		Kelly T. Smith	May 20, 2014	Comment Letter O19
29		Ron Emslie	May 20, 2014	

**Letter 1** requests ongoing coordination between the City and the UAIC regarding potentially significant cultural resources at the Downtown project site. Such coordination is ongoing.

**Letter 2** discusses the potential for union members to raise CEQA issues in an attempt to obtain a Community Benefit Agreement or Project Labor Agreement. An article discussing union labor is attached to the letter. The letter does not raise any environmental issues.

**Letter 3** requested the Planning and Design Commission recommend the ESC for approval. The comments suggest that not enough detail is known about the ancillary development, and the Planning and Design Commission should recommend against approving that part of the Proposed Project. The comments also object to the provision in the SPD allowing Planning Director approval of Conditional Use Permits. The Planning and Design Commission recommended project approval to the City Council on April 10, 2014.

**Letter 4** expresses concern regarding the interface of trucks and bikes on 5<sup>th</sup> Street between L Street and J Street, and expresses support for realigning the bike lane to the west side of 5<sup>th</sup> Street between Capitol Mall and I Street. Response to Comment A3-8 in the Final EIR addresses potential options for maintaining on-street bicycle facilities along 5<sup>th</sup> Street between L and J Streets and maintaining consistency with the City’s Bikeway Master Plan. The comment letter refers to a City-staff proposed solution presented to the project applicant to alleviate bike/truck interface concerns, but the letter does not provide specific information about that suggested solution. The letter further suggests the project applicant is not required by the City to accommodate bicycle accessibility to the Downtown project site. Section 4.10 in the Draft EIR describes bike facilities that will be incorporated as part of the Proposed Project including short-term and long-term bike parking, and the Final EIR further refines the locations of those proposed facilities (see Final EIR, Figure 2-24).

**Letter 5** opposes the proposed digital billboards component of the Proposed Project due to the billboards’ brightness at night and the potential for some billboards to obscure views of the downtown skyline. Specifically, the comments oppose proposed digital billboards at the I-5 at Water Tank and US 50 at Pioneer Reservoir sites. The I-5 at Water Tank site was not recommended by the Planning and Design Commission. An analysis of the aesthetics impacts of the proposed digital billboards, including light and glare considerations and potential impacts to viewsheds, was addressed in section 4.1, Aesthetics, Light and Glare in the Draft EIR.



**Letter 6** notes that Plaza Five Fifty Five submitted a comment letter on the Draft EIR, but had not received a response to that comment letter prior to the Planning and Design Commission hearing on April 10, 2014. The comment letter submitted (dated January 31, 2014) on the Draft EIR was included as an attachment. Plaza Five Fifty Five's comment letter (Comment Letter I29) and responses to that letter are included in the Final EIR.

**Letter 7** incorrectly interprets a statement in the project application design narrative as well as an accompanying graphic. The Proposed Project's would not provide for bicycle riding through the event plaza, including along 5<sup>th</sup> Street between L Street and J Street or along K Street between 3<sup>rd</sup> Street and 7<sup>th</sup> Street. There would be short-term bicycle parking racks in the event plaza, allowing bicycle users to ride to the Downtown project site and walk a bicycle through the event plaza to a publicly accessible bike rack. Figure 2-24, Bicycle Plan, in the Final EIR shows the proposed locations for possible bike share docking stations, short- and long-term bicycle parking, and bike valet services.

Letter 16 also raises concerns regarding the bicycle/truck interface along northbound 5<sup>th</sup> Street between L Street and J Street. As explained at the April 10, 2014 Planning and Design Commission hearing, a Class 2 bike lanes would be provided northbound and southbound on 5<sup>th</sup> Street between J and L Streets. The City does not believe that a two-way cycle track is necessary in order to provide safe bicycle access along 5<sup>th</sup> Street.

**Letter 8** is addressed to Councilmember Steve Hansen, which was then forwarded to City staff. The letter requests that Old Sacramento's various issues are addressed to the satisfaction of the OSBA. The issues raised in this letter are similar to concerns raised and addressed in the Final EIR (see Final EIR Comment Letters O9 and O15) such as vehicular and pedestrian connectivity to Old Sacramento, parking availability, and economic conditions in Old Sacramento. The letter also requests ongoing communication with the City. The City and the project applicant continue to perform public outreach, including to the OSBA, regarding the timing of construction activities and refinement of the Event Transportation Management Plan.

**Letter 9** provides a link to a video on You Tube (<http://www.youtube.com/watch?v=bWjNW6YyeH0>). The video purports to show Los Angeles Lakers fans and spectators outside of the Staples Center in Los Angeles, California. Some of the people shown in the video are standing while others are walking outside of the arena. One image shows a small active fire near the Staples Center building, while another image appears to show the remnants of a fire in the street or walkway. The audio indicates that tear gas is deployed on bystanders although direct evidence of that is unclear in the video. Neither the letter submitted nor the linked video provides any direct correlation between the video images, audio or event circumstances and the proposed Sacramento Entertainment and Sports Center & Related Development project. Impact 4.8-2 in the Draft EIR addresses outdoor crowd noise and its potential effect on sensitive receptors. Impact 4.9-1 in the Draft EIR addresses the provision of interior and exterior security at the ESC.

**Letter 10** expresses concern about driver-safety and light spillover from the proposed US 50 at Pioneer Reservoir digital billboard site. Impacts 4.1-2 and 4.1-3 in the Draft EIR address lighting effects on traffic safety. Impact 4.1-2 in the Draft EIR addresses potential spillover light from the proposed digital billboards. The US 50 at Pioneer Reservoir billboard location was not determined to have a potentially significant impact on sensitive receptors due to the proposed billboard's distance from such receptors (residences), the proposed height of the billboard, and the viewing angle.

**Letter 11** provides an opinion that digital billboards are ugly and create blight. Impact 4.1-1 in the Draft EIR discusses potential changes to the visual character and quality of the proposed digital billboard sites and their surroundings. Figure 2-30a in the Final EIR provides a representative photograph of an existing digital billboard within the city limits.

**Letter 12** expresses concern about public rioting. The potential for and consequences of public riots and other scofflaw behavior are not CEQA issues and are not addressed in the Draft EIR or Final EIR. However, the Draft EIR addresses the provision of law enforcement, fire protection, and emergency services in section 4.10. In addition, Impact 4.8-2 in the Draft EIR addresses outdoor crowd noise and its potential effect on sensitive receptors.

**Letter 13** expresses concern about the transportation analysis and the assessment of vehicle miles traveled (VMT). Response to Comment I14-1 in the Final EIR discusses the methodology used for assessing VMT. As explained in Response to Comment I14-1, the baseline VMT per attendee at Sleep Train Arena is 11.57 VMT per attendee, while a sold-out Kings game at the ESC is expected to generate 164,578 VMT, which is 9.40 VMT per attendee. Please see Final EIR Response to Comment I14-1 for further information regarding VMT methodology and analysis.

**Letter 14** expresses an opinion that the proposed digital billboard at the Business 80 at Sutter's Landing Regional Park site should be eliminated from consideration to preserve wildlife resources at the park and within the American River Parkway. Section 4.3, Biological Resources, in the Draft EIR describes the Proposed Project's potential impacts to biological resources, including wildlife. Draft EIR Impact 4.3-1 describes potential impacts from construction and operation of the Business 80 at Sutter's Landing Regional Park digital billboard on listed wildlife species and their habitat, specifically elderberry shrubs and the valley elderberry longhorn beetle. Mitigation Measure 4.3-1(a) is proposed to protect elderberry shrubs and the valley elderberry longhorn beetle at that location. Draft EIR Impact 4.3-2 analyzes the potential impact on nesting raptors, migratory birds, and maternity roosts for special-status bat species. The analysis determined that construction activities including tree removal could impact wildlife species, but operation of and light emitted by the digital billboard at the Business 80 at Sutter's Landing Regional Park site would not adversely affect wildlife species. With the implementation of Mitigation Measures 4.3-2(a), 4.3-2(b), and 4.3-2(c), the Proposed Project would not cause a substantial reduction in local population size or reduce reproductive success to raptors, migratory birds, and special-status bat species. Thus, impacts to raptors, migratory birds, and special-status bats from implementation of the Proposed Project at the Downtown project site and the proposed digital billboard sites would be mitigated to a less-than-significant level.

**Letter 15** questions the legality of Senate Bill 743 and includes an attachment. The attachment is an Invitation to Comment on "CEQA Actions: Rules to Implement Senate Bill 743" prepared by the Judicial Council of California and the Administrative Office of the Courts. The attachment provides background on Senate Bill 743 and describes the proposed legislative rules and proposed rule amendments designed to fulfill the Judicial Council's statutory obligation to adopt rules implementing the expedited judicial review procedure established by Senate Bill 743. Aside from the reference to Senate Bill 743 which applies to the Proposed Project, there is no reference in the attachment to the Proposed Project, and no reference that can be reasonably connected to environmental effects of the Proposed Project or the Draft EIR. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project's relationship to that statute have been forwarded to the City Attorney for consideration. No further response is possible or required.

**Letter 16** expresses concern regarding noise levels produced by construction and operation of the Proposed Project. The letter refers to “noise levels above the 4.5 decibel ordinance level.” The EIR does not make reference to a 4.5 decibel noise level, however it does make reference to the residential interior noise standards established by the City of Sacramento 2030 General Plan of 45 dBA Ldn and which is also identified as a threshold of significance for noise impacts.

Draft EIR Impact 4.8-1 analyzes the Proposed Project’s permanent increase in ambient exterior noise levels in the vicinity of the Downtown project site. The analysis concludes that there would be a significant impact resulting from increased on-road transportation noise; the addition of heating, ventilation, and air-conditioning (HVAC) systems at the project site; and ESC event noise such as outdoor speakers and amplified noise and crowd noise before and after events. Mitigation Measure 4.8-1(a) requires that on-site mechanical equipment and area-source operations such as loading docks be located as far as possible and/or shielded from noise sensitive land uses. Mitigation Measure 4.8-1(b) requires a qualified acoustical consultant to verify that the architectural and outdoor amplified sound system designs incorporate all acoustical features in order to comply with the City of Sacramento Noise Ordinance. While implementation of Mitigation Measures 4.8-1(a) and (b) would be undertaken as described in the Mitigation Monitoring Plan (see Final EIR, Chapter 4), the impact would remain significant and unavoidable.

Draft EIR Impact 4.8-2 analyzes the potential for the Proposed Project to produce residential interior noise levels of 45 dBA Ldn or greater. As described on page 4.8-25 of the Draft EIR, the nearest existing residential receptors to the Downtown project site (in the Riverview Plaza, Ping Yuen Apartments, and Wong Center) would be exposed to interior noise levels less than 45 Ldn (assuming 20 dBA exterior-to-interior attenuation by the building structure). In addition, the approximately 100 foot tall practice facility would completely block the line of sight of the ESC from the Hotel Marshall and Jade Apartments residences, which would substantially reduce noise exposure at these receptors and ensure interior noise levels less than 45 Ldn. The analysis determined that interior noise levels at proposed on-site residences within the SPD area could exceed City thresholds, resulting in a significant impact. Mitigation Measure 4.8-2(a) requires project applicants for residential development to submit a detailed noise study, prepared by a qualified acoustical consultant, to identify design measures necessary to achieve the City interior standard of 45 Ldn in the proposed new residences. The building plans submitted for building permit approval shall be accompanied by certification of a licensed engineer that the plans include the identified noise-attenuating design measures and satisfy the requirements of the mitigation measure. As described in the Mitigation Monitoring Plan, these actions shall be undertaken prior to the issuance of building permits for the proposed future residential units. Because noise mitigation involves detailed design information, it would be impractical to more specifically define these measures at any time prior to a future application for a specific residential project. However, the City is aware of a multitude of noise mitigating design features, including building orientation, insulation, and other noise-mitigating building materials, such that it is reasonable to conclude that this mitigation is reasonably foreseeable. Mitigation Measure 4.8-2(b) requires the implementation of Mitigation Measure 4.8-1(b) to minimize noise from outdoor amplified sound systems. The timing of that mitigation would be prior to design review approval permit.

**Letter 17** provides an attachment of the recently proposed rules the Judicial Council to implement Senate Bill 743. The attachment is an Invitation to Comment on “CEQA Actions: Rules to Implement Senate Bill 743” prepared by the Judicial Council of California and the Administrative Office of the Courts, the same attachment provided in Letter 15. Comments offering legal opinions on Senate Bill 743 and general comments regarding the project’s

relationship to that statute have been forwarded to the City Attorney for consideration. No further response is possible or required.

**Letter 18** provides an attached letter, “Second Saturday to go the way of Thursday Night Market?” published in the Sacramento Press on September 19, 2010. The article describes the success of Thursday Night Market and Second Saturday events as both were well-attended events. The article touches on outdoor noise caused by event attendees, signage and lighting near the event locations, parking availability, and crowd control. Impact 4.8-2 in the Draft EIR addresses outdoor crowd noise caused by the proposed ESC and its potential effect on sensitive receptors. Signage and lighting considerations for the Proposed Project are addressed in section 4.1 of the Draft EIR. Parking is addressed in section 4.10 of the Draft EIR. Crowd control and police protection are addressed in Draft EIR Impact 4.9-1. Pedestrian management and traffic management are addressed in the Revised Event Transportation Management Plan included in Chapter 2 of the Final EIR.

**Letter 19** suggests that the Final EIR fails to address deficiencies of the Draft EIR. The letter does not provide identification of any specific deficiencies in the Draft EIR, nor does it provide any general or specific suggested solutions. No further response is possible.

**Letter 20** suggests that the Final EIR fails to address deficiencies identified in comments on the Draft EIR particularly with regard to traffic, noise, and other impacts created by the proposed digital billboards. The letter does not identify any specific comments on the Draft EIR which the commenter believes are inadequately addressed. The Final EIR addresses comments on the environmental analysis received during the Draft EIR public comment period. No other response is possible. The letter also generally objects to the Proposed Project and the EIR.

**Letter 21** suggests that the Final EIR fails to address deficiencies identified in comments on the Draft EIR particularly with regard to traffic, noise, and other impacts created by the proposed digital billboards. The letter does not identify any specific comments on the Draft EIR which are inadequately addressed. The Final EIR addresses comments on the environmental analysis received during the Draft EIR public comment period. No other response is possible. The letter also generally objects to the Proposed Project and the EIR.

**Letter 22** suggests that the Final EIR fails to address deficiencies identified in comments on the Draft EIR particularly with regard to traffic, noise, and other impacts created by the proposed digital billboards. The letter does not identify any specific comments on the Draft EIR which are inadequately addressed. The Final EIR addresses comments on the environmental analysis received during the Draft EIR public comment period. No other response is possible. The letter also generally objects to the Proposed Project and the EIR.

**Letter 23** suggests that the Final EIR fails to address deficiencies identified in comments on the Draft EIR particularly with regard to traffic, noise, and other impacts created by the proposed digital billboards. The letter does not identify any specific comments on the Draft EIR which are inadequately addressed. The Final EIR addresses comments on the environmental analysis received during the Draft EIR public comment period. No other response is possible. The letter also generally objects to the Proposed Project and the EIR.

**Letter 24** provides comment that opposes the proposed changes to the City's billboard statute (amending the Sacramento City Code by amending Section 15.148.815 and adding Section 15.148.965, relating to digital billboards on City-owned lands). The letter opposes the elimination of relocation agreements, suggesting the addition of new billboards to the city contribute to blight. Impact 4.1-1 in the Draft EIR discusses potential changes to the visual

character and quality of the proposed digital billboard sites and their surroundings. Figure 2-30a in the Final EIR provides a representative photograph of an existing digital billboard near Jibboom Street in the city limits. The letter also suggests that digital billboards near roadways increase driver distraction. Impacts 4.1-2 and 4.1-3 in the Draft EIR address lighting effects on traffic safety.

**Letter 25** provides comment on several responses to comments contained in the Final EIR. The comment regarding Response to Comment O11-2 focused on only a portion of the response which addressed issues related to downtown single room occupancy hotel units. The response also addressed wider concerns regarding effects on land values and noted that social and economic effects are not considered physical environmental effects under CEQA unless they are part of a linkage between the project and physical effects on the environment. Final EIR Response to Comment O11-3 responds to the comments about consistency with the Housing Element, and reiterates the project's proposed contribution to the Housing Trust Fund fee program. The City's program does not require the proposed project to commit to construction of a specific number of units. Final EIR Response to Comment O11-4 addresses a comment that requests the addition of a mitigation measure related to training and hiring of local employees and creation of affordable housing. As noted by the commenter, the response does not address the connection between the requested mitigation measure and physical environmental effects because the original comment (O11-4) made no such connection, and, further, the City is aware of no such connection. Finally, Letter 25 states that the Urban Decay Analysis contained in Chapter 5 of the Draft EIR does not disclose the nature of cumulative retail projects. These projects are fully described in Exhibits 29-31 of Appendix H to the Draft EIR, which contains the detailed Urban Decay Analysis that is summarized in Chapter 5. Letter 25 does not raise any new environmental issues that were not previously addressed in the EIR.

**Letter 26** provides commentary on several responses to comments contained in the Final EIR. The comments provided in Letter 26 reiterate the author's original comments contained in his letter on the Draft EIR, included in the Final EIR as Letter O20. The comments raise a number of concerns about very large events that could occur at the proposed ESC, and the potential for unruly or scofflaw crowd behavior associated with those events. Information documenting the rarity and unpredictability of very large events is presented in the EIR. As noted above, crowd control and police protection are addressed in Draft EIR Impact 4.9-1. The potential for and consequences of scofflaw behavior are not CEQA issues and are not addressed in the EIR. Letter 26 does not raise any new environmental issues that were not previously addressed in the EIR.

**Letter 27** addresses concerns regarding the potential effects of the project on parking and traffic in Midtown Sacramento. The analysis presented in the EIR supports a conclusion that the effects of the proposed ESC on the Midtown transportation system supporting residents and businesses would not be substantial. As noted in Chapter 4.10, studies undertaken for the EIR concluded that there are more than adequate parking spaces to accommodate cars from a sold-out event at the ESC taking into account existing parking demand. Thus, concerns about displacement of parking from downtown into Midtown are not supported by the evidence provided in the EIR. Letter 27 does not raise any new environmental issues that were not previously addressed in the EIR.

**Letter 28** raises concerns about traffic impacts on Interstate 80 and State Route 160. Section 4.10, Transportation, of the Draft EIR addresses project-specific and cumulative traffic impacts on regional highways including Interstate 80 and State Route 160. The letter does not raise any new environmental issues that were not previously addressed in the EIR.

**Letter 29** is a resubmission of the same comments included in Letter 23. Letter 29 does not raise any new environmental issues that were not previously addressed in the EIR.

## **Analysis and Conclusion**

We have reviewed all of the attached correspondence for issues that may pertain to the EIR. All potential environmental issues raised in these comment letters were addressed in the Sacramento Entertainment and Sports Center & Related Development EIR. The comments addressed in this Erratum do not identify any environmental effects beyond those described in the Sacramento Entertainment and Sports Center & Related Development EIR, and no further analysis is required.





MIWOK  
MAIDU United Auburn Indian Community  
of the Auburn Rancheria

Gene Whitehouse  
Chairman

John L. Williams  
Vice Chairman

Danny Rey  
Secretary

Brenda Adams  
Treasurer

Calvin Moman  
Council Member

February 20, 2014

Stacia Cosgrove  
City of Sacramento  
300 Richards Blvd., Third Floor  
Sacramento, CA 95811

Subject: Entertainment and Sports Center, Project Number P13-065

Dear Stacia Cosgrove,

Thank you for providing additional information regarding the above referenced project. The United Auburn Indian Community (UAIC) of the Auburn Rancheria is comprised of Miwok and Southern Maidu (Nisenan) people whose tribal lands are within Placer County and whose service area includes El Dorado, Nevada, Placer, Sacramento, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to continue to comment on this and other projects in your jurisdiction.

In order to ascertain whether or not the project could affect cultural resources that may be of importance to the UAIC, we are currently reviewing the information provided by your agency. Please continue to send copies of future environmental documents for the proposed project so that we have the opportunity to comment on potential impacts and proposed mitigation measures related to cultural resources. The information gathered will provide us with a better understanding of the project and cultural resources on site and is invaluable for consultation purposes. Please contact us if any Native American cultural resources are in, or found to be within, your project area.

Thank you again for taking these matters into consideration, and for involving the UAIC in the planning process. We look forward to reviewing additional documents that have not already been sent as requested. Please contact Marcos Guerrero, Cultural Resources Manager, at (530) 883-2364 or email at [mguerrero@auburnrancheria.com](mailto:mguerrero@auburnrancheria.com) if you have any questions.

Sincerely,

Gene Whitehouse,  
Chairman

CC: Marcos Guerrero, CRM

**Stacia Cosgrove**

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**From:** Kevin Dayton <kdayton@laborissuessolutions.com>  
**Sent:** Wednesday, April 09, 2014 10:54 PM  
**To:** burchillcitypc@gmail.com; ed@loftgardens.com; dcovill@cbnorcal.com; sacplanning\_declines@me.com; pharveycitypc@aol.com; todd.s.kaufman@gmail.com; othermeeta@gmail.com; ALofaso@sbcglobal.net; kimjoanmc@att.net; phyllis@phyllisnewton.com; dnybo@wateridge.net; jparrinello08@comcast.net; tr5753@att.com  
**Cc:** David Kwong; Stacia Cosgrove; Scott Johnson  
**Subject:** Planning & Design Commission: Speak Out at 4/10 Meeting Against "Greenmail" - Unions Exploiting CEQA for Economic Objectives on ESC - Kings Arena

Dear Members of the City of Sacramento Planning and Design Commission:

According to an article on the *Sacramento Business Journal* web site today ([Union Group Makes Noise Over Development Around Arena](#) – April 9, 2014), the Sacramento Central Labor Council is demanding that the Planning Commission extract the ancillary development from your proposed approval of the Environmental Impact Report under the California Environmental Quality Act (CEQA) for the Entertainment and Sports Center Special Planning District (SPD).

Unions threatening to use CEQA as a tool to extract economic benefits such as labor agreements is no surprise to anyone who has followed proposed developments in the Sacramento region over the past 15 years. Look at the history of environmental review for these projects:

- Sacramento Railyards
- Sutter Medical Center Expansion
- Promenade at Natomas
- Greenbriar
- Delta Shores
- Township 9
- Metropolitan Hotel
- West Roseville Specific Plan
- Roseville Galleria Expansion
- Rio del Oro in Rancho Cordova
- Placer Vineyards
- Regional University Specific Plan
- Roseville Energy Center
- Cosumnes Power Plant

This new threat from the Sacramento Central Labor Council was expected. I wrote a comprehensive article published in [www.UnionWatch.org](http://www.UnionWatch.org) on March 11, 2014 predicting how the Entertainment and Sports Center Final Environmental Impact Report would be targeted with union CEQA objections as a strategy to get a union Community Benefit Agreement/Project Labor Agreement on ancillary development. (See text below.)

Most of the development partners targeted in this union CEQA greenmail attempt will lay low and wring their hands hoping this costly CEQA exploitation can be settled somehow without raising costs to the point that it jeopardizes the entire project. But as members of the Planning and Design Commission, you have the authority and the responsibility of service to the public to investigate the objectives of these CEQA complaints.



At the April 10, 2014 Planning and Design Commission meeting, please ask the union representatives and their lawyers the following questions:

1. What does the City of Sacramento and Sacramento Basketball Holdings (SBH) need to do to resolve your concerns about the environmental impact of the ancillary development around the new Entertainment and Sports Center (aka Sacramento Kings Arena)?
2. Does a Community Benefit Agreement or Project Labor Agreement have to be part of any settlement to relieve your environmental concerns?
3. Do you believe backroom deals such as this one to end union CEQA objections against the San Diego Convention Center Phase 3 Expansion are an appropriate way to resolve environmental concerns? ([Link to email outlining the deal between the Mayor of San Diego and the head of the San Diego-Imperial Counties Labor Council, AFL-CIO](#))
4. Who will you designate to negotiate any settlements with the City of Sacramento and Sacramento Basketball Holdings (SBH)?

For a project of such importance for the Sacramento region, the ulterior motives of groups that identify shortcomings under CEQA need to be examined and aired for the public good. Thank you for the courage to investigate and expose this scheme. See you at the meeting.

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## How a Basketball Arena Would Expand the Unionized Workforce in Sacramento: Part 3

BY KEVIN DAYTON ON MARCH 11, 2014 · LEAVE A COMMENT

This is [Part Three](#), explaining how unions may attempt to win control of the construction and permanent jobs at the ancillary development around the arena. [Part One](#) explained the background of how construction trade unions have already obtained a monopoly on the construction workforce for the arena itself. [Part Two](#) explained the union plot to monopolize the service jobs at the arena.

### Factions in the Construction Industry: Trusting Pragmatism Versus Principled Cynicism

Leaders of the Sacramento regional construction industry were on the sidelines as the new ownership of the Sacramento Kings basketball team privately negotiated a Project Labor Agreement with trade unions for construction of the new downtown arena. Yet construction business associations such as Associated General Contractors (AGC) and Associated Builders and Contractors (ABC) still supported the city's plan for the arena.

In a pragmatic decision, these construction associations took the risk to trust that private developers for buildings near the arena will not require their contractors to sign Project Labor Agreements. This development will supposedly include 475,000 square feet of office, 350,000 square feet of retail and commercial space, up to 550 new residential units, and up to 250 hotel rooms, for a grand total of as much as 1.5 million square feet. Up to 11,000 jobs would result.

In exchange for acquiescing to the Project Labor Agreement on the arena, these associations expect fair and open competition for adjacent projects within the city's Entertainment and Sports District. The *Sacramento Bee* reported this perspective expressed at a January 27, 2014 rally of contractors and union leaders in support of the arena:

John Cooper of Associated General Contractors said his group, which represents both union and nonunion builders, supports the arena project. "We see an opportunity for huge leaps and bounds when it comes...to job creation," said Cooper, the AGC's regional manager.

But Cooper said he'd "pull my support" if the ancillary development – a hotel, retail and more – isn't open to all bidders. He said "I've been assured" there won't be a project labor agreement covering this ancillary development, like there is for the arena itself.

Political consultant Chris Lehane, who is part of The4000's leadership, said it's "premature to ask those questions" about how the ancillary development would be built.

"Our focus right now is to make sure we get those 11,000 jobs," Lehane said.

A handful of electrical contractors objected vehemently to this arrangement. They felt that allowing unions to have a monopoly on construction of the basketball arena would set a precedent for other major projects in the region. In addition, they did not trust union leaders or the politicians backed by union leaders to resist such a lucrative target once it was definite.

Dissenting from the major trade associations, these contractors individually provided enough campaign funding to revitalize a floundering signature-gathering campaign on petitions for a ballot measure for voters to establish a city charter provision requiring voter approval of a public subsidy for an entertainment or sports facility. Arena supporters feared – and arena opponents expected – that Sacramento voters would approve this check and balance against the proposed \$258 million public subsidy for the basketball arena.

Enough signatures were collected to qualify the petition for the June 2014 ballot, but the city clerk disqualified the petitions because of numerous technical errors. The campaign then sued to overturn the city clerk's decision, but a Sacramento County Superior Court judge agreed with the city clerk's judgment and also ruled that the city charter could not be amended in this manner.

### **Can Unions Resist Grabbing More Work Through CEQA Greenmail?**

Which of these two positions among bickering groups of contractors will be proven right? One possible indication of the future is an ultra-last-minute attempt by unions to amend a last-minute bill in the California State Legislature providing certain breaks to the arena and surrounding development from the California Environmental Quality Act (CEQA), the primary tool of unions to extort concessions from private developers. (This practice is known as "greenmail.")

Late in the 2013 session, Senate President pro Tem Darrell Steinberg (D-Sacramento) amended Senate Bill 743 to make some minor modifications to the California Environmental Quality Act and "expedite judicial review of

the entertainment and sports center project” for the Sacramento Kings basketball team. Despite some griping from Left and Right, SB 743 passed 56-15-7 in the Assembly and 32-5-2 in the Senate. This occurred early in the evening of the last day of the 2013 session.

As the midnight deadline for legislative action approached, Assembly Bill 852 mysteriously appeared on the Assembly floor, courtesy of Assemblyman Roger Dickinson (D-Sacramento). This bill supposedly made technical corrections to SB 743, passed earlier in the evening.

Reportedly a specific individual senior staffer for the Assembly Republican Caucus became suspicious of the bill and investigated it. This staffer realized that it was some sort of union scheme to remove the CEQA breaks for development around the downtown Sacramento arena.

The *Sacramento Bee* described what happened next:

In a final flare of end-of-session drama, Assembly Republicans led the defeat of a last-minute labor-inspired cleanup bill related to legislation passed earlier in the evening to hasten the building of a new arena in downtown Sacramento.

Assembly Bill 852 surfaced late on Thursday evening, after both houses had passed Sen. Darrell Steinberg’s SB 743 to streamline the construction of a new arena for the Sacramento Kings. AB 852 was cast as a minor cleanup bill, making just a small change to the arena bill by further restricting which projects could be exempted from some environmental review.

It was requested by labor unions, Steinberg said, who feared that other businesses would get in on the streamlined environmental review procedures intended for the arena.”The concern from labor was that Wal Mart and the big box stores could potentially take advantage of that part of (SB) 743 to get an exemption,” he said.

The 2013 legislative session wrapped up in anger and partisan rancor as the Assembly Republican leadership refused to support AB 852 and accused the Democrats of trickiness. The bill only received 28 votes in the Assembly, and the legislature adjourned for the year with SB 743 intact.

Of course, there was no plan for a Wal-Mart next to the Kings arena. But the distaste of the Left for Wal-Mart provided a politically-potent rationale to “fix” SB 743. An article in *Salon* provided a perspective on SB 743 otherwise neglected by the news media:

Along with special exceptions for a new stadium for Sacramento’s basketball team, the new law restricts some grounds for CEQA lawsuits. “It’s going to give much more leeway to big companies to just come in and ram these projects through,” said James Araby, who directs the Western States Council of the United Food & Commercial Workers union...

The UFCW and Wal-Mart – and allies on both sides – faced off with particular fury not long before the final SB 743 vote, as legislators considered language labor argued was needed to stop the bill from becoming a loophole for unchecked Wal-Mart expansion...

[Assemblymember Lorena] Gonzalez, a former labor council secretary-treasurer, told *Salon* that in fights with Wal-Mart, “one of the only tools we’ve been able to use is CEQA, and specifically the traffic impact of Wal-Mart.” Following what she called “massive lobbying by the Chamber of Commerce” and “mainly by Wal-Mart,” the labor-backed amendment failed.

An official with the union-aligned Planning and Conservation League acknowledged in the article that “We all know that Wal-Mart is one of the biggest targets of CEQA lawsuits.”

Is it likely that the amendments backed by the United Food & Commercial Workers union will reappear at the last minute in a budget trailer bill or some other gut-and-amend bill in 2014? Of course it is, and every union will benefit from ending the CEQA break.

More evidence that unions will use environmental laws to target the ancillary development around the Kings arena comes from comments submitted to the City of Sacramento concerning the Draft Environmental Impact Report for the Entertainment and Sports District. As noted in Part 2, the UNITE HERE Local Union No. 49 submitted objections to the report along with remarks about wanting to retain and represent service workers at the new arena.

In addition, a group called Sacramento Coalition for Shared Prosperity submitted objections in conjunction with a demand for a “Community Benefits Agreement” that developers must sign for ancillary development. That agreement, modeled on the L.A. Live Community Benefits Agreement for development around the Staples Center, could guarantee “union jobs” for hotels, restaurants, janitors, parking attendants, and construction trade workers, among various occupations.

Perhaps the biggest threat to the downtown arena is the possibility that SB 743 is unconstitutional and that the arena doesn’t even qualify under the criteria in SB 743. If a court agreed with either of these claims, the environmental review would probably need to start from the beginning.

How will the Sacramento Kings basketball team ownership and the City of Sacramento respond to these costly union demands, packaged with the grounds for potential environmental lawsuits? If unions exploit the weakness of SB 743, they may get the whole package – provided the resulting cost increase allows the Entertainment and Sports District to get built in the first place.

### **The Three-Part Series: How a Basketball Arena Would Expand the Unionized Workforce in Sacramento**

1. See [How a Basketball Arena Would Expand the Unionized Workforce in Sacramento: Part 1](#)  
(how construction trade unions have already obtained a monopoly on the construction workforce for the arena)
2. See [How a Basketball Arena Would Expand the Unionized Workforce in Sacramento: Part 2](#)  
(how unions are likely to win representation of the food and service workers at the new downtown Sacramento arena)
3. See [How a Basketball Arena Would Expand the Unionized Workforce in Sacramento: Part 3](#)  
(how unions will likely target the ancillary development around the arena)

### **Sources**

[Union Leaders and Building Contractors Rally in Support of Arena](#) – *Sacramento Bee* – March 11, 2014

[UNITE HERE Local 49 comments on Draft Environmental Impact Report](#)

[Sacramento Coalition for Shared Prosperity comments on Draft Environmental Impact Report](#)

[California Senate Bill 743](#)

[California Assembly Bill 852](#)

[Legislature Rejects Late Night Attempt to Tweak Kings Arena Bill](#) – *Sacramento Bee* – September 12, 2013

[Very Sneaky, Walmart: How The Mega-Retailer Rolled Back California Regulations](#) – *Salon* – October 14, 2013

[Regional Sports and Entertainment Facilities in the Urban Core Attract Costly Political Meddling: Sacramento Kings as a Case Study](#) – [www.FlashReport.org](http://www.FlashReport.org) – December 16, 2013

# UNITE HERE



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April 9<sup>th</sup>, 2014

Planning and Design Commission  
C/o Community Development Department  
City of Sacramento  
300 Richards Boulevard, 3<sup>rd</sup> Floor  
Sacramento, CA 95811

Dear Planning and Design Commissioners:

Tomorrow you will vote on the most important development project in downtown Sacramento in decades. Tomorrow's hearing is planned to be the final hearing before the Planning and Design Commission regarding the Entertainment and Sports Center (ESC) and the ancillary development that the Kings propose to build on the Downtown Plaza site, surrounding the ESC. As such, it is your **last chance to help shape – in any significant way – this vitally important project.**

Unlike the ESC itself, the proposed ancillary development has been the subject of very little public discussion and has received very little scrutiny. In fact, it has scarcely been described. The Planning Entitlement Application submitted by the Kings last November proposes 1.5 million square feet of mixed-use development, but answers "TBD" to virtually every question that would help describe, in even the most basic terms, what the development is going to be: the height of the buildings, the lot coverage, whether the residential units will be condominiums or rental apartments, and so on. Neither the application, nor the proposed Special Planning District, nor any public statements by the development team indicate what mix of uses will ultimately be developed, how the various uses will be arranged on the site, or anything else that would give the public an idea of what will be built at this crucial downtown location.

Despite this, the Kings are asking for – and City staff is recommending – **sweeping entitlements that will allow the Kings (or any future developer to whom the Kings sell the land) to develop almost anything they want – anywhere from zero to 1.5 million square feet – with very few meaningful conditions attached. The proposed Development Agreement would make these entitlements irrevocable**, meaning the Commission, the City Council, and the public would no longer have any say over land use, intensity, or other important characteristics of development on the Downtown Plaza site. The only discretionary approvals the developers will need in the future are site plan and design review, which would be guided only by the Central City Urban Design Guidelines, most of which are recommendations rather than requirements. (The SPD stipulates that development within its boundaries would be "subject to the development standards and design requirements established in the ESC SPD and the Central City Urban Design Guidelines," but the SPD itself only establishes one development standard, which serves only to *relax* the City's bicycle parking requirements.)

It is a step in the right direction that the City staff – upon hearing repeated objections from the Commission – has abandoned its proposal to have all site plan and design review heard at the Planning Director level, bypassing the Planning and Design Commission and City Council.

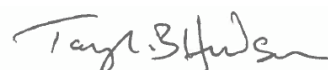


However, this last-minute change does not solve the whole problem. For example, Conditional Use Permits that normally (in the C-3 zone) require the approval of the Planning and Design Commission, in the ESC SPD would only require the approval of the Planning Director, which means they would not be appealable to the City Council – the same process the Commission objected to with regard to site plan and design review. This “streamlined” process covers CUP’s for uses such as **liquor store, auto dealership, bar, nightclub, and tobacco retailer**. Even worse, the SPD would explicitly remove the CUP requirement for a retail store larger than 125,000 square feet (eliminating the public’s and the City’s ability to influence or discourage the development of a controversial business such as **Walmart**), and inexplicably seems to eliminate the CUP requirement for a firearms business. While the SPD would still require CUP’s for bars and nightclubs (albeit granted at the Director level), the staff recommendation would grant in advance five bar/nightclub CUP’s, without any indication of where these businesses would be located, or what kind of bars are nightclubs they would be. This recommendation defeats the entire purpose of the CUP process, which is designed, according to the City Code, “to review the location and conduct of certain land uses that are known to have a distinct impact on the area in which they are located, or are capable of creating special problems for bordering properties, unless given special attention.”

**In summary, the SPD and the Development Agreement, taken together, amount to the planning equivalent of a blank check.** In the absence of any description of what will actually be built (or any real commitment on the part of the Kings to build anything at all, other than the arena itself and the surrounding plaza), the staff recommendation would grant the irrevocable right to build up to 1.5 million square feet of almost anything, with no height limits; no lot coverage requirement; no lot size, width, or depth requirements; no requirements regarding environmental sustainability; relaxed bicycle parking requirements; no ability to review the location or conduct of up to five bars or nightclubs; no discretion over the development of retail stores of any size; and unaccountable Director-level review of several potentially impactful or problematic uses. **If the City ever attempted to add conditions to the development of any project within the SPD – such as a height limit or a requirement that a building be LEED certified – the City could be judged to be in violation of the Development Agreement and subject to injunctive action.**

It is clear that not enough public discussion has taken place regarding the ancillary development for the Commission to responsibly grant such sweeping, irrevocable development rights. **Fortunately, the solution is simple.** By **separating items C, D, E, and I** from the rest of the staff recommendation, approving the rest of the items, and holding the four separated items for consideration at a future hearing, the Commission can allow the ESC development process to proceed, while ensuring that the ancillary development will be subject to the scrutiny that such an important project requires. This way, the timelines for the construction of the arena can be met, the Kings can beat the NBA’s deadline by a year, and the process of designing and approving the ancillary development – which will reshape downtown Sacramento forever – can be done right.

Sincerely,



Ty Hudson  
Research Analyst

April 9, 2014

Subject: Entertainment and Sports Complex – Bicycle access to 5<sup>th</sup> Street

Dear Planning Commissioners:

I am a member of the Sacramento City and County Bike Advisory Committee. I present my comments as my own and am not representing the Committee. This is because the ESC developer has never approached our Committee to obtain input or feedback on bike access impacts or bike components of the project. Thus, our Committee did not have the opportunity to formally take action in compliance with the Brown Act to provide recommendations as the Committee as a whole.

As a downtown worker, City resident and full-time bike commuter, I am personally concerned about the developer's plans for how to integrate bicycle access and large truck access to the ESC on the north-bound side of 5<sup>th</sup> street as it goes under the plaza between L and J Streets. Currently, there is a bike lane on each side of 5<sup>th</sup> street. The developer has proposed, as I understand it, to realign the north-bound bike lane on the outside of the truck ingress and egress lanes. Based on experience, City staff believe, and I concur, this will prove dangerous to bicyclists because they will have to navigate around large trucks crossing the bike lane where the trucks ingress and egress the underground area beneath the arena. This plan will essentially make this portion of 5<sup>th</sup> Street off-limits to bicyclists even though existing City installed bike lanes extend to the north and south on 5<sup>th</sup> Street. These lanes will go nowhere because it will be too dangerous to ride between L and J Streets. The recent addition of bike lanes along 5<sup>th</sup> Street has so far been a great improvement to the downtown travel grid.

I request that the Planning Commission require the developer incorporate a solution for this issue that meets the intent and goals of the excellent bike facility design planning that the City is currently implementing all over the downtown core. In fact, the City staff have offered an idea to the developer to eliminate the unworkable 5<sup>th</sup> Street bike lane proposed in the project. My understanding is that the developer has rejected the idea because they don't want to. City staff proposed to instead provide a 2-way bike trail on the west side of 5<sup>th</sup> Street (south-bound), extending from the rail station to Capitol Avenue. This extent is necessary in order to provide access points to and from the trail. It also has the benefit of enhancing bike access to and from the station and to the new innovative 'green' bike lanes on Capitol Avenue. What fantastic safe access to and from the downtown core this would be!



There are two reasons the Planning Commission should address this problem, and support potential solutions, including correcting the project scope so that it truly includes the project impact footprint.

- 1) The City is actively implementing forward-looking and innovative bike facilities all over downtown, which have already greatly improved the bike-ability of Sacramento's core and bike access into and out of the core. This has been hailed enthusiastically by the hundreds of bike commuters traveling in the downtown core. The developer's proposal can only be seen as unsatisfactory and having intentionally ignored the needs of residents and workers downtown.
- 2) Allowing the developer to escape participation in making the ESC a part of these bike travel enhancements is unfair to what is being required of other projects in the City; will shift the future cost to taxpayers to fix the inadequate proposed design; and results in the ESC simply being viewed as yet another poorly designed large concrete building rather than a project that contributes to the status of our City as forward-looking, green, and expanding our transportation choices.

I hope that the Commission is keeping in mind the momentum for promoting bike usage in our downtown core and will champion what the City and public have already envisioned for making our City a great place to live and work. The Commission can ensure that the ESC contributes to that vision, rather than ignore it while everyone skips to the bank with their profits, leaving City taxpayers to clean up after the mistakes. Please uphold the City and residents' interests I present here.

Sincerely,

Glenda Marsh  
2208 Murieta Way  
Sacramento, CA 95822  
916-476-9538

**Stacia Cosgrove**

---

**From:** Stacia Cosgrove  
**Sent:** Thursday, April 10, 2014 10:55 AM  
**To:** Stacia Cosgrove  
**Subject:** FW: Proposed LED signage associated with new Arena plan

---

**From:** Matt Korve [[mailto:matt\\_korve@hotmail.com](mailto:matt_korve@hotmail.com)]  
**Sent:** Thursday, April 10, 2014 9:49 AM  
**To:** Planning; CityPublicInformationOffice; Steve Hansen  
**Subject:** Proposed LED signage associated with new Arena plan

*Honorable Mayor and Council Members, and Commission Members*

*The City of Sacramento is unlike any other. We are a city yes, but we have been able to maintain the feel of community without the need for reducing ourselves to the common mistakes that other cities have made. Being an older city, we have a past that we protect. We promote trees, parks, bike paths, historical structures, good food, walkability, and a beautiful skyline.*

*The arena has been a project of much debate over the past few years. Design and location were a major part of the discussion so that it didn't take away from the feel of Old Town while promoting the improvement of Downtown. However, in its wake, the request for the LED signage along the freeways has created a new issue.*

*For years, my wife has commuted over Sacramento River, being able to see the skyline of Downtown and the river bridge to welcome her home. The trees block out the light pollution which makes the view that much more special. She is also familiar with the blinding effects of the LED signage, as she has had to drive past the LED signage within Fairfield at night for years.*

*Promotion of the arena is understood, however altering the ordinance, using City land, and taking away from the view of Sacramento is not the way to do it. The light pollution from the LED signs can be blinding and unappealing, making the City look like any other city, taking away the skyline for publicity of an arena that the City is already well aware of. Taking away from our City land, especially those housing utility structures, for a private entity only hurts the City by limiting the utilities from improving their facilities, adding costs to construction and maintenance. It's an arena, not the heart of Sacramento. The heart in its history, its unique community feel, and the ordinances that have protected our skyline for years.*

*Please protect our skyline and the utility facilities, and do not approve the signage requests at Pioneer Reservoir or the Freepport water tank.*

*Sincerely,*

*Matthew Korve  
2600 Land Park Dr., Sacramento*



April 10, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
SRJohnson@cityofsacramento.org

**Sent via email and hand delivered**

**RE: April 10, 2014 Planning Commission Hearing on the Sacramento Entertainment and Sports Center (ESC) & Related Development (State Clearinghouse Number: SCH 2013042031).**

Dear Mr. Johnson:

The owners of Plaza Five Fifty Five located at 555 Capitol Mall would like to submit this letter for the Planning Commission's consideration at tonight's public hearing on the Sacramento Entertainment and Sports Center (ESC) & Related Development (State Clearinghouse Number: SCH 2013042031).

We understand that the Planning Commission will be holding tonight's public hearing on the ESC prior to the release of the Final Environmental Impact Report for the project. As a result, we understand that at this time we are unable to receive a response to the comment letter (copy attached) dated January 31, 2014 we submitted as part of the City's environmental review process.

While we continue to support the project and believe it will be an important catalyst for the revitalization of Downtown Sacramento, we would like to ensure that the Final EIR addresses the impacts to our building and includes appropriate mitigations to those impacts.

Unfortunately, we will be unable to attend tonight's meeting and would therefore request that copies of this letter be provided to the members of the Planning Commission.

Sincerely,

Plaza Five Fifty Five, LLC, a Delaware Limited Liability Company

  
By. William Chang  
Manager

Attachment

cc: Clark Morrison, Cox Castle

*Plaza*  
FIVE FIFTY FIVE

January 31, 2014

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
SRJohnson@cityofsacramento.org

Sent via email and hand delivered

RE: Comments on the Draft Environmental Impact Report for the Sacramento Entertainment and Sports Center & Related Development (December 2013); State Clearinghouse Number: SCH 2013042031

Dear Mr. Johnson:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Sacramento Entertainment and Sports Center & Related Development (ESC) Project. The owners of Plaza Five Fifty Five located at 555 Capitol Mall, offer this letter in strong support of the proposed project and believe it will be an important catalyst for the renaissance of Downtown Sacramento. We also send the letter to identify a number of concerns regarding the adequacy of the DEIR as it relates to impacts to the property at 555 Capitol Mall and pursuant to the California Environmental Quality Act (CEQA), Pub. Res. Code Sections 21000 *et seq.*

Beginning in the fall of 2013, as we became aware of the plans for the ESC, we contacted the project sponsors and the City staff in an attempt to better understand the potential effects of the project on our property. Concurrently, 555 Capitol Mall had begun the process of preparing an application for City approval of an ambitious plan for the redevelopment of our property. The proposed planning application will be submitted in February 2014 and will include a multi-phased, mixed-use development including the conversion of the existing two buildings to a combination of residential, retail, office and other uses. City staff and Plaza 555 representatives conferred in early October 2013 and reviewed the Lionakis Architects plan. The presentation was focused on integrating and maximizing Plaza 555's future plan and avoiding access limitations and back-of-house impacts interpreted from the conceptual renderings of the ESC. Shortly thereafter City staff shared these concepts and concerns with the ESC project sponsors.



Upon receiving notice of the 45-day comment period for the DEIR, we contacted and have met with the project sponsors to explain our concerns and we have had discussions with their traffic-engineering consultants, Fehr and Peers. Through those conversations, meetings and email correspondence, we expressed our concerns regarding: 1) a significant obstruction to the ingress and egress to our parking garage prior to, during and after events; and 2) the long-term effects of the project design that placed all of the ESC "back of house" operations on L Street, directly opposite our project.

We appreciate the time they have taken to meet with us to date, yet we are still striving to resolve the following deficiencies contained in the DEIR and the proposed Draft Traffic Management Plan (TMP) attached to the DEIR as Appendix L:

1. Impacts to 555 Capitol Mall Due to Proposed Pre-Event and Post-Event Street Closures:

The proposed street closure plan for 5<sup>th</sup>, 6<sup>th</sup> and L Street as depicted in the Draft TMP, significantly and negatively impacts our property, by severely restricting ingress and egress to and from our nearly 800 parking stall, multi-story parking garage. (Page 46 incorrectly assumes an exit from our parking lot onto 5<sup>th</sup> Street.) In addition, the street closures will cause significant and negative impacts to our loading and unloading operations, which occur in the evenings and weekends in the "service alley" between the buildings and the parking structure at 555.

The street closure plan will result in significant delays and create significant air quality and noise impacts as vehicles will be required to idle for extended periods waiting to enter or exit the garage and service alley. These impacts are specifically damaging to our property in ways that are severe and disproportionately significant when compared to other properties in the vicinity.

The DEIR does not evaluate these and other potentially significant impacts related to implementation of the TMP, despite the fact that the Draft TMP appended to the DEIR includes detailed information regarding the location of street closures near 555 Capitol Mall. Given this level of detail, impacts related to the TMP are reasonably foreseeable, and therefore should be evaluated in the EIR pursuant to CEQA. 14 Cal. Code Regs. Section 15064(d). In addition to analyzing impacts related to the street closures and other elements of the TMP, the DEIR should identify mitigation measures to minimize any significant impacts caused by the TMP. 14 Cal. Code Regs. Section 15126.4. The City should not defer until later the formulation of any such mitigation measures. *See San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645.

**Recommendation:** We recommend that the street closure plan be amended to accommodate ingress and egress to our parking garage and service alley, and/or the ESC should be obligated to make physical modifications to the garage to ensure adequate ingress and egress as well as loading and unloading operations at



555 Capitol Mall. The DEIR should include additional environmental analysis of these impacts from the TMP in order to identify suitable mitigation measures to reduce the impacts of the TMP to less than significant levels including:

- a. A full description and analysis of the traffic impacts related to delivery, service and support vehicles related to arena operations including truck queuing and staging on L Street and exiting on 5<sup>th</sup> Street.
- b. Accurate illustrations of vehicular ingress/egress similar to pedestrian versions included in report
- c. Citation as to those with specific responsibility/authority for the physical changes that will be required to adequately mitigate these impacts, and the operational changes that will be required to address long term traffic management.

## 2. L-Street Street Improvements and Building Façade

As illustrated in conceptual plans for the ESC presented to the City, the L Street frontage of the proposed project will result in direct impacts to 555 Capitol Mall in that the L-Street frontage supports all “back of house” operations for the ESC. This “back of house” function, along with the proposed truck entrance and the proposed pedestrian walkway that is elevated above L Street, if not altered or addressed adequately with the design, will combine to create a blighting influence and result in unnecessary challenges for the future redevelopment for properties fronting on L-Street.

Aesthetic impacts related to this “back of house” feature are not adequately depicted in the set of photosimulations included in the DEIR. Although the DEIR includes a photosimulation of the project site from the corner of L Street and 7<sup>th</sup> Street, the DEIR does not include a photosimulation depicting the project’s “back of house” design and operations relative to the properties adjacent to that portion of the site. As such, the DEIR does not adequately identify aesthetic impacts or potential mitigation measures related to this design aspect of the project.

**Recommendation:** The L Street frontage of the ESC needs to be designed to mitigate these blighting influences and to ensure that the future redevelopment of other properties along L Street is encouraged. The frontage needs to be pedestrian-oriented with active uses and attention to the street design elements, building openings and other uses that have transparent windows and doors that open onto L Street. The TMP should contemplate service vehicle queuing, staging, and travel paths to limit or avoid conflicts with this more pedestrian-orientated use of L Street.

**Summary:**

We remain enthusiastic supporters of the ESC and sincerely believe that there are mitigations that can adequately address our concerns. We eagerly look forward to working with the City and the ESC sponsors in seeking out these acceptable resolutions.

Sincerely,

Plaza Five Fifty Five, LLC, a Delaware limited liability company

A handwritten signature in blue ink, appearing to read 'W. Chang', is written over a light blue horizontal line.

By, William Chang  
Manager

cc: Clark Morrison, Cox Castle

**SACRAMENTO AREA  
BICYCLE ADVOCATES**909 12th St, Ste. 116  
Sacramento, CA 95814*sacbike.org*  
*saba@sacbike.org*  
916 444-6600

April 10, 2014

Stacia Cosgrove  
City of Sacramento, Community Development Department  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
SCosgrove@cityofsacramento.org

Subject: Entertainment and Sports Center Project (ESC) (P13-065)

Dear Ms. Cosgrove,

Thank you for this opportunity to comment on the Entertainment & Sports Center proposal being considered by the Sacramento Planning & Design Commission.

I'm writing on behalf of the Sacramento Area Bicycle Advocates members and supporters and the many thousands of other residents of the Sacramento region who use bicycles for transportation (or wish they could), including those who want to be able to ride their bicycles to the Entertainment & Sports Center (ESC).

In addition to previous comments and testimony we've submitted on this project, I'm writing to request four amendments to the Conditions of Approval.

First, we're encouraged to see this statement in the Design narrative: "The plaza has been configured to welcome people of all abilities, on foot or bicycle, young or old." We're equally encouraged to see the illustration depicting a person riding a bicycle up the ramp toward the plaza from L and 5<sup>th</sup> streets.

As we've stated previously, the lack of bicycle facilities on surrounding streets isolates the ESC site from the rest of the city for people traveling by bicycle or wanting to do so. Making the plaza accessible to those riding bicycles will close a critical gap in the downtown bikeway network along K Street between 7<sup>th</sup> and 4<sup>th</sup> streets, connecting to Old Sacramento and the river trail system. It will also open paths of travel for people who do not feel safe riding with the heavy, fast vehicle traffic on L, J and 5<sup>th</sup> streets.

The site plans show emergency vehicle access through the plaza and on ramps connecting at J and 5<sup>th</sup>, K and 7<sup>th</sup>, L and 5<sup>th</sup>, and K at 5<sup>th</sup> without explicitly indicating that bicycles can be ridden on these routes and ramps. Therefore, we request the addition of a Condition of Approval indicating that emergency vehicle access routes and connecting ramps will be accessible as routes for riding bicycles into and through the plaza.

Second, we continue to be concerned about the potential for conflicts between people on bicycles and truck traffic accessing the loading docks in the 5<sup>th</sup> Street undercrossing between L and J streets. The northbound route is currently hazardous for people on bicycles due to a combination of factors: northbound traffic traveling at high speed (sometimes 50 MPH or more), the gap in the bicycle lane beginning 100 yards south of J Street, and the dedicated right turn lane at J Street that requires people on bicycles continuing north on 5<sup>th</sup> to move left across a



lane of fast traffic while riding up the only significant grade in the Central City. Truck traffic crossing the bicycle lane, especially continuing northbound across J Street, will significantly increase the hazards to people on bicycles.

We're encouraged by the recent presentation by City staff at the Sacramento City-County Bicycle Advisory Committee about a proposal to relocate northbound bicycle traffic away from the loading zone ramps into a physically protected, two-way bicycle lane on the opposite (west) side of 5<sup>th</sup> Street. This type of facility is the best option for preventing conflicts between bicycles and trucks near the ESC loading dock ramps.

Therefore, we recommend amending *Conditions of Approval, H. Conditional Use Permit - Sports Complex, Item H16* to direct the applicant to include a protected bicycle lane on the west side of 5<sup>th</sup> Street among the possible treatments for further review.

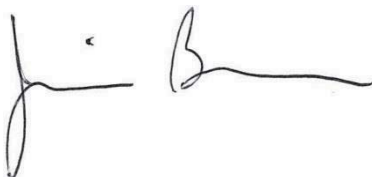
Finally, we're pleased to see concrete suggestions for the placement of bicycle parking surrounding the arena. However, the plan does not indicate how secure that parking will be; conventional bicycle racks located away from buildings and activity areas will not be secure and thus not used. Therefore, we recommend amending *Conditions of Approval, K. Site Plan and Design Review- ESC, Practice Facility, Plaza, and Map, Item K6* to specify that bicycle parking spaces will be secured within physical enclosures, such as bicycle lockers, fencing or a staffed facility.

Additionally, the Conditions for Approval do not address long term bicycle parking for the 1,200 temporary event employees. As they are likely to hold low-wage service positions, many of these employees are likely to rely on bicycles as primary transportation. Therefore, we recommend amending *Conditions of Approval, K. Site Plan and Design Review- ESC, Practice Facility, Plaza, and Map, Item K6* to specify how and where long term bicycle parking will be provided for temporary event employees.

The Conditions of Approval also refer to the "valet bicycle parking scheme" for "large events" without indicating how its capacity will be estimated. We have previously requested that bicycle parking capacity reflect 5% of maximum anticipated attendance, an amount consistent with the City's Climate Action Plan. Therefore, we recommend amending *Conditions of Approval, K. Site Plan and Design Review- ESC, Practice Facility, Plaza, and Map, Item K8* to specify that the number of spaces for valet bicycle parking at large events will be equal to 5% of maximum anticipated attendance.

Thank you again for this opportunity to make these recommendations. Please feel welcome to contact me with questions or for more information.

Respectfully,

A handwritten signature in black ink, appearing to read "Jim Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jim Brown  
Executive Director



May 14, 2014

Councilman Steve Hansen  
City of Sacramento  
Councilmember-District 4  
915 I Street, 5th Floor  
Sacramento, CA 95814

Dear Councilman Hansen:

We have reviewed the detailed responses to our comments submitted on the EIR and would be happy to provide you a summary. At this point, we believe the best outcome would be for your leadership to help carry our message forward and ensure that Old Sacramento continues to thrive by communicating the importance of the items below. The outline below is a summary we would look to share with others, but look to you to help make sure it gets implemented.

*Old Sacramento is a 28 acre district made up of private property owners, private business, City assets and State assets all the while being a Nationally Recognized Historic District. It is not owned by one company or one entity and thus affects different parties in different ways. As a result, the effect on all types of interested parties needs to be considered. The City has two major roles in Old Sacramento, they are the largest property owner and they also have responsibility for normal public services, particularly related to events. The primary issues that affect Old Sacramento generally as we look to the construction and operation of the ESC along with other future developments are as follows:*

- *Traffic once the ESC is built.*
- *Communication during construction.*
- *Connectivity during construction.*
- *Communication once the ESC is operational.*
- *Connectivity once the ESC is operational.*
- *Maintaining the economic viability and the historical integrity of the district.*
- *Affordable parking, validation and valet options of our guests, employees and residents.*
- *A city structure for Old Sacramento that will ensure good stewardship of the extensive city assets and a structure that will complement the business district and historical programming.*

May 14, 2014

Page 2

*While the Final EIR begins to address a few of these issues, it is clear there is still a significant amount of planning to do. We feel that it is important to begin to address our issues and that at a minimum, Old Sacramento representatives be involved in the following committees, task forces or input groups mentioned in the EIR or that have been recently formed:*

- *Review of the TMP once it is implemented.*
- *Downtown transportation Study of 2014.*
- *The transportation advisory committee that will provide updates during the design and construction process and to coordinate transportation issues.*
- *Provide input to the operational discussion regarding the Old Sacramento garages.*
- *Be in communication with the City's outreach consultant, Crocker and Crocker, in coordination with the City staff.*
- *As a general statement, ensure Old Sacramento is considered on every issue.*

As you know, many people from the City to private investors have made a large commitment to Old Sacramento. We look forward to your support in ensuring our input is not only heard, but acted upon. The ESC and the projected 1.65 million visitors it intends to bring along with other developments should be a catalyst to further enhance the district. However, if not done with appropriate recognition of the effects on Old Sacramento, there could be a negative impact. We believe it is important that people recognize that Old Sacramento draws over 3.0 million visitors per year and we do not want to see the number of visitors to Old Sacramento decline, nor the experience. As with any project of this magnitude, careful planning and communication can create the best outcome. We look forward to working with you diligently to enhance what is the City's number one tourist destination and see our City grow.

Sincerely,



Terry Harvego  
Vice Chairman  
Old Sacramento Business Association

**Scott Johnson**

---

**From:** J Phillips <comment2@mac.com>  
**Sent:** Thursday, May 15, 2014 11:22 AM  
**To:** Scott Johnson  
**Subject:** Subject: NBA arena comment

Mr. Johnson: Please include the following video in the record of comments on the FEIR for the Sacramento NBA arena. This information addresses responses to comments provided by the City in the final EIR.

<http://www.youtube.com/watch?v=bWjNW6YyeH0>

Thank you,

J. Bolton Phillips

On May 15, 2014, at 11:03 AM, "will rowe" <[warowel@msn.com](mailto:warowel@msn.com)> wrote:

Greetings Councilman Hansen. Our household has become aware of a proposal to install an illuminated billboard at the I-5/50 intersection. Aside from serious driver-safety issues, such a sign should be designed so that incident light does not cascade across our neighborhood. I live within several blocks of the the sign location and request your assistance in assuring that it does not shine across our homes.

thank you

**Will Rowe**  
438 T Street

On May 16, 2014, at 10:41 AM, "[mward@surewest.net](mailto:mward@surewest.net)" <[mward@surewest.net](mailto:mward@surewest.net)> wrote:

Dear Mr Dangberg, Mayor Johnson, and City Council Members,

This will be quick. Don't create blight in Sacramento by approving the overgenerous deal to let the Kings erect six large, bright, ugly digital billboards around town. It's bad enough that you're considering letting the Kings do this, but it seems that the proposed change to the city ordinance governing billboards would allow the same deal to similar groups in the future as well.

Nobody, but nobody likes those ugly billboards except the people raking in the money from them. You need to think about the beauty of Sacramento and the people who live here who will be subjected to this blight before you cement this deal. Interesting, livable cities don't go out of their way to generate ugliness.

Martha Sward and John Farrell

708 35th Street, Sacramento 95816

**Scott Johnson**

---

**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 3:18 PM  
**To:** Scott Johnson  
**Subject:** Kings EIR comment: crowd baseline

Mr. Johnson (yes I'm sending this to you): The Kings arena final EIR fails to establish the baseline conditions for riots and crowd control. Despite repeated urging by the public in the face of downtown after-dark event closures (Thursday Night Market, Second Saturdays), including murders, the FEIR should have provided the level of police and fire response and other emergency response available now and whether it is adequate to deal with post-game rioting of drunken losers emerging from 17,000 seats at one time. Thank you for your attention to this matter. The potential of such rioting, jamming traffic (worse than it already will be), and interfering with other more civilized downtown uses (such as real entertainment), is significant...

Kelly T. Smith  
THE SMITH FIRM  
1541 Corporate Way, Suite 100  
Sacramento, CA 95831  
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**Scott Johnson**

---

**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 3:21 PM  
**To:** Scott Johnson  
**Subject:** Kings arena EIR comment: vehicle miles baseline

Mr. Johnson: The FEIR for the Kings arena project fails to provide a proper baseline for its analysis of vehicle miles traveled (VMT). In particular, the FEIR extends the failure of the DEIR by failing to provide the public with the current baseline VMT derived for the current Sleep Train arena. Without that information, the public and decision makers are unable to compare adjusted figures provided in the FEIR.

Kelly T. Smith  
THE SMITH FIRM  
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Sacramento, CA 95831  
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M: (916) 607-1998  
[www.thesmithfirm.com](http://www.thesmithfirm.com)

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**From:** Judith Lamare [<mailto:swainsonshawk@sbcglobal.net>]

**Sent:** Tuesday, May 6, 2014 2:00 PM

**To:** Mayor Johnson; Angelique Ashby; Jay Schenirer; Steve Cohn; Steve Hansen; Allen Warren; Kevin McCarty; Bonnie Pannell; Darrell Fong

**Cc:** David Kwong; John F. Shirey; John Dangberg

**Subject:** ESC Digital Billboards, Sutter Landing Park

Dear Mayor and Councilmembers, City Manager and Planning Director

This letter supports the elimination of the Sutter's Landing Park site for a dual face digital billboard.

THE ENTERTAINMENT AND SPORTS CENTER FINAL IMPACT REPORT  
CHAPTER 2, PAGES 2-3 TO 2-4 STATES

"The Draft EIR evaluated ten potential digital billboard locations in the City of Sacramento. Since publication of the Draft EIR, the project applicant identified seven sites as preferable:

- • I-5 at Water Tank (dual face);
- • US 50 at Pioneer Reservoir (dual face);
- • Business 80 at Sutter's Landing Regional Park (dual face);
- • Business 80 at Del Paso Regional Park/Haggin Oaks (dual face);
- • SR 99 at Calvine Road (dual face);
- • I-5 at Bayou Road (one face); and
- • I-5 at Sacramento Railyards (dual face).

These seven potential digital billboard sites will be forwarded to the City Council for its consideration, with the expectation that, consistent with the provisions identified in the March 2013 Preliminary Term Sheet, if the Proposed Project is approved, only six potential locations would be chosen by the City Council to proceed with development of a digital billboard. As part of the environmental review process, Caltrans reviewed its digital billboard development standards against the ten potential digital billboard sites identified in the Draft EIR. Caltrans determined there would not be any current conflict with their standards at the US 50 at Pioneer Reservoir, SR 99 at Calvine Road, or I-5 at Sacramento Railyards locations. Four locations (I-5 at Water Tank, Business 80 at Sutter's Landing Regional Park, Business 80 at Del Paso Regional Park/Haggin Oaks, and I-5 at Bayou Road) would require zoning changes to allow digital billboards in those locations. "

**Please eliminate the potential for a digital billboard at Sutter's Landing Regional Park in order to protect and preserve the wildlife and wilderness values of the park and its connection to the American River Parkway. Wildlife is scarce in the City and this Park provides a unique and rich wildlife experience for citizens, including children, who are able to observe foraging and nesting raptors here. The billboard and related maintenance activities will cause disturbance to wildlife habitat.**

**Thank you for your consideration of this issue.**

Judith Lamare, President  
Friends of the Swainson's Hawk  
717 K Street, Ste 529  
Sacramento, CA 95814  
916 447 4956  
[www.swainsonshawk.org](http://www.swainsonshawk.org)  
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**Scott Johnson**

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**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 4:42 PM  
**To:** Scott Johnson  
**Subject:** Kings arena comment; Judicial Council tentative rules  
**Attachments:** Judicial Council invitation for comments.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mr. Johnson: The FEIR for the King's arena fails to address the legality of the Steinberg bill, AB 743, adopted as California Public Resources Code §21168.6.6. As evidence of this FEIR defect please include the attached document in the administrative record. Thanks.

Kelly T. Smith  
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## Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688  
[www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

## INVITATION TO COMMENT

W14-02

<b>Title</b>	<b>Action Requested</b>
CEQA Actions: Rules to Implement Senate Bill 743	Review and submit comments by January 24, 2014
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Amend and renumber rule 3.1365 as rule 3.2205 and adopt a new rule 3.1365; renumber and amend rules 3.1366–3.1368 as rules 3.2206–3.2208; adopt rules 3.2200, 3.2220–3.2231, 3.2235–3.2237, 8.700–8703, and 8.705; amend rule 8.104; and repeal rule 8.497	July 1, 2014
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee, Hon. Patricia M. Lucas, Chair	Anne M. Ronan, 415-865-8933, <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>
Appellate Advisory Committee Hon. Raymond S. Ikola, Chair	Heather Anderson, 415-865-7691, <a href="mailto:heather.anderson@jud.ca.gov">heather.anderson@jud.ca.gov</a>

**Executive Summary and Origin**

These proposed rule changes are intended to fulfill the Judicial Council’s obligation under recently enacted legislation to adopt rules implementing expedited procedures for resolution of actions or proceedings under the California Environmental Quality Act attacking either “environmental leadership” projects, large projects that are required to meet specified environmental standards, and “Sacramento arena” projects relating to a new basketball arena and surrounding sports and entertainment complex planned for the City of Sacramento.

**Background**

In 2011 the Legislature enacted Assembly Bill 900 (Stats. 2011, ch. 354), creating an expedited judicial review procedure for CEQA cases relating to environmental leadership projects under which challenges to such projects were to be brought directly to the Court of Appeal with geographic jurisdiction over the project, and that court was to complete its review within 175

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

days. (Pub. Resources Code, § 21185.) AB 900 required the Judicial Council to adopt rules of court to implement this expedited review procedure and it did so, adopting rule 8.497.

To date, only three projects have been approved as environmental leadership projects entitled to expedited judicial review under the AB 900 provisions, none of which has yet been the subject of a court challenge under CEQA. In March 2013, however, following a court trial, the Superior Court of Alameda County held that the provision in AB 900 requiring that a petition for writ relief be filed only in a Court of Appeal is unconstitutional.

This year, the Legislature once again addressed the question of expedited CEQA review by the courts in environmental leadership cases, as well as in cases relating to a new sports arena in Sacramento. Senate Bill 743 (Stats. 2013, ch. 386),<sup>1</sup> among other things:

- Addresses the constitutional issue raised by the Superior Court of Alameda County's decision by eliminating the requirement that a CEQA challenge to a leadership project be brought directly in the Court of Appeal;
- Replaces the statutory provisions relating to the time for the Court of Appeal to act on leadership cases with a requirement that the Judicial Council adopt rules that require the actions or proceedings, including any potential appeals therefrom, be resolved, within 270 days of certification of the record of proceedings (SB 743, § 11; amending Pub. Resources Code, § 21185); and
- Similarly provides for expedited review process for projects relating to a new basketball arena and surrounding sports and entertainment complex planned for Sacramento (SB 743, 7; adding Pub. Resources Code, § 21168.6.6).<sup>2</sup>

## The Proposal

The proposed new rules and proposed rule amendments in this invitation to comment are designed to fulfill the Judicial Council's statutory obligation to adopt rules implementing the expedited judicial review procedure established by SB 743. Because SB 743 does not provide discrete time frames for actions and proceedings in the trial court and proceedings in the Court of Appeal, but instead provided a single time frame (270 days) in which both the trial court and appellate court proceedings were to be resolved, the Civil and Small Claims Advisory Committee and Appellate Advisory Committee worked together, with the assistance of subject matter experts from the courts and the bar, to develop and recommend the new rules required by SB 743.

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<sup>1</sup> A copy of this legislation can be accessed at:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB743&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=)

<sup>2</sup> The bill also contains some amendments to substantive CEQA provisions, as well as extensive provisions concerning the environmental review process applicable to the Kings basketball arena project in Sacramento and the limited remedies available for violation of that process. None of those provisions, however, appear pertinent to court administration or procedures.

The main provisions of the rule changes are discussed below and the full text is shown in the rule attachment. A couple important preliminary notes:

- There are many provisions in CEQA—such as those addressing the statute of limitations, the time for service of a petition on the respondent public agency and real party in interest, the contents of the administrative record, settlement meetings, and mediation—that were not specifically modified by SB 743. Some of those provisions, such as the content of the administrative record, are already addressed by the rules of court applying to all CEQA cases. Others, such as the statute of limitations and time for service, make it all but impossible to meet the 270-day time frame envisioned by the Legislature. SB 743 does provide, for the Sacramento arena cases, that the expedited procedures to be established by the Judicial Council will apply “notwithstanding any other law.” (SB 743, §7, at new § 21168.6.6(c).) But the new law does not have a similar provision regarding environmental leadership cases. (Cf. SB 743, §11, amending § 21185). In light of this distinction in the statute, the advisory committees concluded that while the council is authorized to adopt rules notwithstanding the provisions of the Public Resources Code or the Code of Civil Procedure in relation to Sacramento arena cases, it could not do so in relation to environmental leadership cases.
- In an effort to meet the time for issuance of a decision specified in SB 743, many of the time frames specified in proposed rules are extremely short and many deadlines follow closely on one another. The rules permit extensions of time “for good cause” and “to promote the interests of justice,” so, depending on the circumstances, in an individual case some of the deadlines specified in the proposed rules may be extended, causing the resolution of the case to extend beyond the 270-day period specified in the statute.

### **Proposed trial court rules**

#### ***Starting the proceedings***

One way in which the Legislature has attempted to expedite the environmental review process for the Sacramento arena and the environmental leadership cases—in addition to mandating extremely fast court review—is to expedite the creation of the administrative record in such cases. In both types of cases, the public agency responsible for approving the project is also responsible for creating an electronic version of the administrative record as the project is being reviewed by the agency, and for certifying the final version of that record within five days of the agency’s issuing its statutorily mandated Notice of Determination.

SB 743 sets the certification of the record as the trigger for the 270-day period in which the trial court and Court of Appeal are to complete their review. The certification of the record, however, does not necessarily coincide with the commencement of a CEQA action in the courts—a petition can be filed up to 30 days after the Notice of Determination has been filed. (Pub.

Resources Code, § 21167.<sup>3</sup>) So up to 25 days of the 270-day period designated for the court's review of these CEQA decisions may have passed before the matter is within the jurisdiction of the court. The advisory committees attempted to address this issue by including in the proposed rules an incentive for parties to file their action more quickly in the form of extra briefing time for petitioners who file within 10 days of the issuance of a Notice of Determination (and so within 5 days of certification of the record and the beginning of the 270-day period). (See proposed rule 3.2227(a).)

An additional difficulty in meeting the 270-day timeline arises because the Public Resources Code provides that a party may take up to 10 business days after filing its petition to serve the respondent public agency and another 20 business days after that to serve any real party in interest. (§§ 21167.6(a), 21167.6.5(a).) Because, as noted above, SB 743 provides that the rules of court for the Sacramento arena cases are applicable notwithstanding any other law, the advisory committees concluded that the council may adopt rules in relation to Sacramento arena cases mandating that service be completed within one court day on all named parties, rather than over a two- to four-week period as permitted in the Public Resources Code. (See proposed rules 3.2222(c) and 3.2236.)

Because SB 743 does not provide similar authority with respect to leadership projects, the advisory committees concluded that they are unable to recommend a rule mandating faster service in those cases. Instead, the advisory committees propose a rule providing a strong incentive for earlier service in leadership cases by providing that if the petition is not served on the public agency and real party in interest within two days of filing, the time for filing petitioner's briefs on the merits in both the trial court and the appellate court will be decreased by one day for every additional two court days in which service is not completed. (See proposed rule 3.2222(d).)

### ***Other trial court rules***

The proposed rules require that, once started, the actions must proceed very swiftly through the trial court. Among other things, the proposed trial court rules would address the following:

- *Exemption from procedures for complex cases.* Exempt the Sacramento arena and leadership project statutes from the complex case rules, in order to eliminate any confusion about which case management conference (CMC) rules should apply, and exempt such cases from what can be a lengthy process of coordinating complex cases. (Proposed rule 3.2220(c).)
- *Time limits.* Allow extensions of time by the court only for good cause. Should the parties stipulate to extend time, the 270-period will essentially be extended for the length of that stipulated extension. The rule also provides for sanctions if any party fails to comply with the time requirements within the rules. (Proposed rule 3.2221.)

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<sup>3</sup> All statutory references hereafter are to the Public Resources Code unless otherwise indicated.



- *E-filing and service.* Require electronic filing in all courts where it can occur, require that all service on represented parties must be by electronic means, and provide that such service is exempted from the two-day extension of time provided in the Code of Civil Procedure. (Proposed rule 3.2222.)
- *Responsive pleadings.* Require that any pleadings filed in response to the petition, including motions to change venue, be served and filed within 10 days of service of the petition, and any opposition be filed within 10 days after that. (Proposed rule 3.2224.)
- *Administrative record.* Restate the statutory requirement that the administrative record in the Sacramento arena cases be lodged within 10 days of the filing of the petition (see SB 743, at § 21168.6.6(f)(8)) and require the same in environmental leadership cases. (Proposed rule 3.2225.)
- *Case management conference.* Require the court to hold a CMC within 30 days of the filing of the petition. (Proposed rule 3.2226(a).) Require that the parties file a joint CMC statement addressing various issues and that the court consider them all at the CMC, including:
  - Any outstanding issues regarding the administrative record;
  - Briefing schedules for any other motions that may need to be addressed before the hearing on the merits;
  - Identification of all issues to be included in the briefing on the merits;
  - Page limits for briefs on the merits, including whether each side may file more than one brief;
  - Final briefing schedule, should it be different than as provided in the rules;
  - Any potential for settlement discussions; and
  - Various other issues, including any the court deems appropriate.
 (Proposed rule 3.2226(c)–(d).) The committees invite specific comments on whether there are issues in addition to those set out in rule 3.2226(c) that should be considered at the CMC.
- *Briefing schedule.* Require that, unless otherwise ordered by the court, each side may only file a single brief on the merits, on the following schedule:
  - Petitioner has 25 days after CMC, or 35 days if the early-filing incentive applies;
  - Respondent and real parties have 25 days to file an opposition; and
  - Petitioner has 10 days to file a reply. (Proposed rule 3.2227(a).)
- *Hearings.* Require that the court hold a hearing on the merits within 80 days of the CMC. (Proposed rule 3.2227(b).) This time frame would result, in cases in which petitioner has earned extra briefing time through the early-filing incentive, in the hearing occurring within 10 days after the reply brief is due; the hearing would be as long as 20 days after the reply is due if no incentive applies. The committees invite comment on whether it would be sufficient for the court to have 5 days after the reply is due to hold the hearing, thus making it possible to add another 5 days to the incentive for early filing.



- *Judgments.* Provide that the court should issue its decision within 30 days of the hearing, and require that the decision be in writing. The proposed rules also clarify that, because these cases do not involve trials of questions of fact, they do not fall within the scope of Code of Civil Procedure section 632 regarding statements of decision. (Proposed rule 3.2228.)
- *Postjudgment motions.* Require that postjudgment motions be made on an extremely short time frame. In all cases governed by the rules, motions to void or correct the judgment under Code of Civil Procedure 473 would have to be served and filed within 5 days of notice of entry of judgment—the same time within which any notice of appeal has to be filed under the proposed appellate rule. (Proposed rule 3.2231(b).)<sup>4</sup> In Sacramento arena cases, motions for new trial and motions to vacate judgment would have to be brought within the same time frame. (Proposed rule 3.2231(b).) The proposed rules do not shorten the deadline for filing motions for new trial and for motions to vacate judgment in environmental leadership cases, because such rules would be inconsistent with statutes providing 15 days in which to file such motions. (See Code Civ. Proc., §§657 (motion for new trial) and 663 (motion to vacate judgment).)

### **Court of Appeal rules**

As with the trial court rules, the proposed rules for the Court of Appeal require that actions covered by SB 743 proceed very swiftly. Among other things, the proposed rules would address the following:

- *Application.* The proposed rules would only govern appeals and writ proceedings in the Court of Appeal to review a superior court judgment or order in an action or proceeding governed by the provisions of SB 743. (Proposed rule 8.700(b).) These rules would not cover:
  - Petitions for writs seeking initial review in the Court of Appeal of an EIR or project approval under CEQA for the Sacramento arena project or leadership projects. Although the Court of Appeal has concurrent jurisdiction with the superior court in such original proceedings, the usual practice is to for matters to be reviewed in the superior court first.
  - Petitions for review in the Supreme Court. Early versions of SB 743 included provisions specifying time frames for petitions for review in the California Supreme Court relating to the Sacramento arena project and leadership projects. These provisions were taken out of the version of SB 743 that was ultimately enacted. The advisory committees concluded that this reflected legislative intent that the 270-day time period included in SB 743 was not intended to cover any potential petition for review process and, thus, no provisions addressing that process are included in these proposed rules.

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<sup>4</sup> The environmental leadership cases can be encompassed by the rule shortening time on motions under Code of Civil Procedure section 473 because those motion are subject to the notice provisions of Code of Civil Procedure section 1005, which expressly permits exceptions as provided by other laws. (Code. Civ. Proc., § 1005(b).)

The proposed rules also specify that, except as provided in these special rules for the Sacramento arena and leadership cases, the general rules on appeals and writ proceedings govern. (Proposed rules 8.702(a) and 8.703(a).) Given this approach, the advisory committees would particularly appreciate comments on whether there are additional topics that should be addressed in the proposed rules rather than be governed by the general appellate rules.

- *Service and filing.* The proposed rules would generally require that all service be by personal delivery, electronic service, express mail, or other means reasonably calculated to ensure delivery of the document not later than the close of the business day after the document is filed or lodged with the court. The rules would also permit the court to order that all documents be electronically filed and be served electronically on parties that have stipulated to electronic service. As in the trial court rules, parties represented by counsel would be deemed to have stipulated to electronic service and the rules would exempt electronic service under these rules from the two-day extension of time provided in the Code of Civil Procedure. (Proposed rule 8.701.)
- *Notice of appeal.* As part of the attempt to meet the 270-day time period specified by SB 743, the proposed rules would set an extremely short deadline for filing a notice of appeal. A notice of appeal would have to be filed within 5, rather than the usual 60, days after the superior court clerk or a party serves a document entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment. (Proposed rule 8.702(b).) Note that this is the same time period for filing postjudgment motions in Sacramento arena cases and, in an environmental leadership case, the deadline for filing a notice of appeal may be earlier than the deadline for filing a motion for new trial or a motion to vacate. The committees invite comment on whether the time for filing the notice of appeal is feasible, including whether the time should be 5 *court* days. The committees also invite comment on how best to address the potentially overlapping deadlines for filing postjudgment motions and notices of appeal in environmental leadership cases, including by:
  - Adding an advisory committee comment referencing the fact that the deadline for filing notices of appeal may be earlier than the time for some posttrial motions in environmental leadership cases;
  - Extending the time for filing the notice of appeal in environmental leadership cases to correspond with the deadline for filing motions to vacate or motions for new trial, even though this will make it even less likely that the court will be able to meet the 270-day deadline in such cases; or
  - Making some other change in the proposed rules.
- *Extensions of time to appeal.* Like current rule 8.108(b) and (c), the proposed rules would extend the time to file a notice of appeal when a new trial motion or motion to vacate a judgment is timely filed and denied. However, the proposed rule provides for a much shorter extension of this time period—5, rather than 30, days. (Proposed rule 8.702(c).) The committees would particularly appreciate comments on whether this rule should also address

extensions related to motions to reconsider an appealable order, or whether these do not arise in the types of cases subject to SB 743.

- *Record on appeal.* The proposed rules would make several changes to the general rules relating to records on appeal, including:
  - Requiring that parties proceed by appendix in lieu of using a clerk’s transcript;
  - Requiring that the appellant’s notice designating the record be filed with the notice of appeal, which is 10 days earlier than in regular appeals;
  - Requiring that, if the appellant wants a record of the oral proceedings, a reporter’s transcript be used. In regular appeals, appellants have other options, such as an agreed statement, that can be used instead of a reporter’s transcript;
  - Requiring that the reporter’s transcript be prepared within 10 days after the court notifies the reporter to prepare the transcript, which is 20 days earlier than in regular appeals. Note that under rule 8.130, the court notifies the reporter to prepare the transcript as soon as the required deposit or permissible alternative is provided to the court and that deposit is supposed to accompany the designation. Thus, if the appellant makes the deposit at the time both the notice of appeal and designation are filed, as required, the reporter’s transcript should be prepared around 10 to 15 days after the notice of appeal is filed.
  - Giving the appellant only 5, rather than 15, days’ notice to cure a default in making the required deposit for a designated reporter’s transcript. (Proposed rule 8.702(d).)
  
- *Superior court clerk duties relating to appeals.* The proposed rules would require the superior court clerk to transmit items to the parties and to the reviewing court very quickly—within two court days after the notice of appeal is filed—including:
  - Sending the register of actions to the parties to assist them preparing appendices; and
  - Sending an electronic copy of the administrative record to the Court of Appeal. (Proposed rule 8.702(e).)
  
- *Briefs on appeal.* The proposed rules would establish a very quick briefing schedule; unless otherwise ordered by the reviewing court:
  - Appellant would be required to serve and file the opening brief within 25 days after the notice of appeal is served and filed;
  - Respondent would be required to file its brief within 25 days after the appellant files its opening brief; and
  - Appellant would be required to file any reply brief within 15 days after respondent files its brief. (Proposed rule 8.702(f)(2).)

As in the trial court rules, the appellate rules provide that if the parties stipulate to extend the time to file briefs, the 270-period will be extended for the length of the stipulated extension. The rule also provides that if a party fails to timely file a brief, they will have only 5 days from service of notice by the clerk to cure that default or sanctions may be imposed. (Proposed rule 8.702(f)(4) and (5).)

In addition, the rules would:

- Require briefs to be electronically filed unless otherwise ordered by the reviewing court (proposed rule 8.702(f)(1));
  - Allow parties to submit briefs that do not contain citations to the reporter’s transcript if it is not yet available (proposed rule 8.702(f)(3)(B)); and
  - Require parties to submit e-brief versions of their briefs within five days after filing the brief (proposed rule 8.702(f)(3)(C)).
- *Oral argument on appeal.* The proposed rules would require that, unless otherwise ordered by the reviewing court, oral argument would be set within 45 days of the date the last reply brief is due. This time period is intended to reflect that it is the practice of the reviewing courts to review the briefs and the record and analyze the issues prior to oral argument. (Proposed rule 8.702(g).)
  - *Writ proceedings.* The proposed rules would provide that, in general, the regular rules relating to writ proceedings in the Court of Appeal would apply in Sacramento arena or leadership project cases. However, the proposed rules would require that a writ petition be filed very quickly—within 30 days after service of notice of entry of the superior court judgment or order being challenged. (Proposed rule 8.703.)
  - *Special fee.* Public Resources Code section 21183(e), which was enacted in 2011 as part of AB 900, provides that the applicant for certification of a project as a leadership project “agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the Rules of Court adopted by the Judicial Council.” The Judicial Council adopted rule 8.497(i) to implement that statutory provision. Because the committees are recommending the repeal of rule 8.497, the provisions relating to this fee would be moved to a new rule in this chapter. (Proposed rule 8.705.) The proposed new rule also includes references to appeals as well as writ proceedings, and the sanction of proceeding in the superior court if the fee is not paid has been deleted.

### Alternatives Considered

In light of the statutory provision requiring the council to develop rules providing for resolution of the subject proceedings within 270 days, the advisory committees considered shorter time frames for setting the case management conference, for parties’ filing briefs on the merits in the trial courts and appellate briefs in the Courts of Appeal, for the trial court to make its decision after the hearing, and for the Courts of Appeal to consider a case before oral argument.

However, the committees concluded that the time frames in the proposed rules are already so short as to be unrealistic and declined to propose anything shorter. These cases will be, by definition, about large and complex projects. It would be a disservice to the parties and to the

public to require any shorter time for the parties to brief the issues or for the courts' decision-making process.

### **Implementation Requirements, Costs, and Operational Impacts**

Implementing the new expedited procedures will generate costs and operational impacts for both the trial courts and Courts of Appeal in which the proceedings governed by these rules are filed. While the \$100,000 fee for each appeal authorized by statute should offset these additional costs in the Courts of Appeal, no such fee is authorized in the trial courts.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- The proposed rules provide petitioners who file a court action within 10 days from issuance of the Notice of Determination with 10 extra days for filing their brief on the merits. (See rule 3.2227(a).) Should an additional 5 days be added to that incentive, in order to make it more likely that cases will be filed quickly, but leaving the possibility of only 5 days between the filing of a reply brief and hearing by the trial court?
- Should the incentive for early filing be referred to in the rule regarding filing and service (rule 3.2222)?
- Is the case management conference (CMC) set too early under the proposed rules (see rule 3.2226)? Should another 5 or 10 days be provided to make sure all parties have been served and can participate in the joint preparation of the CMC statement? If yes, where else in the process could time be shortened in order to try to meet the goal of resolution of the action within 270 days?
- Are there issues or items in addition to those set out in rule 3.2226(c) that should be included in the matters to be considered at the CMC?
- Are there any additional topics that should be addressed in the proposed appellate rules for Sacramento arena and leadership projects rather than be governed by the general appellate rules?
- Is the 5-day time period for filing the notice of appeal feasible? Should this time period be changed to 5 *court* days or some other period?
- Is there any way to address within these rules the issues that may arise in environmental leadership cases because the proposed time for filing a notice of appeal comes before the deadline for filing certain posttrial motions? Should an advisory committee comment be added referencing this? Should the time for filing the notice of appeal be extended to correspond with the deadline for filing motions to vacate or motions for new trial?

The advisory committees also seek comments from *courts* on the following cost and implementation matter:

- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- What costs will the trial courts incur in implementing the underlying statutes and these rules?

**Attachments and Links**

1. Proposed trial court rules, at pages 13–24.
2. Proposed appellate court rules, at pages 25–37
3. SB 743 may be viewed at

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB743&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=)

Rule 3.1365 of the California Rules of Court would be renumbered as rule 3.2205 and a new rule 3.1365 would be adopted; rules 3.1366–3.1368 would be amended and renumbered as rules 3.2206–3.2208; rules 3.2200, 3.2220–3.2231, 3.2235–3.2237, 8.700–8.703, and 8.705 would be adopted; rule 8.104 would be amended; and rule 8.497 would be repealed, effective July 1, 2014, to read:

**Title 3. Civil Rules**

**Division 11. Law and Motion**

**~~Chapter 7. Other~~ Civil Petitions**

**Rule 3.1365. Petitions Under the California Environmental Quality Act**

Rules for petitions for relief under the California Environmental Quality Act have been renumbered and moved to Division 22 of these rules, beginning with rule 3.2200.

**Advisory Committee Comment**

Former rule 3.1365 on the form and format of administrative record lodged in a CEQA proceeding has been renumbered as rule 3.2205.

**Division 22. Petitions Under the California Environmental Quality Act**

**Chapter 1. General Provisions**

**Rule 3.2200. Application**

Except as otherwise provided in chapter 2 for actions under Public Resources Code sections 21168.6.6 and 21178–21189.3, the rules in this chapter apply to all actions under the California Environmental Quality Act (CEQA) as set forth in Division 13 of the Public Resources Code.

**Rule ~~3.1365~~ 3.2205. Form and format of administrative record lodged in a CEQA proceeding**

\* \* \* \*

**Rule ~~3.1366~~ 3.2206. Lodging and service**

The party preparing the administrative record must lodge it with the court and serve it on each party. A record in electronic format must comply with rule 3.~~1367~~2207. A record in paper format must comply with rule 3.~~1368~~2208. If the party preparing the administrative record elects, is required by law, or is ordered to prepare an electronic version of the record, (1) a court may require the party to lodge one copy of the record in paper format, and (2) a party may request the



1 record in paper format and pay the reasonable cost or show good cause for a court order  
 2 requiring the party preparing the administrative record to serve the requesting party with one  
 3 copy of the record in paper format.

4  
 5  
 6 **Rule 3.1367 3.2207. Electronic format**

7  
 8 **(a) Requirements**

9  
 10 The electronic version of the administrative record lodged in the court in a proceeding  
 11 brought under the California Environmental Quality Act must be:

- 12  
 13 (1) In compliance with rule ~~3.1365~~2205;
- 14  
 15 (2) Created in portable document format (PDF) or other format for which the software  
 16 for creating and reading documents is in the public domain or generally available at a  
 17 reasonable cost;
- 18  
 19 (3) Divided into a series of electronic files and include electronic bookmarks that  
 20 identify each part of the record and clearly state the volume and page numbers  
 21 contained in each part of the record;
- 22  
 23 (4) Contained on a CD-ROM, DVD, or other medium in a manner that cannot be  
 24 altered; and
- 25  
 26 (5) Capable of full text searching.

27  
 28 The electronic version of the index required under rule ~~3.1365~~2205(b) may include  
 29 hyperlinks to the indexed documents.

30  
 31 **(b) Documents not included**

32  
 33 Unless otherwise required by law, any document that is part of the administrative record  
 34 and for which it is not feasible to create an electronic version may be provided in paper  
 35 format only. Not feasible means that it would be reduced in size or otherwise altered to  
 36 such an extent that it would not be easily readable.

37  
 38  
 39 **Rule 3.1368 3.2208. Paper format**

40  
 41 \* \* \* \*

1  
2 **Chapter 2. California Environmental Quality Act Proceedings under Public Resources**  
3 **Code sections 21168.6.6 and 21178–21189.3**

4  
5 **Article 1. General Provisions**

6  
7 **Rule 3.2220. Definitions and application**

8  
9 **(a) Definitions**

10  
11 As used in this chapter:

12  
13 (1) An “environmental leadership development project” or “leadership project” means a  
14 project certified by the Governor under Public Resources Code sections 21182–  
15 21184.

16  
17 (2) The “Sacramento entertainment and sports center project” or “Sacramento arena  
18 project” means an entertainment and sports center project as defined by Public  
19 Resources Code section 21168.6.6, for which the proponent provided notice of  
20 election to proceed under that statute described in section 21168.6.6(j)(1).

21  
22 **(b) Proceedings governed**

23  
24 The rules in this chapter govern actions or proceedings brought to attack, review, set aside,  
25 void, or annul the certification of the environmental impact report or the grant of any  
26 project approvals for the Sacramento arena project or an environmental leadership  
27 development project. Except as otherwise provided in Public Resources Code sections  
28 21168.6.6 and 21178–21189.3 and these rules, the provisions of the Public Resources Code  
29 and the CEQA Guidelines adopted by the Natural Resources Agency (Cal. Code Regs., tit.  
30 14, § 15000 et seq.) governing judicial actions or proceedings to attack, review, set aside,  
31 void, or annul acts or decisions of a public agency on the grounds of noncompliance with  
32 the California Environmental Quality Act and the rules of court generally apply in  
33 proceedings governed by these rules.

34  
35 **(c) Complex case rules**

36  
37 Any action or proceeding governed by these rules is exempted from the rules regarding  
38 complex cases.

39  
40  
41 **Rule 3.2221. Time**

42  
43 **(a) Extensions of time**

44  
45 The court may order extensions of time only for good cause and in order to promote the  
46 interests of justice.

1  
2 **(b) Extensions of time by parties**  
3

4 If the parties stipulate to extend the time for performing any acts in actions governed by  
5 these rules, they are deemed to have agreed that the time for resolving the action may be  
6 extended beyond 270 days by the number of days by which the performance of the act has  
7 been stipulated to be extended, and to that extent to have waived any objection to  
8 noncompliance with the deadlines for completing review stated in Public Resources Code  
9 sections 21168.6.6(c)–(d) and 21185. Any such stipulation must be approved by the court.

10  
11 **(c) Sanctions for failure to comply with rules**  
12

13 If a party fails to comply with any time requirements provided in these rules or ordered by  
14 the court, the court may issue an order to show cause why one of the following sanctions  
15 should not be imposed:

16  
17 (A) Reduction of time otherwise permitted under these rules for the performance of other  
18 acts by that party;

19  
20 (B) If failure to comply is by petitioner or plaintiff, dismissal of the petition;

21  
22 (C) If the failure to comply is by respondent or a real party in interest, removal of the  
23 action from the expedited procedures provided under Public Resources Code  
24 sections 21168.6.6(c)–(d) and 21185 and these rules; or

25  
26 (D) Any other sanction that the court finds appropriate.  
27  
28

29 **Rule 3.2222. Filing and service**  
30

31 **(a) Electronic filing**  
32

33 All pleadings and other documents filed in actions or proceedings governed by this chapter  
34 must be filed electronically unless the action or proceeding is in a court that does not  
35 provide for electronic filing of documents.  
36

37 **(b) Service**  
38

39 Other than the petition, which must be served personally, all documents that the rules in  
40 this chapter require be served on the parties must be served personally or electronically.  
41 All parties represented by counsel are deemed to have agreed to accept electronic service.  
42 All self-represented parties may agree to such service.  
43  
44

1 **(c) Service of petition in action regarding Sacramento arena project**

2  
3 Service of the petition or complaint in an action governed by these rules and relating to a  
4 Sacramento arena project must be made according to the rules in article 2.

5  
6 **(d) Service of petition in action regarding environmental leadership project**

7  
8 If the petition or complaint in an action governed by these rules and relating to an  
9 environmental leadership project is not personally served on any respondent public agency,  
10 any real party in interest, and the Attorney General within two court days following filing  
11 of the petition, the time for filing petitioner’s briefs on the merits in rule 3.2227(a) and rule  
12 8.702(e), will be decreased by one day for every additional two court days in which service  
13 is not completed unless otherwise ordered by the court for good cause shown.

14  
15 **(e) Exemption from extension of time**

16  
17 The extension of time provided in Code of Civil Procedure section 1010.6 for service  
18 completed by electronic means does not apply to any service in actions governed by these  
19 rules.

20  
21  
22 **Rule 3.2223. Petition**

23  
24 In addition to any other applicable requirements, the petition must:

- 25  
26 (1) On the first page, directly below the case number, indicate that the matter is either a  
27 “Sacramento Arena CEQA Challenge” or an “Environmental Leadership CEQA  
28 Challenge”;  
29  
30 (2) State that either:  
31  
32 (A) The proponent of the project at issue provided notice to the lead agency that it  
33 was proceeding under Public Resources Code section 21168.6.6 and is subject  
34 to this rule; or  
35  
36 (B) That the project at issue was certified by the Governor as a leadership project  
37 under Public Resources Code sections 21182–21184 and is subject to this rule;  
38  
39 (3) If a leadership project, provide notice that the person or entity that applied for  
40 certification of the project as a leadership project must, if the matter goes to the  
41 Court of Appeal, make the payments required by Public Resources Code section  
42 21186(h); and  
43  
44 (4) Be verified.  
45

1  
2 **Rule 3.2224. Response to petition**  
3

4 **(a) Responsive pleadings**  
5

6 (1) The respondent and any real party in interest, within 10 days after service of the  
7 petition or complaint on that party or within the time ordered by the court, must  
8 serve and file:  
9

10 (A) Any answer to the petition;

11  
12 (B) Any motion challenging the sufficiency of the petition, including any motion  
13 to dismiss the petition;  
14

15 (3) Any other response to the petition; or

16  
17 (4) Any motion to change venue.  
18

19 (2) Any such answer, motion, or other response from the same party must be filed  
20 concurrently.  
21

22 **(b) Opposition**  
23

24 Any opposition or other response to a motion challenging the sufficiency of the petition or  
25 to change venue must be served and filed within 10 days after the motion is served.  
26  
27

28 **Rule 3.2225. Administrative record**  
29

30 **(a) Lodging and service**  
31

32 Within 10 days after the petition is served on the lead public agency, that agency must  
33 lodge the certified final administrative record in electronic form with the court and serve  
34 notice on the petitioner and real party in interest that the record has been lodged with the  
35 court. Within that same time, the agency must serve a copy of the administrative record in  
36 electronic form on any petitioner and real party in interest who has not already been  
37 provided a copy.  
38

39 **(b) Paper copy of record**  
40

41 Upon request and payment of the reasonable cost of preparation, or upon order of the court  
42 for good cause shown, the lead agency must provide a party with the record in paper  
43 format.  
44  
45

**(c) Motions regarding the record**

Unless otherwise ordered by the court:

- (1) Any request to augment or otherwise change the contents of the administrative record must be made by motion served and filed no later than the filing of that party's initial brief.
- (2) Any opposition or other response to the motion must be served and filed within 10 days after the motion is filed.
- (3) Any motion regarding the record will be heard at the time of the hearing on the merits of the petition unless the court orders otherwise.

**Rule 3.2226. Initial case management conference****(a) Timing of conference**

The court should hold an initial case management conference within 30 days of the filing of the petition or complaint.

**(b) Notice**

The petitioner must provide notice of the case management conference to the respondent, the real party in interest, and any responsible agency or party to the action that has been served prior to the case management conference within one court day of receiving notice from the court or at time of service of the petition or complaint, whichever is later.

**(c) Subjects for consideration**

At the conference, the court should consider the following:

- (1) Whether all parties named in the petition or complaint have been served;
- (2) Whether a list of responsible agencies has been provided and notice provided to each;
- (3) Whether all responsive pleadings have been filed and, if not, when they must be filed, and whether any hearing is required to address them;
- (4) Whether severance, bifurcation, or consolidation with other actions is desirable and, if so, a relevant briefing schedule;
- (5) Whether to appoint liaison or lead counsel, and either set a briefing schedule on this issue or actually appoint counsel;

- 1  
2 (6) Whether the administrative record has been certified and served on all parties,  
3 whether there are any issues with it, and whether the court wants to receive a paper  
4 copy;  
5  
6 (7) Whether the parties anticipate any motions prior to the hearing on the merits,  
7 concerning discovery, injunctions, or other matters, and, if so, a briefing schedule for  
8 these motions;  
9  
10 (8) What issues the parties intend to raise in their briefs on the merits and whether any  
11 limitation of issues to be briefed and argued is appropriate;  
12  
13 (9) Whether a schedule for briefs on the merits different from the schedule provided in  
14 these rules is appropriate;  
15  
16 (10) Whether the submission of joint briefs on the merits is appropriate and the page  
17 limitations, whether aggregate or per brief;  
18  
19 (11) When the hearing on the merits of the petition will be held and the amount of time it  
20 will require;  
21  
22 (12) The potential for settlement and whether a schedule for settlement conferences or  
23 alternative dispute resolution should be set;  
24  
25 (13) Any stipulations between the parties;  
26  
27 (14) Whether a further case management conference should be set; and  
28  
29 (15) Any other matters that the court finds appropriate or that should be addressed in the  
30 court's case management order.  
31

32 **(d) Joint case management conference statements**

33  
34 At least three court days before the case management conference, the petitioner and all  
35 parties that have been served with the petition must serve and file a joint case management  
36 conference statement that address the issues identified in (c) and any other pertinent issues.  
37

38 **(e) Preparation for the conference**

39  
40 At the conference, lead counsel for each party and each self-represented party must appear  
41 by telephone or personally, must be familiar with the case, and must be prepared to discuss  
42 and commit to the party's position on the issues listed in (c).  
43  
44  
45

1 **Rule 3.2227. Briefing and hearing**

2  
3 **(a) Briefing schedule**

4  
5 Unless otherwise ordered by the court:

- 6  
7 (1) The petitioner must serve and file its brief within 25 days after the case management  
8 conference, unless petitioner served and filed the petition within 10 days of the  
9 public agency’s issuance of its Notice of Determination, in which case the petitioner  
10 must file and serve its brief within 35 days after the case management conference.  
11  
12 (2) Within 25 days after the petitioner’s brief is filed, the respondent public agency  
13 must—and any real party in interest may—serve and file a respondent’s brief.  
14 Respondents and real parties must file a single joint brief unless otherwise ordered  
15 by the court.  
16  
17 (3) Within 5 days after the respondent’s brief is filed, the parties must jointly file an  
18 appendix of excerpts that contains the documents or pertinent excerpts of the  
19 documents cited in the parties’ briefs.  
20  
21 (4) Within 10 days after the respondent’s brief is filed, the petitioner may serve and file  
22 a reply brief.

23  
24 **(b) Hearing**

- 25  
26 (1) The hearing should be held within 80 days of the case management conference,  
27 extended by the number of days to which the parties have stipulated to extend the  
28 briefing schedule.  
29  
30 (2) If the court has, within 90 days of the filing of the petition or complaint, set a hearing  
31 date, the provision in Public Resources Code section 21167.4 that petitioner request  
32 a hearing date within 90 days is deemed to have been met and no further request is  
33 required.  
34  
35

36 **Rule 3.2228. Judgment**

37  
38 The court should issue its decision and final order, writ, or judgment within 30 days of the  
39 completion of the hearing in the action. The court must include a written statement of the factual  
40 and legal basis for its decision. Code of Civil Procedure section 632 does not apply to actions  
41 governed by the rules in this division.  
42

43  
44 **Rule 3.2229. Notice of settlement**

45  
46 The petitioner or plaintiff must immediately notify the court if the case is settled.



1  
2  
3 **Rule 3.2230. Settlement procedures and statement of issues**  
4

5 In cases governed by the rules in this chapter, unless otherwise ordered by the court, the  
6 procedures described in Public Resources Code section 21167.8, including the filing of a  
7 statement of issues, are deemed to have been met by the parties addressing the potential for  
8 settlement and narrowing of issues within the case management conference statement and  
9 discussing those points as part of the case management conference.

10  
11 **Rule 3.2231. Postjudgment motions**  
12

13 **(a) Exemption from statutory provisions**  
14

15 In any actions governed by the rules in this article, any postjudgment motion except for a  
16 motion for attorney’s fees and costs is governed by this rule. Such motions are exempt  
17 from the timing requirements otherwise applicable to postjudgment motions under Code of  
18 Civil Procedure section 1005. Motions in Sacramento arena cases are also exempt from the  
19 timing and procedural requirements of Code of Civil Procedure sections 659 and 663.  
20

21 **(b) Time for postjudgment motions**  
22

23 **(1) Time for motions under Code of Civil Procedure section 473**  
24

25 Moving party must serve and file any motion before the earlier of:  
26

27 **(A) Five days after the court clerk’s mailing to the moving party a document**  
28 **entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment,**  
29 **showing the date either was served; or**  
30

31 **(B) Five days after the moving party is served by any party with a written notice of**  
32 **judgment or a file-stamped copy of the judgment, accompanied by a proof of**  
33 **service.**  
34

35 **(2) Time for motions for new trial or motions to vacate judgment**  
36

37 Moving party in Sacramento arena cases must serve and file motion before the  
38 earlier of:  
39

40 **(A) Five days after the court clerk’s mailing to the moving party a document**  
41 **entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment,**  
42 **showing the date either was served; or**  
43

44 **(B) Five days after the moving party is served by any party with a written notice of**  
45 **judgment or a file-stamped copy of the judgment, accompanied by a proof of**  
46 **service.**

1  
2 **(c) Memorandum of points and authorities**

3  
4 A memorandum in support of a postjudgment motion may be no longer than 15 pages.

5  
6 **(d) Opposition to motion**

7  
8 Any opposition to the motion must be served and filed within five days of service of the  
9 moving papers and may be no longer than 15 pages.

10  
11 **(e) Reply**

12  
13 Any reply brief must be served and filed within two court days of service of the opposition  
14 papers and may be no longer than five pages.

15  
16 **(f) Hearing and decision**

17  
18 The court may set a hearing on the motion at its discretion. The court should issue its  
19 decision on the motion within 15 days of the filing of the motion.

20  
21  
22 **Article 2. CEQA Challenges to Approval of Sacramento Arena Project**

23  
24 **Rule 3.2235. Application**

25  
26 This article governs any action or proceeding brought to attack, review, set aside, void, or annul  
27 the certification of the environmental impact report or any project approvals for the Sacramento  
28 arena project.

29  
30 **Rule 3.2236. Service of petition**

31  
32 **(a) Respondent**

33  
34 Unless the respondent public agency has agreed to accept service of summons  
35 electronically, the petitioner or plaintiff must personally serve the petition or complaint on  
36 the respondent public agency within one court day after the date of filing.

37  
38 **(b) Real parties in interest**

39  
40 The petitioner or plaintiff must serve the petition or complaint on any real party in interest  
41 named in the pleading within three court days after the date of filing.

42  
43 **(c) Attorney General**

44  
45 The petitioner or plaintiff must serve the petition or complaint on the Attorney General  
46 within one court day after the date of filing.

1  
2 **(d) Responsible agencies**

3  
4 The petitioner or plaintiff must serve the petition or complaint on any responsible agencies  
5 or public agencies with jurisdiction over a natural resource affected by the project within  
6 two court days of receipt of a list of such agencies from respondent lead public agency.

7  
8 **(e) Proof of service**

9  
10 The petitioner or plaintiff must file proof of service on each respondent, real party in  
11 interest, or agency within one court day of completion of service.

12  
13 **Rule 3.2237. List of responsible agencies**

14  
15 Respondent public agency must provide the petitioner or plaintiff, not later than three court days  
16 following service of the petition or complaint on the public agency, with a list of responsible  
17 agencies and any public agency having jurisdiction over a natural resource affected by the  
18 project.

19  
20  
21 **Title 8. Appellate Rules**

22  
23 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

24  
25 **Chapter 2. Civil Appeals**

26  
27 **Article 1. Taking the Appeal**

28  
29 **Rule 8.104. Time to appeal**

30  
31 **(a) Normal time**

32  
33 (1) Unless a statute, ~~or~~ rule 8.108, or rule 8.702 provides otherwise, a notice of appeal  
34 must be filed on or before the earliest of:

35  
36 (A) 60 days after the superior court clerk serves on the party filing the notice of  
37 appeal a document entitled “Notice of Entry” of judgment or a file-stamped  
38 copy of the judgment, showing the date either was served;

39  
40 (B) 60 days after the party filing the notice of appeal serves or is served by a party  
41 with a document entitled “Notice of Entry” of judgment or a file-stamped copy  
42 of the judgment, accompanied by proof of service; or

43  
44 (C) 180 days after entry of judgment.

45  
46 (2) – (3) \* \* \*

1  
2 (b)–(e) \* \* \*

3  
4  
5 Chapter 8. Miscellaneous Writs

6  
7 ~~Rule 8.497. Review of California Environmental Quality Act cases under Public Resources~~  
8 ~~Code sections 21178–21189.3~~

9  
10 (a)—Application

11  
12 (1)—~~This rule governs actions or proceedings in the Court of Appeal alleging that a public~~  
13 ~~agency has approved or is undertaking an environmental leadership development~~  
14 ~~project in violation of the California Environmental Quality Act. As used in this rule,~~  
15 ~~an “environmental leadership development project” or “leadership project” means a~~  
16 ~~project certified by the Governor under Public Resources Code sections 21182–~~  
17 ~~21184.~~

18  
19 (2)—~~Except as otherwise provided in Public Resources Code sections 21178–21189.3 and~~  
20 ~~this rule, the provisions of the Public Resources Code and the CEQA Guidelines~~  
21 ~~adopted by the Natural Resources Agency (Cal. Code Regs., tit. 14, § 15000 et seq.)~~  
22 ~~governing judicial actions or proceedings to attack, review, set aside, void, or annul~~  
23 ~~acts or decisions of a public agency on the grounds of noncompliance with the~~  
24 ~~California Environmental Quality Act apply in proceedings governed by this rule.~~

25  
26 (b)—Service

27  
28 ~~Except as otherwise provided by law, all documents that this rule requires be served on the~~  
29 ~~parties must be served by personal delivery, electronic service, express mail, or other~~  
30 ~~means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013 and~~  
31 ~~reasonably calculated to ensure delivery of the document to the parties not later than the~~  
32 ~~close of the business day after the document is filed or lodged with the court.~~

33  
34 (e)—Petition

35  
36 (1)—*Service and filing*

37  
38 ~~A person alleging that a public agency has approved or is undertaking a leadership~~  
39 ~~project in violation of the California Environmental Quality Act must serve and file a~~  
40 ~~petition for a writ of mandate in the Court of Appeal with geographic jurisdiction~~  
41 ~~over the project.~~

42  
43 (2)—*Form and contents*

44  
45 ~~In addition to any other applicable requirements, the petition must:~~  
46

1 (A) ~~State that the project at issue was certified by the Governor as a leadership~~  
 2 ~~project under Public Resources Code sections 21182-21184 and is subject to~~  
 3 ~~this rule;~~

4  
 5 (B) ~~Provide notice that the person or entity that applied for certification of the~~  
 6 ~~project as a leadership project must make the payments required by (h);~~

7  
 8 (C) ~~Include any other claims required to be concurrently filed by the petitioner~~  
 9 ~~under Public Resources Code section 21185; and~~

10  
 11 (D) ~~Be verified.~~

12  
 13 **(d) ~~Administrative record~~**

14  
 15 (1) ~~*Lodging and service*~~

16  
 17 ~~Within 10 days after the petition is served on the lead public agency, that agency~~  
 18 ~~must lodge the certified final administrative record with the Court of Appeal and~~  
 19 ~~serve on the parties a copy of the certified final administrative record and notice that~~  
 20 ~~the record has been lodged with the court.~~

21  
 22 (2) ~~*Form and contents*~~

23  
 24 (A) ~~Unless otherwise ordered by the Court of Appeal, the lead agency must lodge~~  
 25 ~~with the court one copy of the record in electronic format and one copy in~~  
 26 ~~paper format and serve on each party one copy of the record in electronic~~  
 27 ~~format. The record in electronic format must comply with rules 3.1365 and~~  
 28 ~~3.1367. The record in paper format must comply with rules 3.1365 and 3.1368.~~

29  
 30 (B) ~~A party may request the record in paper format and pay the reasonable cost or~~  
 31 ~~show good cause for a court order requiring the lead agency to serve the~~  
 32 ~~requesting party with one copy of the record in paper format.~~

33  
 34 (C) ~~The record must include all of the materials specified in Public Resources~~  
 35 ~~Code section 21167.6.~~

36  
 37 (3) ~~*Motions regarding the record*~~

38  
 39 (A) ~~Any request to augment or otherwise change the contents of the administrative~~  
 40 ~~record must be made by motion in the Court of Appeal. The motion must be~~  
 41 ~~served and filed within 25 days after the record is served.~~

42  
 43 (B) ~~Any opposition or other response to the motion must be served and filed within~~  
 44 ~~10 days after the motion is filed.~~

1           (C) ~~The Court of Appeal may appoint a special master to hear and decide any~~  
 2           ~~motion regarding the record. The order appointing the special master may~~  
 3           ~~specify the time within which the special master is required to file a decision.~~

4  
 5 ~~(e) — Notice of settlement~~

6  
 7           ~~The petitioner must immediately notify the court if the case is settled.~~

8  
 9 ~~(f) — Response to petition~~

10  
 11           (1) ~~Within 25 days after service of the administrative record or within the time ordered~~  
 12           ~~by the court, the respondent and any real party in interest must serve and file any~~  
 13           ~~answer to the petition; any motion challenging the sufficiency of the petition,~~  
 14           ~~including any motion to dismiss the petition; and any other response to the petition.~~  
 15           ~~Any such answer, motion, or other response from the same party must be filed~~  
 16           ~~concurrently.~~

17  
 18           (2) ~~Any opposition or other response to a motion challenging the sufficiency of the~~  
 19           ~~petition must be served and filed within 10 days after the motion is filed.~~

20  
 21 ~~(g) — Briefs~~

22  
 23           (1) ~~*Service and filing*~~

24  
 25           ~~Unless otherwise ordered by the court:~~

26  
 27           (A) ~~The petitioner must serve and file its brief within 40 days after the~~  
 28           ~~administrative record is served.~~

29  
 30           (B) ~~Within 30 days after the petitioner's brief is filed, the respondent public agency~~  
 31           ~~must — and any real party in interest may — serve and file a respondent's brief.~~

32  
 33           (C) ~~Within 20 days after the respondent's brief is filed, the petitioner may serve~~  
 34           ~~and file a reply brief.~~

35  
 36           (2) ~~*Form and contents*~~

37  
 38           ~~The briefs must comply as nearly as possible with rule 8.204.~~

39  
 40 ~~(h) — Certificate of Interested Entities or Persons~~

41  
 42           (1) ~~Each party other than a public agency must comply with the requirements of rule~~  
 43           ~~8.208 concerning serving and filing a *Certificate of Interested Entities or Persons*.~~

44  
 45           (2) ~~The petitioner's certificate must be included in the petition. Other parties must~~  
 46           ~~include their certificate in their brief, or if the party files an answer or other response~~

1 to the petition, a motion, an application, or an opposition to a motion or application  
 2 in the Court of Appeal before filing its brief, the party must serve and file its  
 3 certificate at the time it files the first answer, response, motion, application, or  
 4 opposition. The certificate must appear after the cover and before any tables.  
 5

6 (3) — If a party fails to file a certificate as required under (1) and (2), the clerk must notify  
 7 the party by mail that the party must file the certificate within 10 days after the  
 8 clerk’s notice is mailed and that failure to comply will result in one of the following  
 9 sanctions:

10 (A) — If the party is the petitioner, the court will strike the petition; or

11 (B) — If the party is the real party in interest, the court will strike the document.

12 (4) — If the party fails to comply with the notice under (3), the court may impose the  
 13 sanctions specified in the notice.  
 14

15 **(i) — Court costs**

16 (1) — In fulfillment of the provision in Public Resources Code section 21183 regarding  
 17 payment of the Court of Appeal’s costs:

18 (A) — Within 10 days after service of the petition on the real party in interest, the  
 19 person who applied for certification of the project as a leadership project must  
 20 pay a fee of \$100,000 to the Court of Appeal.

21 (B) — If the Court of Appeal incurs any of the following costs, the person who  
 22 applied for certification of the project as a leadership project must also pay,  
 23 within 10 days of being ordered by the court, the following costs or estimated  
 24 costs:

25 (i) — The costs of any special master appointed by the Court of Appeal in the  
 26 case; and

27 (ii) — The costs of any contract personnel retained by the Court of Appeal to  
 28 work on the case.

29 (2) — If the fee or costs under (1) are not timely paid, the Court of Appeal may transfer the  
 30 case to the superior court with geographic jurisdiction over the project, and the case  
 31 will proceed under the procedures applicable to projects that have not been certified  
 32 as leadership projects.  
 33

34 **(j) — Extensions of time**

35 The court may order extensions of time only for good cause and in order to promote the  
 36 interests of justice.  
 37

**Advisory Committee Comment**

**Subdivision (b).** This provision does not apply to service of the petition on the respondent public agency or real party in interest because the method of service on these parties is set by Public Resources Code sections 21167.6 and 21167.6.5.

**Subdivision (c).** Under this provision, a proceeding in the Court of Appeal is initiated by serving and filing a petition for a writ of mandate as provided in rule 8.25, not by filing a complaint and serving a summons and the complaint.

**Subdivision (d)(3)(C).** Public Resources Code section 21185 provides that the court may appoint a master to assist the court in managing and processing cases subject to this rule. Appointment of a special master to hear and decide motions regarding the record is just one example of when a court might make such an appointment.

**Subdivision (f).** A party other than the petitioner who files an answer, motion, or other response to a petition under (e) may be required to pay a filing fee under Government Code section 68926 if the answer, motion, or other response is the first document filed in the proceeding in the reviewing court by that party. See rule 8.25(c).

**Subdivision (g).** On application of the parties or on its own motion, the court may set different briefing periods. For example, if a motion to augment or otherwise modify the contents of the record is filed, the court might order that petitioner’s brief be filed within a specified time after that motion is decided.

**Chapter 11. Review of California Environmental Quality Act cases under Public Resources Code sections 21168.6.6 and 21178–21189.3**

**Rule 8.700. Definitions and application**

**(a) Definitions**

As used in this chapter:

- (1) An “environmental leadership development project” or “leadership project” means a project certified by the Governor under Public Resources Code sections 21182–21184.
- (2) The “Sacramento entertainment and sports center project” or “Sacramento arena project” means the entertainment and sports center project as defined by Public Resources Code section 21168.6.6, for which the proponent provided notice of election to proceed under that statute as described in section 21168.6.6(j)(1).

**(b) Proceedings governed**

The rules in this chapter govern appeals and writ proceedings in the Court of Appeal to review a superior court judgment or order in an action or proceeding brought to attack,



1 review, set aside, void, or annul the certification of the environmental impact report or the  
2 granting of any project approvals for an environmental leadership development project or  
3 the Sacramento arena project.  
4  
5

6 **Rule 8.701. Filing and service**  
7

8 **(a) Service**  
9

10 Except when the court orders otherwise under (b) or as otherwise provided by law, all  
11 documents that the rules in this chapter require be served on the parties must be served by  
12 personal delivery, electronic service, express mail, or other means consistent with Code  
13 of Civil Procedure sections 1010, 1011, 1012, and 1013 and reasonably calculated to  
14 ensure delivery of the document to the parties not later than the close of the business day  
15 after the document is filed or lodged with the court.  
16

17 **(b) Electronic filing and service**  
18

19 Notwithstanding rules 8.71(a) and 8.73, the court may order that:  
20

21 (1) All documents be filed electronically;  
22

23 (2) All documents be served electronically on parties who have stipulated to electronic  
24 service. All parties represented by counsel are deemed to have stipulated to  
25 electronic service. All self-represented parties may so stipulate.  
26

27 **(c) Exemption from extension of time**  
28

29 The extension of time provided in Code of Civil Procedure section 1010.6 for service  
30 completed by electronic means does not apply to any service in actions governed by these  
31 rules.  
32  
33

34 **Rule 8.702. Appeals**  
35

36 **(a) Application of general rules for civil appeals**  
37

38 Except as otherwise provided by the rules in this chapter, rules 8.100–8.278, relating to  
39 civil appeals, apply to appeals under this chapter.  
40

41 **(b) Notice of appeal**  
42

43 (1) Time to appeal  
44

45 The notice of appeal must be served and filed on or before the earlier of:  
46

1 (A) Five days after the superior court clerk serves on the party filing the notice of  
 2 appeal a document entitled “Notice of Entry” of judgment or a file-stamped  
 3 copy of the judgment, showing the date either was served; or

4  
 5 (B) Five days after the party filing the notice of appeal serves or is served by a  
 6 party with a document entitled “Notice of Entry” of judgment or a file-  
 7 stamped copy of the judgment, accompanied by proof of service.

8  
 9 (2) *Contents of notice of appeal*

10  
 11 The notice of appeal must:

12  
 13 (A) State that the superior court judgment or order being appealed is governed by  
 14 the rules in this chapter;

15  
 16 (B) Indicate whether the judgment or order pertains to the Sacramento arena  
 17 project or a leadership project; and

18  
 19 (C) If the judgment or order being appealed pertains to a leadership project,  
 20 provide notice that the person or entity that applied for certification of the  
 21 project as a leadership project must make the payments required by rule  
 22 8.705.

23  
 24 (c) **Extending the time to appeal**

25  
 26 (1) *Motion for new trial*

27  
 28 If any party serves and files a valid notice of intention to move for a new trial or,  
 29 under rule 3.2237, a valid motion for a new trial and that motion is denied, the time  
 30 to appeal from the judgment is extended for all parties until the earlier of:

31  
 32 (A) Five days after the superior court clerk or a party serves an order denying the  
 33 motion or a notice of entry of that order; or

34  
 35 (B) Five days after denial of the motion by operation of law.

36  
 37 (2) *Motion to vacate judgment*

38  
 39 If, within the time prescribed by subdivision (b) to appeal from the judgment, any  
 40 party serves and files a valid notice of intention to move—or a valid motion—to  
 41 vacate the judgment and that motion is denied, the time to appeal from the judgment  
 42 is extended for all parties until five days after the superior court clerk or a party  
 43 serves an order denying the motion or a notice of entry of that order.

1 **(d) Record on appeal**

2  
3 **(1) Record of written documents**

4  
5 The record of the written documents from the superior court proceedings other than  
6 the administrative record must be in the form of a joint appendix or separate  
7 appellant’s and respondent’s appendices under rule 8.124.

8  
9 **(2) Record of the oral proceedings**

10  
11 **(A)** The appellant must serve and file with its notice of appeal a notice  
12 designating the record under rule 8.121 specifying whether the appellant  
13 elects to proceed with or without a record of the oral proceedings in the trial  
14 court. If the appellant elects to proceed with a record of the oral proceedings  
15 in the trial court, the notice must designate a reporter’s transcript.

16  
17 **(B)** Any party that submits a copy of a Transcript Reimbursement Fund  
18 application in lieu of a deposit under rule 8.130(b)(3) must serve all other  
19 parties with notice of this submission when the party serves its notice of  
20 designation of the record. Within five days after service of this notice, any  
21 other party may submit to the trial court the required deposit for the  
22 reporter’s transcript under rule 8.130(b)(1), the reporter’s written waiver of  
23 the deposit under rule 8.130(b)(3)(A), or a certified transcript of all of the  
24 proceedings designated by the party under rule 8.130(b)(3)(C).

25  
26 **(C)** Within 10 days after the superior court notifies the court reporter to prepare  
27 the transcript under rule 8.130(d)(2), the reporter must prepare and certify an  
28 original of the transcript and file the original and required number of copies  
29 in superior court.

30  
31 **(D)** If the appellant does not present its notice of designation as required under  
32 (A) or if any designating party does not submit the required deposit for the  
33 reporter’s transcript under rule 8.130(b)(1) or a permissible substitute under  
34 rule 8.130(b)(3) with its notice of designation or otherwise fails to timely do  
35 another act required to procure the record, the superior court clerk must serve  
36 the defaulting party with a notice indicating that the party must do the  
37 required act within two court days of service of the clerk’s notice or the court  
38 may impose one of the following sanctions:

39  
40 **(i)** If the defaulting party is the appellant, the court may dismiss the  
41 appeal; or

42  
43 **(ii)** If the defaulting party is the respondent, the court may proceed with  
44 the appeal on the record designated by the appellant.

1 **(e) Superior court clerk duties**

2  
3 Within two court days following the filing of a notice of appeal under this rule, the  
4 superior court clerk must:

- 5
- 6 (1) Serve the following on each party:
- 7
- 8 (A) Notification of the filing of the notice of appeal; and
- 9
- 10 (B) A copy of the register of actions, if any.
- 11
- 12 (2) Transmit the following to the reviewing court clerk:
- 13
- 14 (A) A copy of the notice of appeal;
- 15
- 16 (B) A copy of the appellant’s notice designating the record; and
- 17
- 18 (C) An electronic copy of the administrative record.
- 19

20 **(f) Briefing**

21 (1) Electronic filing

22 Unless otherwise ordered by the reviewing court, all briefs must be electronically  
23 filed.

24 (2) Time to serve and file briefs

25 Unless otherwise ordered by the reviewing court:

- 26
- 27 (A) An appellant must serve and file its opening brief within 25 days after the  
28 notice of appeal is served and filed.
- 29
- 30 (B) A respondent must serve and file its brief within 25 days after the appellant  
31 files its opening brief.
- 32
- 33 (C) An appellant must serve and file its reply brief, if any, within 15 days after  
34 the respondent files its brief.
- 35
- 36

37 (3) Contents and form of briefs

- 38 (A) The briefs must comply as nearly as possible with rule 8.204.
- 39
- 40 (B) If a designated reporter’s transcript has not been filed at least 5 days before  
41 the date by which a brief must be filed, an initial version of the brief may be  
42 served and filed in which references to a matter in the reporter’s transcript are  
43
- 44
- 45
- 46

**Scott Johnson**

---

**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 5:07 PM  
**To:** Scott Johnson  
**Subject:** Kings arena comment: noise mitigation

Mr. Johnson. The mitigation plan provided with the King's arena FEIR includes an illusory mitigation measure for the significant impact of noise levels above the 4.5 decibel ordinance level, as it applies only prospectively. CEQA requires enforceable mitigation measures which are not delayed into the future. Noise levels at existing residences will be above the ordinance level and thus remain at a significant level.

Kelly T. Smith  
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**Scott Johnson**

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**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 5:56 PM  
**To:** Scott Johnson  
**Subject:** Kings arena comment: Judicial council rules  
**Attachments:** Judicial Council rule on SB 743.pdf

Mr. Johnson: In response to the Kings arena FEIR, please find attached recent proposed rules from the Judicial Council attempting to implement SB 743.

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## Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688  
[www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

## INVITATION TO COMMENT

W14-02

<b>Title</b>	<b>Action Requested</b>
CEQA Actions: Rules to Implement Senate Bill 743	Review and submit comments by January 24, 2014
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Amend and renumber rule 3.1365 as rule 3.2205 and adopt a new rule 3.1365; renumber and amend rules 3.1366–3.1368 as rules 3.2206–3.2208; adopt rules 3.2200, 3.2220–3.2231, 3.2235–3.2237, 8.700–8703, and 8.705; amend rule 8.104; and repeal rule 8.497	July 1, 2014
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee, Hon. Patricia M. Lucas, Chair	Anne M. Ronan, 415-865-8933, <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>
Appellate Advisory Committee Hon. Raymond S. Ikola, Chair	Heather Anderson, 415-865-7691, <a href="mailto:heather.anderson@jud.ca.gov">heather.anderson@jud.ca.gov</a>

**Executive Summary and Origin**

These proposed rule changes are intended to fulfill the Judicial Council’s obligation under recently enacted legislation to adopt rules implementing expedited procedures for resolution of actions or proceedings under the California Environmental Quality Act attacking either “environmental leadership” projects, large projects that are required to meet specified environmental standards, and “Sacramento arena” projects relating to a new basketball arena and surrounding sports and entertainment complex planned for the City of Sacramento.

**Background**

In 2011 the Legislature enacted Assembly Bill 900 (Stats. 2011, ch. 354), creating an expedited judicial review procedure for CEQA cases relating to environmental leadership projects under which challenges to such projects were to be brought directly to the Court of Appeal with geographic jurisdiction over the project, and that court was to complete its review within 175

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

days. (Pub. Resources Code, § 21185.) AB 900 required the Judicial Council to adopt rules of court to implement this expedited review procedure and it did so, adopting rule 8.497.

To date, only three projects have been approved as environmental leadership projects entitled to expedited judicial review under the AB 900 provisions, none of which has yet been the subject of a court challenge under CEQA. In March 2013, however, following a court trial, the Superior Court of Alameda County held that the provision in AB 900 requiring that a petition for writ relief be filed only in a Court of Appeal is unconstitutional.

This year, the Legislature once again addressed the question of expedited CEQA review by the courts in environmental leadership cases, as well as in cases relating to a new sports arena in Sacramento. Senate Bill 743 (Stats. 2013, ch. 386),<sup>1</sup> among other things:

- Addresses the constitutional issue raised by the Superior Court of Alameda County's decision by eliminating the requirement that a CEQA challenge to a leadership project be brought directly in the Court of Appeal;
- Replaces the statutory provisions relating to the time for the Court of Appeal to act on leadership cases with a requirement that the Judicial Council adopt rules that require the actions or proceedings, including any potential appeals therefrom, be resolved, within 270 days of certification of the record of proceedings (SB 743, § 11; amending Pub. Resources Code, § 21185); and
- Similarly provides for expedited review process for projects relating to a new basketball arena and surrounding sports and entertainment complex planned for Sacramento (SB 743, 7; adding Pub. Resources Code, § 21168.6.6).<sup>2</sup>

### **The Proposal**

The proposed new rules and proposed rule amendments in this invitation to comment are designed to fulfill the Judicial Council's statutory obligation to adopt rules implementing the expedited judicial review procedure established by SB 743. Because SB 743 does not provide discrete time frames for actions and proceedings in the trial court and proceedings in the Court of Appeal, but instead provided a single time frame (270 days) in which both the trial court and appellate court proceedings were to be resolved, the Civil and Small Claims Advisory Committee and Appellate Advisory Committee worked together, with the assistance of subject matter experts from the courts and the bar, to develop and recommend the new rules required by SB 743.

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<sup>1</sup> A copy of this legislation can be accessed at:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB743&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=)

<sup>2</sup> The bill also contains some amendments to substantive CEQA provisions, as well as extensive provisions concerning the environmental review process applicable to the Kings basketball arena project in Sacramento and the limited remedies available for violation of that process. None of those provisions, however, appear pertinent to court administration or procedures.



The main provisions of the rule changes are discussed below and the full text is shown in the rule attachment. A couple important preliminary notes:

- There are many provisions in CEQA—such as those addressing the statute of limitations, the time for service of a petition on the respondent public agency and real party in interest, the contents of the administrative record, settlement meetings, and mediation—that were not specifically modified by SB 743. Some of those provisions, such as the content of the administrative record, are already addressed by the rules of court applying to all CEQA cases. Others, such as the statute of limitations and time for service, make it all but impossible to meet the 270-day time frame envisioned by the Legislature. SB 743 does provide, for the Sacramento arena cases, that the expedited procedures to be established by the Judicial Council will apply “notwithstanding any other law.” (SB 743, §7, at new § 21168.6.6(c).) But the new law does not have a similar provision regarding environmental leadership cases. (Cf. SB 743, §11, amending § 21185). In light of this distinction in the statute, the advisory committees concluded that while the council is authorized to adopt rules notwithstanding the provisions of the Public Resources Code or the Code of Civil Procedure in relation to Sacramento arena cases, it could not do so in relation to environmental leadership cases.
- In an effort to meet the time for issuance of a decision specified in SB 743, many of the time frames specified in proposed rules are extremely short and many deadlines follow closely on one another. The rules permit extensions of time “for good cause” and “to promote the interests of justice,” so, depending on the circumstances, in an individual case some of the deadlines specified in the proposed rules may be extended, causing the resolution of the case to extend beyond the 270-day period specified in the statute.

## **Proposed trial court rules**

### ***Starting the proceedings***

One way in which the Legislature has attempted to expedite the environmental review process for the Sacramento arena and the environmental leadership cases—in addition to mandating extremely fast court review—is to expedite the creation of the administrative record in such cases. In both types of cases, the public agency responsible for approving the project is also responsible for creating an electronic version of the administrative record as the project is being reviewed by the agency, and for certifying the final version of that record within five days of the agency’s issuing its statutorily mandated Notice of Determination.

SB 743 sets the certification of the record as the trigger for the 270-day period in which the trial court and Court of Appeal are to complete their review. The certification of the record, however, does not necessarily coincide with the commencement of a CEQA action in the courts—a petition can be filed up to 30 days after the Notice of Determination has been filed. (Pub.

Resources Code, § 21167.<sup>3</sup>) So up to 25 days of the 270-day period designated for the court's review of these CEQA decisions may have passed before the matter is within the jurisdiction of the court. The advisory committees attempted to address this issue by including in the proposed rules an incentive for parties to file their action more quickly in the form of extra briefing time for petitioners who file within 10 days of the issuance of a Notice of Determination (and so within 5 days of certification of the record and the beginning of the 270-day period). (See proposed rule 3.2227(a).)

An additional difficulty in meeting the 270-day timeline arises because the Public Resources Code provides that a party may take up to 10 business days after filing its petition to serve the respondent public agency and another 20 business days after that to serve any real party in interest. (§§ 21167.6(a), 21167.6.5(a).) Because, as noted above, SB 743 provides that the rules of court for the Sacramento arena cases are applicable notwithstanding any other law, the advisory committees concluded that the council may adopt rules in relation to Sacramento arena cases mandating that service be completed within one court day on all named parties, rather than over a two- to four-week period as permitted in the Public Resources Code. (See proposed rules 3.2222(c) and 3.2236.)

Because SB 743 does not provide similar authority with respect to leadership projects, the advisory committees concluded that they are unable to recommend a rule mandating faster service in those cases. Instead, the advisory committees propose a rule providing a strong incentive for earlier service in leadership cases by providing that if the petition is not served on the public agency and real party in interest within two days of filing, the time for filing petitioner's briefs on the merits in both the trial court and the appellate court will be decreased by one day for every additional two court days in which service is not completed. (See proposed rule 3.2222(d).)

### ***Other trial court rules***

The proposed rules require that, once started, the actions must proceed very swiftly through the trial court. Among other things, the proposed trial court rules would address the following:

- *Exemption from procedures for complex cases.* Exempt the Sacramento arena and leadership project statutes from the complex case rules, in order to eliminate any confusion about which case management conference (CMC) rules should apply, and exempt such cases from what can be a lengthy process of coordinating complex cases. (Proposed rule 3.2220(c).)
- *Time limits.* Allow extensions of time by the court only for good cause. Should the parties stipulate to extend time, the 270-period will essentially be extended for the length of that stipulated extension. The rule also provides for sanctions if any party fails to comply with the time requirements within the rules. (Proposed rule 3.2221.)

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<sup>3</sup> All statutory references hereafter are to the Public Resources Code unless otherwise indicated.

- *E-filing and service.* Require electronic filing in all courts where it can occur, require that all service on represented parties must be by electronic means, and provide that such service is exempted from the two-day extension of time provided in the Code of Civil Procedure. (Proposed rule 3.2222.)
- *Responsive pleadings.* Require that any pleadings filed in response to the petition, including motions to change venue, be served and filed within 10 days of service of the petition, and any opposition be filed within 10 days after that. (Proposed rule 3.2224.)
- *Administrative record.* Restate the statutory requirement that the administrative record in the Sacramento arena cases be lodged within 10 days of the filing of the petition (see SB 743, at § 21168.6.6(f)(8)) and require the same in environmental leadership cases. (Proposed rule 3.2225.)
- *Case management conference.* Require the court to hold a CMC within 30 days of the filing of the petition. (Proposed rule 3.2226(a).) Require that the parties file a joint CMC statement addressing various issues and that the court consider them all at the CMC, including:
  - Any outstanding issues regarding the administrative record;
  - Briefing schedules for any other motions that may need to be addressed before the hearing on the merits;
  - Identification of all issues to be included in the briefing on the merits;
  - Page limits for briefs on the merits, including whether each side may file more than one brief;
  - Final briefing schedule, should it be different than as provided in the rules;
  - Any potential for settlement discussions; and
  - Various other issues, including any the court deems appropriate.
 (Proposed rule 3.2226(c)–(d).) The committees invite specific comments on whether there are issues in addition to those set out in rule 3.2226(c) that should be considered at the CMC.
- *Briefing schedule.* Require that, unless otherwise ordered by the court, each side may only file a single brief on the merits, on the following schedule:
  - Petitioner has 25 days after CMC, or 35 days if the early-filing incentive applies;
  - Respondent and real parties have 25 days to file an opposition; and
  - Petitioner has 10 days to file a reply. (Proposed rule 3.2227(a).)
- *Hearings.* Require that the court hold a hearing on the merits within 80 days of the CMC. (Proposed rule 3.2227(b).) This time frame would result, in cases in which petitioner has earned extra briefing time through the early-filing incentive, in the hearing occurring within 10 days after the reply brief is due; the hearing would be as long as 20 days after the reply is due if no incentive applies. The committees invite comment on whether it would be sufficient for the court to have 5 days after the reply is due to hold the hearing, thus making it possible to add another 5 days to the incentive for early filing.

- *Judgments.* Provide that the court should issue its decision within 30 days of the hearing, and require that the decision be in writing. The proposed rules also clarify that, because these cases do not involve trials of questions of fact, they do not fall within the scope of Code of Civil Procedure section 632 regarding statements of decision. (Proposed rule 3.2228.)
- *Postjudgment motions.* Require that postjudgment motions be made on an extremely short time frame. In all cases governed by the rules, motions to void or correct the judgment under Code of Civil Procedure 473 would have to be served and filed within 5 days of notice of entry of judgment—the same time within which any notice of appeal has to be filed under the proposed appellate rule. (Proposed rule 3.2231(b).)<sup>4</sup> In Sacramento arena cases, motions for new trial and motions to vacate judgment would have to be brought within the same time frame. (Proposed rule 3.2231(b).) The proposed rules do not shorten the deadline for filing motions for new trial and for motions to vacate judgment in environmental leadership cases, because such rules would be inconsistent with statutes providing 15 days in which to file such motions. (See Code Civ. Proc., §§657 (motion for new trial) and 663 (motion to vacate judgment).)

### **Court of Appeal rules**

As with the trial court rules, the proposed rules for the Court of Appeal require that actions covered by SB 743 proceed very swiftly. Among other things, the proposed rules would address the following:

- *Application.* The proposed rules would only govern appeals and writ proceedings in the Court of Appeal to review a superior court judgment or order in an action or proceeding governed by the provisions of SB 743. (Proposed rule 8.700(b).) These rules would not cover:
  - Petitions for writs seeking initial review in the Court of Appeal of an EIR or project approval under CEQA for the Sacramento arena project or leadership projects. Although the Court of Appeal has concurrent jurisdiction with the superior court in such original proceedings, the usual practice is to for matters to be reviewed in the superior court first.
  - Petitions for review in the Supreme Court. Early versions of SB 743 included provisions specifying time frames for petitions for review in the California Supreme Court relating to the Sacramento arena project and leadership projects. These provisions were taken out of the version of SB 743 that was ultimately enacted. The advisory committees concluded that this reflected legislative intent that the 270-day time period included in SB 743 was not intended to cover any potential petition for review process and, thus, no provisions addressing that process are included in these proposed rules.

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<sup>4</sup> The environmental leadership cases can be encompassed by the rule shortening time on motions under Code of Civil Procedure section 473 because those motion are subject to the notice provisions of Code of Civil Procedure section 1005, which expressly permits exceptions as provided by other laws. (Code. Civ. Proc., § 1005(b).)

The proposed rules also specify that, except as provided in these special rules for the Sacramento arena and leadership cases, the general rules on appeals and writ proceedings govern. (Proposed rules 8.702(a) and 8.703(a).) Given this approach, the advisory committees would particularly appreciate comments on whether there are additional topics that should be addressed in the proposed rules rather than be governed by the general appellate rules.

- *Service and filing.* The proposed rules would generally require that all service be by personal delivery, electronic service, express mail, or other means reasonably calculated to ensure delivery of the document not later than the close of the business day after the document is filed or lodged with the court. The rules would also permit the court to order that all documents be electronically filed and be served electronically on parties that have stipulated to electronic service. As in the trial court rules, parties represented by counsel would be deemed to have stipulated to electronic service and the rules would exempt electronic service under these rules from the two-day extension of time provided in the Code of Civil Procedure. (Proposed rule 8.701.)
- *Notice of appeal.* As part of the attempt to meet the 270-day time period specified by SB 743, the proposed rules would set an extremely short deadline for filing a notice of appeal. A notice of appeal would have to be filed within 5, rather than the usual 60, days after the superior court clerk or a party serves a document entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment. (Proposed rule 8.702(b).) Note that this is the same time period for filing postjudgment motions in Sacramento arena cases and, in an environmental leadership case, the deadline for filing a notice of appeal may be earlier than the deadline for filing a motion for new trial or a motion to vacate. The committees invite comment on whether the time for filing the notice of appeal is feasible, including whether the time should be 5 *court* days. The committees also invite comment on how best to address the potentially overlapping deadlines for filing postjudgment motions and notices of appeal in environmental leadership cases, including by:
  - Adding an advisory committee comment referencing the fact that the deadline for filing notices of appeal may be earlier than the time for some posttrial motions in environmental leadership cases;
  - Extending the time for filing the notice of appeal in environmental leadership cases to correspond with the deadline for filing motions to vacate or motions for new trial, even though this will make it even less likely that the court will be able to meet the 270-day deadline in such cases; or
  - Making some other change in the proposed rules.
- *Extensions of time to appeal.* Like current rule 8.108(b) and (c), the proposed rules would extend the time to file a notice of appeal when a new trial motion or motion to vacate a judgment is timely filed and denied. However, the proposed rule provides for a much shorter extension of this time period—5, rather than 30, days. (Proposed rule 8.702(c).) The committees would particularly appreciate comments on whether this rule should also address

extensions related to motions to reconsider an appealable order, or whether these do not arise in the types of cases subject to SB 743.

- *Record on appeal.* The proposed rules would make several changes to the general rules relating to records on appeal, including:
  - Requiring that parties proceed by appendix in lieu of using a clerk’s transcript;
  - Requiring that the appellant’s notice designating the record be filed with the notice of appeal, which is 10 days earlier than in regular appeals;
  - Requiring that, if the appellant wants a record of the oral proceedings, a reporter’s transcript be used. In regular appeals, appellants have other options, such as an agreed statement, that can be used instead of a reporter’s transcript;
  - Requiring that the reporter’s transcript be prepared within 10 days after the court notifies the reporter to prepare the transcript, which is 20 days earlier than in regular appeals. Note that under rule 8.130, the court notifies the reporter to prepare the transcript as soon as the required deposit or permissible alternative is provided to the court and that deposit is supposed to accompany the designation. Thus, if the appellant makes the deposit at the time both the notice of appeal and designation are filed, as required, the reporter’s transcript should be prepared around 10 to 15 days after the notice of appeal is filed.
  - Giving the appellant only 5, rather than 15, days’ notice to cure a default in making the required deposit for a designated reporter’s transcript. (Proposed rule 8.702(d).)
  
- *Superior court clerk duties relating to appeals.* The proposed rules would require the superior court clerk to transmit items to the parties and to the reviewing court very quickly—within two court days after the notice of appeal is filed—including:
  - Sending the register of actions to the parties to assist them preparing appendices; and
  - Sending an electronic copy of the administrative record to the Court of Appeal. (Proposed rule 8.702(e).)
  
- *Briefs on appeal.* The proposed rules would establish a very quick briefing schedule; unless otherwise ordered by the reviewing court:
  - Appellant would be required to serve and file the opening brief within 25 days after the notice of appeal is served and filed;
  - Respondent would be required to file its brief within 25 days after the appellant files its opening brief; and
  - Appellant would be required to file any reply brief within 15 days after respondent files its brief. (Proposed rule 8.702(f)(2).)

As in the trial court rules, the appellate rules provide that if the parties stipulate to extend the time to file briefs, the 270-period will be extended for the length of the stipulated extension. The rule also provides that if a party fails to timely file a brief, they will have only 5 days from service of notice by the clerk to cure that default or sanctions may be imposed. (Proposed rule 8.702(f)(4) and (5).)



In addition, the rules would:

- Require briefs to be electronically filed unless otherwise ordered by the reviewing court (proposed rule 8.702(f)(1));
  - Allow parties to submit briefs that do not contain citations to the reporter’s transcript if it is not yet available (proposed rule 8.702(f)(3)(B)); and
  - Require parties to submit e-brief versions of their briefs within five days after filing the brief (proposed rule 8.702(f)(3)(C)).
- *Oral argument on appeal.* The proposed rules would require that, unless otherwise ordered by the reviewing court, oral argument would be set within 45 days of the date the last reply brief is due. This time period is intended to reflect that it is the practice of the reviewing courts to review the briefs and the record and analyze the issues prior to oral argument. (Proposed rule 8.702(g).)
  - *Writ proceedings.* The proposed rules would provide that, in general, the regular rules relating to writ proceedings in the Court of Appeal would apply in Sacramento arena or leadership project cases. However, the proposed rules would require that a writ petition be filed very quickly—within 30 days after service of notice of entry of the superior court judgment or order being challenged. (Proposed rule 8.703.)
  - *Special fee.* Public Resources Code section 21183(e), which was enacted in 2011 as part of AB 900, provides that the applicant for certification of a project as a leadership project “agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the Rules of Court adopted by the Judicial Council.” The Judicial Council adopted rule 8.497(i) to implement that statutory provision. Because the committees are recommending the repeal of rule 8.497, the provisions relating to this fee would be moved to a new rule in this chapter. (Proposed rule 8.705.) The proposed new rule also includes references to appeals as well as writ proceedings, and the sanction of proceeding in the superior court if the fee is not paid has been deleted.

### **Alternatives Considered**

In light of the statutory provision requiring the council to develop rules providing for resolution of the subject proceedings within 270 days, the advisory committees considered shorter time frames for setting the case management conference, for parties’ filing briefs on the merits in the trial courts and appellate briefs in the Courts of Appeal, for the trial court to make its decision after the hearing, and for the Courts of Appeal to consider a case before oral argument. However, the committees concluded that the time frames in the proposed rules are already so short as to be unrealistic and declined to propose anything shorter. These cases will be, by definition, about large and complex projects. It would be a disservice to the parties and to the

public to require any shorter time for the parties to brief the issues or for the courts' decision-making process.

**Implementation Requirements, Costs, and Operational Impacts**

Implementing the new expedited procedures will generate costs and operational impacts for both the trial courts and Courts of Appeal in which the proceedings governed by these rules are filed. While the \$100,000 fee for each appeal authorized by statute should offset these additional costs in the Courts of Appeal, no such fee is authorized in the trial courts.



## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- The proposed rules provide petitioners who file a court action within 10 days from issuance of the Notice of Determination with 10 extra days for filing their brief on the merits. (See rule 3.2227(a).) Should an additional 5 days be added to that incentive, in order to make it more likely that cases will be filed quickly, but leaving the possibility of only 5 days between the filing of a reply brief and hearing by the trial court?
- Should the incentive for early filing be referred to in the rule regarding filing and service (rule 3.2222)?
- Is the case management conference (CMC) set too early under the proposed rules (see rule 3.2226)? Should another 5 or 10 days be provided to make sure all parties have been served and can participate in the joint preparation of the CMC statement? If yes, where else in the process could time be shortened in order to try to meet the goal of resolution of the action within 270 days?
- Are there issues or items in addition to those set out in rule 3.2226(c) that should be included in the matters to be considered at the CMC?
- Are there any additional topics that should be addressed in the proposed appellate rules for Sacramento arena and leadership projects rather than be governed by the general appellate rules?
- Is the 5-day time period for filing the notice of appeal feasible? Should this time period be changed to 5 *court* days or some other period?
- Is there any way to address within these rules the issues that may arise in environmental leadership cases because the proposed time for filing a notice of appeal comes before the deadline for filing certain posttrial motions? Should an advisory committee comment be added referencing this? Should the time for filing the notice of appeal be extended to correspond with the deadline for filing motions to vacate or motions for new trial?

The advisory committees also seek comments from *courts* on the following cost and implementation matter:

- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- What costs will the trial courts incur in implementing the underlying statutes and these rules?

**Attachments and Links**

1. Proposed trial court rules, at pages 13–24.
2. Proposed appellate court rules, at pages 25–37
3. SB 743 may be viewed at

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB743&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=)

Rule 3.1365 of the California Rules of Court would be renumbered as rule 3.2205 and a new rule 3.1365 would be adopted; rules 3.1366–3.1368 would be amended and renumbered as rules 3.2206–3.2208; rules 3.2200, 3.2220–3.2231, 3.2235–3.2237, 8.700–8.703, and 8.705 would be adopted; rule 8.104 would be amended; and rule 8.497 would be repealed, effective July 1, 2014, to read:

**Title 3. Civil Rules**

**Division 11. Law and Motion**

**Chapter ~~8~~ 7. ~~Other~~ Civil Petitions**

**Rule 3.1365. Petitions Under the California Environmental Quality Act**

Rules for petitions for relief under the California Environmental Quality Act have been renumbered and moved to Division 22 of these rules, beginning with rule 3.2200.

**Advisory Committee Comment**

Former rule 3.1365 on the form and format of administrative record lodged in a CEQA proceeding has been renumbered as rule 3.2205.

**Division 22. Petitions Under the California Environmental Quality Act**

**Chapter 1. General Provisions**

**Rule 3.2200. Application**

Except as otherwise provided in chapter 2 for actions under Public Resources Code sections 21168.6.6 and 21178–21189.3, the rules in this chapter apply to all actions under the California Environmental Quality Act (CEQA) as set forth in Division 13 of the Public Resources Code.

**Rule ~~3.1365~~ 3.2205. Form and format of administrative record lodged in a CEQA proceeding**

\* \* \* \*

**Rule ~~3.1366~~ 3.2206. Lodging and service**

The party preparing the administrative record must lodge it with the court and serve it on each party. A record in electronic format must comply with rule 3.~~1367~~2207. A record in paper format must comply with rule 3.~~1368~~2208. If the party preparing the administrative record elects, is required by law, or is ordered to prepare an electronic version of the record, (1) a court may require the party to lodge one copy of the record in paper format, and (2) a party may request the

1 record in paper format and pay the reasonable cost or show good cause for a court order  
 2 requiring the party preparing the administrative record to serve the requesting party with one  
 3 copy of the record in paper format.

4  
 5  
 6 **Rule 3.1367 3.2207. Electronic format**

7  
 8 **(a) Requirements**

9  
 10 The electronic version of the administrative record lodged in the court in a proceeding  
 11 brought under the California Environmental Quality Act must be:

- 12  
 13 (1) In compliance with rule ~~3.1365~~2205;
- 14  
 15 (2) Created in portable document format (PDF) or other format for which the software  
 16 for creating and reading documents is in the public domain or generally available at a  
 17 reasonable cost;
- 18  
 19 (3) Divided into a series of electronic files and include electronic bookmarks that  
 20 identify each part of the record and clearly state the volume and page numbers  
 21 contained in each part of the record;
- 22  
 23 (4) Contained on a CD-ROM, DVD, or other medium in a manner that cannot be  
 24 altered; and
- 25  
 26 (5) Capable of full text searching.

27  
 28 The electronic version of the index required under rule ~~3.1365~~2205(b) may include  
 29 hyperlinks to the indexed documents.

30  
 31 **(b) Documents not included**

32  
 33 Unless otherwise required by law, any document that is part of the administrative record  
 34 and for which it is not feasible to create an electronic version may be provided in paper  
 35 format only. Not feasible means that it would be reduced in size or otherwise altered to  
 36 such an extent that it would not be easily readable.

37  
 38  
 39 **Rule 3.1368 3.2208. Paper format**

40  
 41 \* \* \* \*

**Chapter 2. California Environmental Quality Act Proceedings under Public Resources Code sections 21168.6.6 and 21178–21189.3**

**Article 1. General Provisions**

**Rule 3.2220. Definitions and application**

**(a) Definitions**

As used in this chapter:

(1) An “environmental leadership development project” or “leadership project” means a project certified by the Governor under Public Resources Code sections 21182–21184.

(2) The “Sacramento entertainment and sports center project” or “Sacramento arena project” means an entertainment and sports center project as defined by Public Resources Code section 21168.6.6, for which the proponent provided notice of election to proceed under that statute described in section 21168.6.6(j)(1).

**(b) Proceedings governed**

The rules in this chapter govern actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report or the grant of any project approvals for the Sacramento arena project or an environmental leadership development project. Except as otherwise provided in Public Resources Code sections 21168.6.6 and 21178–21189.3 and these rules, the provisions of the Public Resources Code and the CEQA Guidelines adopted by the Natural Resources Agency (Cal. Code Regs., tit. 14, § 15000 et seq.) governing judicial actions or proceedings to attack, review, set aside, void, or annul acts or decisions of a public agency on the grounds of noncompliance with the California Environmental Quality Act and the rules of court generally apply in proceedings governed by these rules.

**(c) Complex case rules**

Any action or proceeding governed by these rules is exempted from the rules regarding complex cases.

**Rule 3.2221. Time**

**(a) Extensions of time**

The court may order extensions of time only for good cause and in order to promote the interests of justice.

1  
2 **(b) Extensions of time by parties**  
3

4 If the parties stipulate to extend the time for performing any acts in actions governed by  
5 these rules, they are deemed to have agreed that the time for resolving the action may be  
6 extended beyond 270 days by the number of days by which the performance of the act has  
7 been stipulated to be extended, and to that extent to have waived any objection to  
8 noncompliance with the deadlines for completing review stated in Public Resources Code  
9 sections 21168.6.6(c)–(d) and 21185. Any such stipulation must be approved by the court.

10  
11 **(c) Sanctions for failure to comply with rules**  
12

13 If a party fails to comply with any time requirements provided in these rules or ordered by  
14 the court, the court may issue an order to show cause why one of the following sanctions  
15 should not be imposed:

16  
17 (A) Reduction of time otherwise permitted under these rules for the performance of other  
18 acts by that party;

19  
20 (B) If failure to comply is by petitioner or plaintiff, dismissal of the petition;

21  
22 (C) If the failure to comply is by respondent or a real party in interest, removal of the  
23 action from the expedited procedures provided under Public Resources Code  
24 sections 21168.6.6(c)–(d) and 21185 and these rules; or

25  
26 (D) Any other sanction that the court finds appropriate.  
27  
28

29 **Rule 3.2222. Filing and service**  
30

31 **(a) Electronic filing**  
32

33 All pleadings and other documents filed in actions or proceedings governed by this chapter  
34 must be filed electronically unless the action or proceeding is in a court that does not  
35 provide for electronic filing of documents.  
36

37 **(b) Service**  
38

39 Other than the petition, which must be served personally, all documents that the rules in  
40 this chapter require be served on the parties must be served personally or electronically.  
41 All parties represented by counsel are deemed to have agreed to accept electronic service.  
42 All self-represented parties may agree to such service.  
43  
44

1 **(c) Service of petition in action regarding Sacramento arena project**

2  
3 Service of the petition or complaint in an action governed by these rules and relating to a  
4 Sacramento arena project must be made according to the rules in article 2.

5  
6 **(d) Service of petition in action regarding environmental leadership project**

7  
8 If the petition or complaint in an action governed by these rules and relating to an  
9 environmental leadership project is not personally served on any respondent public agency,  
10 any real party in interest, and the Attorney General within two court days following filing  
11 of the petition, the time for filing petitioner’s briefs on the merits in rule 3.2227(a) and rule  
12 8.702(e), will be decreased by one day for every additional two court days in which service  
13 is not completed unless otherwise ordered by the court for good cause shown.

14  
15 **(e) Exemption from extension of time**

16  
17 The extension of time provided in Code of Civil Procedure section 1010.6 for service  
18 completed by electronic means does not apply to any service in actions governed by these  
19 rules.

20  
21  
22 **Rule 3.2223. Petition**

23  
24 In addition to any other applicable requirements, the petition must:

25  
26 (1) On the first page, directly below the case number, indicate that the matter is either a  
27 “Sacramento Arena CEQA Challenge” or an “Environmental Leadership CEQA  
28 Challenge”;

29  
30 (2) State that either:

31  
32 (A) The proponent of the project at issue provided notice to the lead agency that it  
33 was proceeding under Public Resources Code section 21168.6.6 and is subject  
34 to this rule; or

35  
36 (B) That the project at issue was certified by the Governor as a leadership project  
37 under Public Resources Code sections 21182–21184 and is subject to this rule;

38  
39 (3) If a leadership project, provide notice that the person or entity that applied for  
40 certification of the project as a leadership project must, if the matter goes to the  
41 Court of Appeal, make the payments required by Public Resources Code section  
42 21186(h); and

43  
44 (4) Be verified.

45

1  
2 **Rule 3.2224. Response to petition**  
3

4 **(a) Responsive pleadings**  
5

6 (1) The respondent and any real party in interest, within 10 days after service of the  
7 petition or complaint on that party or within the time ordered by the court, must  
8 serve and file:  
9

10 (A) Any answer to the petition;

11  
12 (B) Any motion challenging the sufficiency of the petition, including any motion  
13 to dismiss the petition;  
14

15 (3) Any other response to the petition; or

16  
17 (4) Any motion to change venue.  
18

19 (2) Any such answer, motion, or other response from the same party must be filed  
20 concurrently.  
21

22 **(b) Opposition**  
23

24 Any opposition or other response to a motion challenging the sufficiency of the petition or  
25 to change venue must be served and filed within 10 days after the motion is served.  
26  
27

28 **Rule 3.2225. Administrative record**  
29

30 **(a) Lodging and service**  
31

32 Within 10 days after the petition is served on the lead public agency, that agency must  
33 lodge the certified final administrative record in electronic form with the court and serve  
34 notice on the petitioner and real party in interest that the record has been lodged with the  
35 court. Within that same time, the agency must serve a copy of the administrative record in  
36 electronic form on any petitioner and real party in interest who has not already been  
37 provided a copy.  
38

39 **(b) Paper copy of record**  
40

41 Upon request and payment of the reasonable cost of preparation, or upon order of the court  
42 for good cause shown, the lead agency must provide a party with the record in paper  
43 format.  
44  
45



1 **(c) Motions regarding the record**

2  
3 Unless otherwise ordered by the court:

- 4
- 5 (1) Any request to augment or otherwise change the contents of the administrative  
6 record must be made by motion served and filed no later than the filing of that  
7 party's initial brief.
- 8
- 9 (2) Any opposition or other response to the motion must be served and filed within 10  
10 days after the motion is filed.
- 11
- 12 (3) Any motion regarding the record will be heard at the time of the hearing on the  
13 merits of the petition unless the court orders otherwise.
- 14

15

16 **Rule 3.2226. Initial case management conference**

17

18 **(a) Timing of conference**

19

20 The court should hold an initial case management conference within 30 days of the filing  
21 of the petition or complaint.

22

23 **(b) Notice**

24

25 The petitioner must provide notice of the case management conference to the respondent,  
26 the real party in interest, and any responsible agency or party to the action that has been  
27 served prior to the case management conference within one court day of receiving notice  
28 from the court or at time of service of the petition or complaint, whichever is later.

29

30 **(c) Subjects for consideration**

31

32 At the conference, the court should consider the following:

33

- 34 (1) Whether all parties named in the petition or complaint have been served;
- 35
- 36 (2) Whether a list of responsible agencies has been provided and notice provided to  
37 each;
- 38
- 39 (3) Whether all responsive pleadings have been filed and, if not, when they must be  
40 filed, and whether any hearing is required to address them;
- 41
- 42 (4) Whether severance, bifurcation, or consolidation with other actions is desirable and,  
43 if so, a relevant briefing schedule;
- 44
- 45 (5) Whether to appoint liaison or lead counsel, and either set a briefing schedule on this  
46 issue or actually appoint counsel;

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- (6) Whether the administrative record has been certified and served on all parties, whether there are any issues with it, and whether the court wants to receive a paper copy;
- (7) Whether the parties anticipate any motions prior to the hearing on the merits, concerning discovery, injunctions, or other matters, and, if so, a briefing schedule for these motions;
- (8) What issues the parties intend to raise in their briefs on the merits and whether any limitation of issues to be briefed and argued is appropriate;
- (9) Whether a schedule for briefs on the merits different from the schedule provided in these rules is appropriate;
- (10) Whether the submission of joint briefs on the merits is appropriate and the page limitations, whether aggregate or per brief;
- (11) When the hearing on the merits of the petition will be held and the amount of time it will require;
- (12) The potential for settlement and whether a schedule for settlement conferences or alternative dispute resolution should be set;
- (13) Any stipulations between the parties;
- (14) Whether a further case management conference should be set; and
- (15) Any other matters that the court finds appropriate or that should be addressed in the court's case management order.

**(d) Joint case management conference statements**

At least three court days before the case management conference, the petitioner and all parties that have been served with the petition must serve and file a joint case management conference statement that address the issues identified in (c) and any other pertinent issues.

**(e) Preparation for the conference**

At the conference, lead counsel for each party and each self-represented party must appear by telephone or personally, must be familiar with the case, and must be prepared to discuss and commit to the party's position on the issues listed in (c).

1 **Rule 3.2227. Briefing and hearing**

2  
3 **(a) Briefing schedule**

4  
5 Unless otherwise ordered by the court:

- 6  
7 (1) The petitioner must serve and file its brief within 25 days after the case management  
8 conference, unless petitioner served and filed the petition within 10 days of the  
9 public agency’s issuance of its Notice of Determination, in which case the petitioner  
10 must file and serve its brief within 35 days after the case management conference.  
11  
12 (2) Within 25 days after the petitioner’s brief is filed, the respondent public agency  
13 must—and any real party in interest may—serve and file a respondent’s brief.  
14 Respondents and real parties must file a single joint brief unless otherwise ordered  
15 by the court.  
16  
17 (3) Within 5 days after the respondent’s brief is filed, the parties must jointly file an  
18 appendix of excerpts that contains the documents or pertinent excerpts of the  
19 documents cited in the parties’ briefs.  
20  
21 (4) Within 10 days after the respondent’s brief is filed, the petitioner may serve and file  
22 a reply brief.

23  
24 **(b) Hearing**

- 25  
26 (1) The hearing should be held within 80 days of the case management conference,  
27 extended by the number of days to which the parties have stipulated to extend the  
28 briefing schedule.  
29  
30 (2) If the court has, within 90 days of the filing of the petition or complaint, set a hearing  
31 date, the provision in Public Resources Code section 21167.4 that petitioner request  
32 a hearing date within 90 days is deemed to have been met and no further request is  
33 required.  
34  
35

36 **Rule 3.2228. Judgment**

37  
38 The court should issue its decision and final order, writ, or judgment within 30 days of the  
39 completion of the hearing in the action. The court must include a written statement of the factual  
40 and legal basis for its decision. Code of Civil Procedure section 632 does not apply to actions  
41 governed by the rules in this division.  
42

43  
44 **Rule 3.2229. Notice of settlement**

45  
46 The petitioner or plaintiff must immediately notify the court if the case is settled.

1  
2  
3 **Rule 3.2230. Settlement procedures and statement of issues**  
4

5 In cases governed by the rules in this chapter, unless otherwise ordered by the court, the  
6 procedures described in Public Resources Code section 21167.8, including the filing of a  
7 statement of issues, are deemed to have been met by the parties addressing the potential for  
8 settlement and narrowing of issues within the case management conference statement and  
9 discussing those points as part of the case management conference.

10  
11 **Rule 3.2231. Postjudgment motions**  
12

13 **(a) Exemption from statutory provisions**  
14

15 In any actions governed by the rules in this article, any postjudgment motion except for a  
16 motion for attorney’s fees and costs is governed by this rule. Such motions are exempt  
17 from the timing requirements otherwise applicable to postjudgment motions under Code of  
18 Civil Procedure section 1005. Motions in Sacramento arena cases are also exempt from the  
19 timing and procedural requirements of Code of Civil Procedure sections 659 and 663.  
20

21 **(b) Time for postjudgment motions**  
22

23 **(1) Time for motions under Code of Civil Procedure section 473**  
24

25 Moving party must serve and file any motion before the earlier of:  
26

27 **(A) Five days after the court clerk’s mailing to the moving party a document**  
28 **entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment,**  
29 **showing the date either was served; or**  
30

31 **(B) Five days after the moving party is served by any party with a written notice of**  
32 **judgment or a file-stamped copy of the judgment, accompanied by a proof of**  
33 **service.**  
34

35 **(2) Time for motions for new trial or motions to vacate judgment**  
36

37 Moving party in Sacramento arena cases must serve and file motion before the  
38 earlier of:  
39

40 **(A) Five days after the court clerk’s mailing to the moving party a document**  
41 **entitled “Notice of Entry” of judgment or a file-stamped copy of the judgment,**  
42 **showing the date either was served; or**  
43

44 **(B) Five days after the moving party is served by any party with a written notice of**  
45 **judgment or a file-stamped copy of the judgment, accompanied by a proof of**  
46 **service.**

1  
2 **(c) Memorandum of points and authorities**

3  
4 A memorandum in support of a postjudgment motion may be no longer than 15 pages.

5  
6 **(d) Opposition to motion**

7  
8 Any opposition to the motion must be served and filed within five days of service of the  
9 moving papers and may be no longer than 15 pages.

10  
11 **(e) Reply**

12  
13 Any reply brief must be served and filed within two court days of service of the opposition  
14 papers and may be no longer than five pages.

15  
16 **(f) Hearing and decision**

17  
18 The court may set a hearing on the motion at its discretion. The court should issue its  
19 decision on the motion within 15 days of the filing of the motion.

20  
21  
22 **Article 2. CEQA Challenges to Approval of Sacramento Arena Project**

23  
24 **Rule 3.2235. Application**

25  
26 This article governs any action or proceeding brought to attack, review, set aside, void, or annul  
27 the certification of the environmental impact report or any project approvals for the Sacramento  
28 arena project.

29  
30 **Rule 3.2236. Service of petition**

31  
32 **(a) Respondent**

33  
34 Unless the respondent public agency has agreed to accept service of summons  
35 electronically, the petitioner or plaintiff must personally serve the petition or complaint on  
36 the respondent public agency within one court day after the date of filing.

37  
38 **(b) Real parties in interest**

39  
40 The petitioner or plaintiff must serve the petition or complaint on any real party in interest  
41 named in the pleading within three court days after the date of filing.

42  
43 **(c) Attorney General**

44  
45 The petitioner or plaintiff must serve the petition or complaint on the Attorney General  
46 within one court day after the date of filing.

1  
2 **(d) Responsible agencies**

3  
4 The petitioner or plaintiff must serve the petition or complaint on any responsible agencies  
5 or public agencies with jurisdiction over a natural resource affected by the project within  
6 two court days of receipt of a list of such agencies from respondent lead public agency.

7  
8 **(e) Proof of service**

9  
10 The petitioner or plaintiff must file proof of service on each respondent, real party in  
11 interest, or agency within one court day of completion of service.

12  
13 **Rule 3.2237. List of responsible agencies**

14  
15 Respondent public agency must provide the petitioner or plaintiff, not later than three court days  
16 following service of the petition or complaint on the public agency, with a list of responsible  
17 agencies and any public agency having jurisdiction over a natural resource affected by the  
18 project.

19  
20  
21 **Title 8. Appellate Rules**

22  
23 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

24  
25 **Chapter 2. Civil Appeals**

26  
27 **Article 1. Taking the Appeal**

28  
29 **Rule 8.104. Time to appeal**

30  
31 **(a) Normal time**

32  
33 (1) Unless a statute, ~~or~~ rule 8.108, or rule 8.702 provides otherwise, a notice of appeal  
34 must be filed on or before the earliest of:

35  
36 (A) 60 days after the superior court clerk serves on the party filing the notice of  
37 appeal a document entitled “Notice of Entry” of judgment or a file-stamped  
38 copy of the judgment, showing the date either was served;

39  
40 (B) 60 days after the party filing the notice of appeal serves or is served by a party  
41 with a document entitled “Notice of Entry” of judgment or a file-stamped copy  
42 of the judgment, accompanied by proof of service; or

43  
44 (C) 180 days after entry of judgment.

45  
46 (2) – (3) \* \* \*

1  
2 (b)–(e) \* \* \*

3  
4  
5 Chapter 8. Miscellaneous Writs

6  
7 ~~Rule 8.497. Review of California Environmental Quality Act cases under Public Resources~~  
8 ~~Code sections 21178–21189.3~~

9  
10 (a)—Application

11  
12 (1)—This rule governs actions or proceedings in the Court of Appeal alleging that a public  
13 agency has approved or is undertaking an environmental leadership development  
14 project in violation of the California Environmental Quality Act. As used in this rule,  
15 an “environmental leadership development project” or “leadership project” means a  
16 project certified by the Governor under Public Resources Code sections 21182–  
17 21184.

18  
19 (2)—Except as otherwise provided in Public Resources Code sections 21178–21189.3 and  
20 this rule, the provisions of the Public Resources Code and the CEQA Guidelines  
21 adopted by the Natural Resources Agency (Cal. Code Regs., tit. 14, § 15000 et seq.)  
22 governing judicial actions or proceedings to attack, review, set aside, void, or annul  
23 acts or decisions of a public agency on the grounds of noncompliance with the  
24 California Environmental Quality Act apply in proceedings governed by this rule.

25  
26 (b)—Service

27  
28 Except as otherwise provided by law, all documents that this rule requires be served on the  
29 parties must be served by personal delivery, electronic service, express mail, or other  
30 means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013 and  
31 reasonably calculated to ensure delivery of the document to the parties not later than the  
32 close of the business day after the document is filed or lodged with the court.

33  
34 (c)—Petition

35  
36 (1)—*Service and filing*

37  
38 A person alleging that a public agency has approved or is undertaking a leadership  
39 project in violation of the California Environmental Quality Act must serve and file a  
40 petition for a writ of mandate in the Court of Appeal with geographic jurisdiction  
41 over the project.

42  
43 (2)—*Form and contents*

44  
45 In addition to any other applicable requirements, the petition must:  
46

1           (A) ~~State that the project at issue was certified by the Governor as a leadership~~  
 2           ~~project under Public Resources Code sections 21182-21184 and is subject to~~  
 3           ~~this rule;~~

4  
 5           (B) ~~Provide notice that the person or entity that applied for certification of the~~  
 6           ~~project as a leadership project must make the payments required by (h);~~

7  
 8           (C) ~~Include any other claims required to be concurrently filed by the petitioner~~  
 9           ~~under Public Resources Code section 21185; and~~

10  
 11           (D) ~~Be verified.~~

12  
 13 **(d) ~~Administrative record~~**

14  
 15           (1) ~~*Lodging and service*~~

16  
 17           ~~Within 10 days after the petition is served on the lead public agency, that agency~~  
 18           ~~must lodge the certified final administrative record with the Court of Appeal and~~  
 19           ~~serve on the parties a copy of the certified final administrative record and notice that~~  
 20           ~~the record has been lodged with the court.~~

21  
 22           (2) ~~*Form and contents*~~

23  
 24           (A) ~~Unless otherwise ordered by the Court of Appeal, the lead agency must lodge~~  
 25           ~~with the court one copy of the record in electronic format and one copy in~~  
 26           ~~paper format and serve on each party one copy of the record in electronic~~  
 27           ~~format. The record in electronic format must comply with rules 3.1365 and~~  
 28           ~~3.1367. The record in paper format must comply with rules 3.1365 and 3.1368.~~

29  
 30           (B) ~~A party may request the record in paper format and pay the reasonable cost or~~  
 31           ~~show good cause for a court order requiring the lead agency to serve the~~  
 32           ~~requesting party with one copy of the record in paper format.~~

33  
 34           (C) ~~The record must include all of the materials specified in Public Resources~~  
 35           ~~Code section 21167.6.~~

36  
 37           (3) ~~*Motions regarding the record*~~

38  
 39           (A) ~~Any request to augment or otherwise change the contents of the administrative~~  
 40           ~~record must be made by motion in the Court of Appeal. The motion must be~~  
 41           ~~served and filed within 25 days after the record is served.~~

42  
 43           (B) ~~Any opposition or other response to the motion must be served and filed within~~  
 44           ~~10 days after the motion is filed.~~



(C) ~~The Court of Appeal may appoint a special master to hear and decide any motion regarding the record. The order appointing the special master may specify the time within which the special master is required to file a decision.~~

~~(e) — Notice of settlement~~

~~The petitioner must immediately notify the court if the case is settled.~~

~~(f) — Response to petition~~

~~(1) — Within 25 days after service of the administrative record or within the time ordered by the court, the respondent and any real party in interest must serve and file any answer to the petition; any motion challenging the sufficiency of the petition, including any motion to dismiss the petition; and any other response to the petition. Any such answer, motion, or other response from the same party must be filed concurrently.~~

~~(2) — Any opposition or other response to a motion challenging the sufficiency of the petition must be served and filed within 10 days after the motion is filed.~~

~~(g) — Briefs~~

~~(1) — Service and filing~~

~~Unless otherwise ordered by the court:~~

~~(A) — The petitioner must serve and file its brief within 40 days after the administrative record is served.~~

~~(B) — Within 30 days after the petitioner’s brief is filed, the respondent public agency must — and any real party in interest may — serve and file a respondent’s brief.~~

~~(C) — Within 20 days after the respondent’s brief is filed, the petitioner may serve and file a reply brief.~~

~~(2) — Form and contents~~

~~The briefs must comply as nearly as possible with rule 8.204.~~

~~(h) — Certificate of Interested Entities or Persons~~

~~(1) — Each party other than a public agency must comply with the requirements of rule 8.208 concerning serving and filing a *Certificate of Interested Entities or Persons*.~~

~~(2) — The petitioner’s certificate must be included in the petition. Other parties must include their certificate in their brief, or if the party files an answer or other response~~

1 to the petition, a motion, an application, or an opposition to a motion or application  
 2 in the Court of Appeal before filing its brief, the party must serve and file its  
 3 certificate at the time it files the first answer, response, motion, application, or  
 4 opposition. The certificate must appear after the cover and before any tables.  
 5

6 (3) — If a party fails to file a certificate as required under (1) and (2), the clerk must notify  
 7 the party by mail that the party must file the certificate within 10 days after the  
 8 clerk's notice is mailed and that failure to comply will result in one of the following  
 9 sanctions:

10  
 11 (A) — If the party is the petitioner, the court will strike the petition; or

12  
 13 (B) — If the party is the real party in interest, the court will strike the document.

14  
 15 (4) — If the party fails to comply with the notice under (3), the court may impose the  
 16 sanctions specified in the notice.  
 17

18 **(i) — Court costs**  
 19

20 (1) — In fulfillment of the provision in Public Resources Code section 21183 regarding  
 21 payment of the Court of Appeal's costs:  
 22

23 (A) — Within 10 days after service of the petition on the real party in interest, the  
 24 person who applied for certification of the project as a leadership project must  
 25 pay a fee of \$100,000 to the Court of Appeal.  
 26

27 (B) — If the Court of Appeal incurs any of the following costs, the person who  
 28 applied for certification of the project as a leadership project must also pay,  
 29 within 10 days of being ordered by the court, the following costs or estimated  
 30 costs:  
 31

32 (i) — The costs of any special master appointed by the Court of Appeal in the  
 33 case; and  
 34

35 (ii) — The costs of any contract personnel retained by the Court of Appeal to  
 36 work on the case.  
 37

38 (2) — If the fee or costs under (1) are not timely paid, the Court of Appeal may transfer the  
 39 case to the superior court with geographic jurisdiction over the project, and the case  
 40 will proceed under the procedures applicable to projects that have not been certified  
 41 as leadership projects.  
 42

43 **(j) — Extensions of time**  
 44

45 The court may order extensions of time only for good cause and in order to promote the  
 46 interests of justice.  
 47

**Advisory Committee Comment**

**Subdivision (b).** This provision does not apply to service of the petition on the respondent public agency or real party in interest because the method of service on these parties is set by Public Resources Code sections 21167.6 and 21167.6.5.

**Subdivision (c).** Under this provision, a proceeding in the Court of Appeal is initiated by serving and filing a petition for a writ of mandate as provided in rule 8.25, not by filing a complaint and serving a summons and the complaint.

**Subdivision (d)(3)(C).** Public Resources Code section 21185 provides that the court may appoint a master to assist the court in managing and processing cases subject to this rule. Appointment of a special master to hear and decide motions regarding the record is just one example of when a court might make such an appointment.

**Subdivision (f).** A party other than the petitioner who files an answer, motion, or other response to a petition under (e) may be required to pay a filing fee under Government Code section 68926 if the answer, motion, or other response is the first document filed in the proceeding in the reviewing court by that party. See rule 8.25(c).

**Subdivision (g).** On application of the parties or on its own motion, the court may set different briefing periods. For example, if a motion to augment or otherwise modify the contents of the record is filed, the court might order that petitioner's brief be filed within a specified time after that motion is decided.

## **Chapter 11. Review of California Environmental Quality Act cases under Public Resources Code sections 21168.6.6 and 21178–21189.3**

### **Rule 8.700. Definitions and application**

#### **(a) Definitions**

As used in this chapter:

- (1) An “environmental leadership development project” or “leadership project” means a project certified by the Governor under Public Resources Code sections 21182–21184.
- (2) The “Sacramento entertainment and sports center project” or “Sacramento arena project” means the entertainment and sports center project as defined by Public Resources Code section 21168.6.6, for which the proponent provided notice of election to proceed under that statute as described in section 21168.6.6(j)(1).

#### **(b) Proceedings governed**

The rules in this chapter govern appeals and writ proceedings in the Court of Appeal to review a superior court judgment or order in an action or proceeding brought to attack,

1 review, set aside, void, or annul the certification of the environmental impact report or the  
2 granting of any project approvals for an environmental leadership development project or  
3 the Sacramento arena project.

4  
5  
6 **Rule 8.701. Filing and service**

7  
8 **(a) Service**

9  
10 Except when the court orders otherwise under (b) or as otherwise provided by law, all  
11 documents that the rules in this chapter require be served on the parties must be served by  
12 personal delivery, electronic service, express mail, or other means consistent with Code  
13 of Civil Procedure sections 1010, 1011, 1012, and 1013 and reasonably calculated to  
14 ensure delivery of the document to the parties not later than the close of the business day  
15 after the document is filed or lodged with the court.

16  
17 **(b) Electronic filing and service**

18  
19 Notwithstanding rules 8.71(a) and 8.73, the court may order that:

- 20  
21 (1) All documents be filed electronically;  
22  
23 (2) All documents be served electronically on parties who have stipulated to electronic  
24 service. All parties represented by counsel are deemed to have stipulated to  
25 electronic service. All self-represented parties may so stipulate.

26  
27 **(c) Exemption from extension of time**

28  
29 The extension of time provided in Code of Civil Procedure section 1010.6 for service  
30 completed by electronic means does not apply to any service in actions governed by these  
31 rules.

32  
33  
34 **Rule 8.702. Appeals**

35  
36 **(a) Application of general rules for civil appeals**

37  
38 Except as otherwise provided by the rules in this chapter, rules 8.100–8.278, relating to  
39 civil appeals, apply to appeals under this chapter.

40  
41 **(b) Notice of appeal**

- 42  
43 (1) Time to appeal

44  
45 The notice of appeal must be served and filed on or before the earlier of:  
46

1 (A) Five days after the superior court clerk serves on the party filing the notice of  
 2 appeal a document entitled “Notice of Entry” of judgment or a file-stamped  
 3 copy of the judgment, showing the date either was served; or

4  
 5 (B) Five days after the party filing the notice of appeal serves or is served by a  
 6 party with a document entitled “Notice of Entry” of judgment or a file-  
 7 stamped copy of the judgment, accompanied by proof of service.

8  
 9 (2) *Contents of notice of appeal*

10  
 11 The notice of appeal must:

12  
 13 (A) State that the superior court judgment or order being appealed is governed by  
 14 the rules in this chapter;

15  
 16 (B) Indicate whether the judgment or order pertains to the Sacramento arena  
 17 project or a leadership project; and

18  
 19 (C) If the judgment or order being appealed pertains to a leadership project,  
 20 provide notice that the person or entity that applied for certification of the  
 21 project as a leadership project must make the payments required by rule  
 22 8.705.

23  
 24 (c) **Extending the time to appeal**

25  
 26 (1) *Motion for new trial*

27  
 28 If any party serves and files a valid notice of intention to move for a new trial or,  
 29 under rule 3.2237, a valid motion for a new trial and that motion is denied, the time  
 30 to appeal from the judgment is extended for all parties until the earlier of:

31  
 32 (A) Five days after the superior court clerk or a party serves an order denying the  
 33 motion or a notice of entry of that order; or

34  
 35 (B) Five days after denial of the motion by operation of law.

36  
 37 (2) *Motion to vacate judgment*

38  
 39 If, within the time prescribed by subdivision (b) to appeal from the judgment, any  
 40 party serves and files a valid notice of intention to move—or a valid motion—to  
 41 vacate the judgment and that motion is denied, the time to appeal from the judgment  
 42 is extended for all parties until five days after the superior court clerk or a party  
 43 serves an order denying the motion or a notice of entry of that order.

1 **(d) Record on appeal**

2  
3 **(1) Record of written documents**

4  
5 The record of the written documents from the superior court proceedings other than  
6 the administrative record must be in the form of a joint appendix or separate  
7 appellant's and respondent's appendices under rule 8.124.

8  
9 **(2) Record of the oral proceedings**

10  
11 **(A)** The appellant must serve and file with its notice of appeal a notice  
12 designating the record under rule 8.121 specifying whether the appellant  
13 elects to proceed with or without a record of the oral proceedings in the trial  
14 court. If the appellant elects to proceed with a record of the oral proceedings  
15 in the trial court, the notice must designate a reporter's transcript.

16  
17 **(B)** Any party that submits a copy of a Transcript Reimbursement Fund  
18 application in lieu of a deposit under rule 8.130(b)(3) must serve all other  
19 parties with notice of this submission when the party serves its notice of  
20 designation of the record. Within five days after service of this notice, any  
21 other party may submit to the trial court the required deposit for the  
22 reporter's transcript under rule 8.130(b)(1), the reporter's written waiver of  
23 the deposit under rule 8.130(b)(3)(A), or a certified transcript of all of the  
24 proceedings designated by the party under rule 8.130(b)(3)(C).

25  
26 **(C)** Within 10 days after the superior court notifies the court reporter to prepare  
27 the transcript under rule 8.130(d)(2), the reporter must prepare and certify an  
28 original of the transcript and file the original and required number of copies  
29 in superior court.

30  
31 **(D)** If the appellant does not present its notice of designation as required under  
32 (A) or if any designating party does not submit the required deposit for the  
33 reporter's transcript under rule 8.130(b)(1) or a permissible substitute under  
34 rule 8.130(b)(3) with its notice of designation or otherwise fails to timely do  
35 another act required to procure the record, the superior court clerk must serve  
36 the defaulting party with a notice indicating that the party must do the  
37 required act within two court days of service of the clerk's notice or the court  
38 may impose one of the following sanctions:

39  
40 **(i)** If the defaulting party is the appellant, the court may dismiss the  
41 appeal; or

42  
43 **(ii)** If the defaulting party is the respondent, the court may proceed with  
44 the appeal on the record designated by the appellant.

45  
46

1 **(e) Superior court clerk duties**

2  
3 Within two court days following the filing of a notice of appeal under this rule, the  
4 superior court clerk must:

5  
6 (1) Serve the following on each party:

7  
8 (A) Notification of the filing of the notice of appeal; and

9  
10 (B) A copy of the register of actions, if any.

11  
12 (2) Transmit the following to the reviewing court clerk:

13  
14 (A) A copy of the notice of appeal;

15  
16 (B) A copy of the appellant's notice designating the record; and

17  
18 (C) An electronic copy of the administrative record.

19  
20 **(f) Briefing**

21  
22 (1) Electronic filing

23  
24 Unless otherwise ordered by the reviewing court, all briefs must be electronically  
25 filed.

26  
27 (2) Time to serve and file briefs

28  
29 Unless otherwise ordered by the reviewing court:

30  
31 (A) An appellant must serve and file its opening brief within 25 days after the  
32 notice of appeal is served and filed.

33  
34 (B) A respondent must serve and file its brief within 25 days after the appellant  
35 files its opening brief.

36  
37 (C) An appellant must serve and file its reply brief, if any, within 15 days after  
38 the respondent files its brief.

39  
40 (3) Contents and form of briefs

41  
42 (A) The briefs must comply as nearly as possible with rule 8.204.

43  
44 (B) If a designated reporter's transcript has not been filed at least 5 days before  
45 the date by which a brief must be filed, an initial version of the brief may be  
46 served and filed in which references to a matter in the reporter's transcript are

1 not supported by a citation to the volume and page number of the reporter's  
2 transcript where the matter appears. Within 10 days after the reporter's  
3 transcript is filed, a revised version of the brief must be served and filed in  
4 which all references to a matter in the reporter's transcript must be supported  
5 by a citation to the volume and page number of the reporter's transcript  
6 where the matter appears.

7  
8 (C) Unless otherwise ordered by the court, within 5 days after filing its brief, each  
9 party must submit an electronic version of the brief that contains hyperlinks to  
10 material cited in the brief, including electronically searchable copies of the  
11 record on appeal, cited decisions, and the parties' other briefs. Such briefs  
12 must comply with any local requirements of the reviewing court relating to  
13 e-briefs.

14  
15 (4) Extensions of time to file briefs

16  
17 If the parties stipulate to extend the time to file a brief under rule 8.212(a), they are  
18 deemed to have agreed that the time for resolving the action may be extended  
19 beyond 270 days by the number of days by which the parties stipulated to extend  
20 the time for filing the brief and, to that extent, to have waived any objection to  
21 noncompliance with the deadlines for completing review stated in Public Resources  
22 Code sections 21168.6.6(c)–(d) and 21185 for the duration of the stipulated  
23 extension.

24  
25 (5) Failure to file brief

26  
27 If a party fails to timely file an appellant's opening brief or a respondent's brief, the  
28 reviewing court clerk must serve the party with a notice indicating that if the  
29 required brief is not filed within two court days of service of the clerk's notice, the  
30 court may impose one of the following sanctions:

31  
32 (A) If the brief is an appellant's opening brief, the court may dismiss the appeal;

33  
34 (B) If the brief is a respondent's brief, the court may decide the appeal on the  
35 record, the opening brief, and any oral argument by the appellant; or

36  
37 (C) Any other sanction that the court finds appropriate.

38  
39 (g) **Oral argument**

40  
41 Unless otherwise ordered by the reviewing court, oral argument will be held within 45  
42 days after the last reply brief is filed. The reviewing court clerk must send a notice of the  
43 time and place of oral argument to all parties at least 15 days before the argument date.  
44 The presiding justice may shorten the notice period for good cause; in that event, the clerk  
45 must immediately notify the parties by telephone or other expeditious method.



1 **Rule 8.703. Writ proceedings**

2  
3 **(a) Application of general rules for writ proceedings**

4  
5 Except as otherwise provided by the rules in this chapter, rules 8.485–8.493, relating to  
6 writs of mandate, certiorari, and prohibition in the Supreme Court and Court of Appeal,  
7 apply to writ proceedings under this chapter.

8  
9 **(b) Petition**

10  
11 **(1) Time for filing petition**

12  
13 A petition for a writ challenging a superior court judgment or order governed by the  
14 rules in this chapter must be must be served and filed on or before the earliest of:

15  
16 **(A) Thirty days after the superior court clerk serves on the party filing the**  
17 **petition a document entitled “Notice of Entry” of judgment or order, or a**  
18 **file-stamped copy of the judgment or order, showing the date either was**  
19 **served; or**

20  
21 **(B) Thirty days after the party filing the petition serves or is served by a party**  
22 **with a document entitled “Notice of Entry” of judgment or order, or a file-**  
23 **stamped copy of the judgment or order, accompanied by proof of service.**

24  
25 **(2) Contents of petition**

26  
27 In addition to any other applicable requirements, the petition must:

28  
29 **(A) State that the superior court judgment or order being challenged is governed**  
30 **by the rules in this chapter;**

31  
32 **(B) Indicate whether the judgment or order pertains to the Sacramento arena**  
33 **project or a leadership project; and**

34  
35 **(C) If the judgment or order pertains to a leadership project, provide notice that**  
36 **the person or entity that applied for certification of the project as a leadership**  
37 **project must make the payments required by 8.705.**

38  
39  
40 **Rule 8.705. Court of Appeal costs in leadership projects**

41  
42 In fulfillment of the provision in Public Resources Code section 21183 regarding payment of the  
43 Court of Appeal’s costs with respect to cases concerning leadership projects:

- 1    (1) Within 10 days after service of the notice of appeal or petition in a case concerning a  
2    leadership project, the person who applied for certification of the project as a leadership  
3    project must pay a fee of \$100,000 to the Court of Appeal.  
4  
5    (2) If the Court of Appeal incurs any of the following costs, the person who applied for  
6    certification of the project as a leadership project must also pay, within 10 days of being  
7    ordered by the court, the following costs or estimated costs:  
8  
9        (A) The costs of any special master appointed by the Court of Appeal in the case; and  
10  
11        (B) The costs of any contract personnel retained by the Court of Appeal to work on the  
12        case.  
13  
14    (3) If the party fails to timely pay the fee or costs specified in this rule, the court may impose  
15    sanctions that the court finds appropriate after notifying the party and providing the party  
16    with an opportunity to pay the required fee or costs.  
17

1 not supported by a citation to the volume and page number of the reporter's  
 2 transcript where the matter appears. Within 10 days after the reporter's  
 3 transcript is filed, a revised version of the brief must be served and filed in  
 4 which all references to a matter in the reporter's transcript must be supported  
 5 by a citation to the volume and page number of the reporter's transcript  
 6 where the matter appears.

7  
 8 (C) Unless otherwise ordered by the court, within 5 days after filing its brief, each  
 9 party must submit an electronic version of the brief that contains hyperlinks to  
 10 material cited in the brief, including electronically searchable copies of the  
 11 record on appeal, cited decisions, and the parties' other briefs. Such briefs  
 12 must comply with any local requirements of the reviewing court relating to  
 13 e-briefs.

14  
 15 (4) Extensions of time to file briefs

16  
 17 If the parties stipulate to extend the time to file a brief under rule 8.212(a), they are  
 18 deemed to have agreed that the time for resolving the action may be extended  
 19 beyond 270 days by the number of days by which the parties stipulated to extend  
 20 the time for filing the brief and, to that extent, to have waived any objection to  
 21 noncompliance with the deadlines for completing review stated in Public Resources  
 22 Code sections 21168.6.6(c)–(d) and 21185 for the duration of the stipulated  
 23 extension.

24  
 25 (5) Failure to file brief

26  
 27 If a party fails to timely file an appellant's opening brief or a respondent's brief, the  
 28 reviewing court clerk must serve the party with a notice indicating that if the  
 29 required brief is not filed within two court days of service of the clerk's notice, the  
 30 court may impose one of the following sanctions:

31  
 32 (A) If the brief is an appellant's opening brief, the court may dismiss the appeal;

33  
 34 (B) If the brief is a respondent's brief, the court may decide the appeal on the  
 35 record, the opening brief, and any oral argument by the appellant; or

36  
 37 (C) Any other sanction that the court finds appropriate.

38  
 39 (g) **Oral argument**

40  
 41 Unless otherwise ordered by the reviewing court, oral argument will be held within 45  
 42 days after the last reply brief is filed. The reviewing court clerk must send a notice of the  
 43 time and place of oral argument to all parties at least 15 days before the argument date.  
 44 The presiding justice may shorten the notice period for good cause; in that event, the clerk  
 45 must immediately notify the parties by telephone or other expeditious method.  
 46  
 47

1 **Rule 8.703. Writ proceedings**

2  
3 **(a) Application of general rules for writ proceedings**

4  
5 Except as otherwise provided by the rules in this chapter, rules 8.485–8.493, relating to  
6 writs of mandate, certiorari, and prohibition in the Supreme Court and Court of Appeal,  
7 apply to writ proceedings under this chapter.

8  
9 **(b) Petition**

10  
11 **(1) Time for filing petition**

12  
13 A petition for a writ challenging a superior court judgment or order governed by the  
14 rules in this chapter must be must be served and filed on or before the earliest of:

15  
16 **(A)** Thirty days after the superior court clerk serves on the party filing the  
17 petition a document entitled “Notice of Entry” of judgment or order, or a  
18 file-stamped copy of the judgment or order, showing the date either was  
19 served; or

20  
21 **(B)** Thirty days after the party filing the petition serves or is served by a party  
22 with a document entitled “Notice of Entry” of judgment or order, or a file-  
23 stamped copy of the judgment or order, accompanied by proof of service.

24  
25 **(2) Contents of petition**

26  
27 In addition to any other applicable requirements, the petition must:

28  
29 **(A)** State that the superior court judgment or order being challenged is governed  
30 by the rules in this chapter;

31  
32 **(B)** Indicate whether the judgment or order pertains to the Sacramento arena  
33 project or a leadership project; and

34  
35 **(C)** If the judgment or order pertains to a leadership project, provide notice that  
36 the person or entity that applied for certification of the project as a leadership  
37 project must make the payments required by 8.705.

38  
39  
40 **Rule 8.705. Court of Appeal costs in leadership projects**

41  
42 In fulfillment of the provision in Public Resources Code section 21183 regarding payment of the  
43 Court of Appeal’s costs with respect to cases concerning leadership projects:

- 1 (1) Within 10 days after service of the notice of appeal or petition in a case concerning a  
2 leadership project, the person who applied for certification of the project as a leadership  
3 project must pay a fee of \$100,000 to the Court of Appeal.  
4
- 5 (2) If the Court of Appeal incurs any of the following costs, the person who applied for  
6 certification of the project as a leadership project must also pay, within 10 days of being  
7 ordered by the court, the following costs or estimated costs:  
8
- 9 (A) The costs of any special master appointed by the Court of Appeal in the case; and  
10
- 11 (B) The costs of any contract personnel retained by the Court of Appeal to work on the  
12 case.  
13
- 14 (3) If the party fails to timely pay the fee or costs specified in this rule, the court may impose  
15 sanctions that the court finds appropriate after notifying the party and providing the party  
16 with an opportunity to pay the required fee or costs.  
17

**Scott Johnson**

---

**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Friday, May 16, 2014 6:21 PM  
**To:** Scott Johnson  
**Subject:** Kings arena comment: Sacramento Press, Second Saturday  
**Attachments:** Sacramento Press article-Second Saturday.pdf

Mr. Johnson: In comment on the Kings arena FEIR response to comments, please find the attached article.

Kelly T. Smith  
**THE SMITH FIRM**  
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Sacramento, CA 95831  
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## Second Saturday to go the way of Thursday Night Market?



by Brandon Darnell September 19, 2010 4:09 PM

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The Sept. 12 shooting has some Sacramentans wondering if the Second Saturday Art Walk is going to go the way of K Street's Thursday Night Market.

According to Michael Picker, The Thursday Night Market was inspired by an event in San Louis Obispo and was intended to be a small-scale street fair people could stop by on their way home from work, but it grew to attract crowds far larger than anticipated as people went home first, picked up their families and then returned to the market.

Picker, who was chief of staff for Mayor Joe Serna Jr. when Thursday Night Market was introduced, both the Thursday Night Market and Second Saturday Art Walk became victims of their own success.

"Everybody plans for what can go awry," Picker said, "but sometimes too much goes right, and you get too many people."



But Rob Kerth, executive director of the Midtown Business Association, said the two events share many things, but they remain different.

"I'm not sure that we've got something going wrong here," Kerth said. "There's a lot of folks showing up, and they have a good time, and any number of businesses say it's their most important day of the month."

The key difference between the two, according to Michael Ault, executive director of the Downtown Sacramento Partnership – which produced the Thursday Night Market – is that Second Saturday has a much greater focus and involves the business community more.

"At the end of Thursday Night Markets, many retailers weren't even open because they weren't finding it a successful draw to their businesses because their voice wasn't utilized," Ault said.

With Second Saturday, Ault said, there is much more focus, and both the business and the community are committed to making it work.

"Second Saturday started off as an event to drive people to art galleries, and it has really evolved into a social scene," Ault said, "and it's a wonderful nexus where it's gone, but we need to figure out how to make it grow and how to grow effectively."

Picker advised looking into how other major cities handle their big events and see what can be learned from their experience.

Kerth said the MBA has been studying events in other cities, including San Francisco, Old Pasadena and Berkeley, and there are several steps that need to be taken to make Second Saturday a better event.

"We need to get parking out of the neighborhoods so people aren't walking through them and being noisy and causing problems," Kerth said, adding that in the future, the MBA will be posting better signage and lighting as well as passing out pamphlets at venues to inform visitors of nearby off-street parking he said many are unaware of.

In an effort to get teens to go home after 10 p.m., Kerth said the MBA is contacting local high schools and encouraging them to get the message out to students.

"We did that this month, and we got a response from about four schools," Kerth said. "We're going to push much harder next month ... but we're not going to get all the kids to go home. We know that."

It was an over-concentration of teens looking for a social atmosphere that largely contributed to the death of Thursday Night Markets, according to Picker.

"When large groups of teens started showing up, it turned away from being a family event," Picker said. "That was hard for us. It was a turning point. How do you get teens to go home? If you push them to go home, they want to defy authority."



Picker said throwing more police at the problem didn't help, but running street sweepers down the venue did – until resources were stretched too thin.

"I think that's what's going on with Second Saturday," Picker said. "It's not a crime issue, it's a population management issue. Unfortunately, this time there was a shooting."

Kerth acknowledged that the MBA sees problems with the population at the event, which ebbs and flows during the night.

The crowds peak at about 9 p.m., he said, then they drop off until about 11 p.m., when they begin to grow again.

"The chances of a 17-year-old having a good outcome to their night after 10 p.m. goes down," he said.

Another problem Kerth acknowledged is people drinking on the streets, detailed in [this article](#).

Despite the acknowledged problems with the event, Kerth said Second Saturday is fundamentally different from the Thursday Night Markets in size.

While Thursday Night Markets were confined to an approximately four-block stretch on K Street, Second Saturday ranges all over from Old Sacramento to Alhambra Boulevard and from Broadway to F Street, according to Kerth.

Kerth said the efforts the MBA is making – from educating people about parking to encouraging teens to go home at the 10 p.m. curfew and working to stop the illegal "tailgating" – will not "make a fundamental change, but they'll head things in the right direction."

Kerth, Ault and Picker all agreed that there are lessons to be learned from other events, whether they be Thursday Night Markets, Jazz Jubilees, Pacific Rim Festivals or larger events in other cities.

"There's a lot of community and political will to keep this going forward," Ault said. "We need to preserve it because it's a very special entity."

Picker said that, thinking regionally, downtown and Midtown Sacramento are the "main street" for the area.







"There is a need for people to get together within the Sacramento Valley and be creative and not be constrained by strip malls," he said. "You've got to plan for success, though. Maybe every couple of years you need to shake it up and do something different."



Kerth said that Second Saturday is far from being just a memory.

"I get asked a lot from folks, 'Is this the end?' and my answer has been, 'Well, I'm still coming down to have fun, are you?'" he said. "Rumors of our demise are greatly exaggerated."

Brandon Darnell is a staff reporter for The Sacramento Press.

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## Conversation



Express your views, debate, and be heard with those in your area closest to the issue.



lisab23

September 19, 2010 | 8:31 PM

Most are not calling for an end to Second Saturday. Second Saturday is fundamentally different from Thursday Night Market because it's in a neighborhood not a business district vacated at dark. We are, however calling for actual management of the event. Streets must be left open to stop the massive gathering in one spot and we must broaden the geography to encompass more spots downtown to bridge the odd perceived gulf between the two. Mr. Kerth was quoted in the Bee as saying (paraphrasing) he didn't like the idea of managing Second Saturday, that he liked the randomness of it. That's OK when the

event is small but you cannot let an event of this size be a free for all, it must be managed well and at times limited to what the venue, in this case Midtown, can handle. As an art walk, it sort of makes sense to have a single or group of non-profit arts groups running it, not a business association whose primary mission is the profitability of its members – many of whom are bars and clubs. It's not a good fit for running the Art Walk. Solutions are out there to keep this event fun and I remain very hopeful we will arrive at solutions that keep the Art Walk and after hours safe and peaceful.

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**John Boyer**

September 20, 2010 | 1:00 PM

Real question is why arent we putting more security on the streets?. Im alarmed on how thin our security forces are in the US. Bring our troops home and put em to work on our own soil!

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**richardrich**

September 20, 2010 | 8:14 PM

That's the scariest thing I've read in months.



**John Gladding**

September 20, 2010 | 2:34 PM

Perhaps street sweepers could be a cheap solution. Get businesses to chip in for a couple street sweepers to clean up the streets and shoo the kids away. "Too many people, not enough resources" seems to be the problem... Seems to me that if you have that many people you should be able to find a way to fund the resources.

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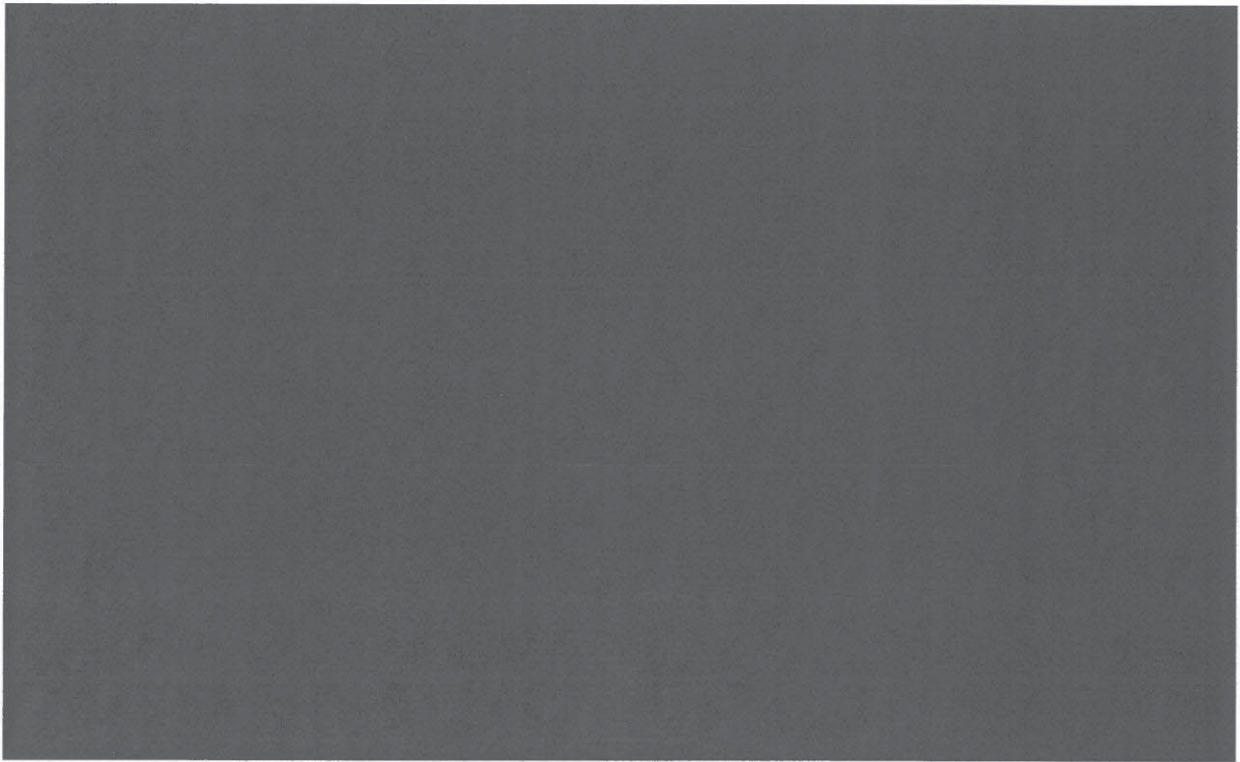


**William Burg**

September 20, 2010 | 8:57 PM

"The scoops are on their way!"





kcwilsonii

September 20, 2010 | 5:20 PM

"It was an over-concentration of teens looking for a social atmosphere that largely contributed to the death of Thursday Night Markets, according to Picker."

"I think that's what's going on with Second Saturday," Picker said. It's not a crime issue, it's a population management issue. Unfortunately, this time there was a shooting."

I have a basic problem with both the above statements

Why on earth should either result in anybody getting shot? Why is anybody out hauling a gun around to begin with?

Think we have missed the big picture here.

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**Scott Johnson**

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**From:** Karen Redman <kbredman@surewest.net>  
**Sent:** Friday, May 16, 2014 8:05 PM  
**To:** Scott Johnson  
**Subject:** Sacramento Entertainment and Sports Center & Related Development, Project Number: P13-065

The response to comments provided in the Final EIR fails to address the deficiencies of the draft EIR.

Karen Redman

**Scott Johnson**

---

**From:** Christine Hansen <cchansen31@gmail.com>  
**Sent:** Saturday, May 17, 2014 7:17 AM  
**To:** Scott Johnson  
**Subject:** Objection to Final EIR for Sports Arena

Dear Mr. Johnson:

The Final EIR for the Kings Arena fails to address many of the defects identified by the comments on the Draft EIR, in particular the traffic impacts, noise, and billboards.

Please register my objection to the City's adoption of the project and EIR.

Sincerely,

Christine Hansen



**Scott Johnson**

---

**From:** jeanie keltner <jeaniekeltner@sbcglobal.net>  
**Sent:** Sunday, May 18, 2014 4:02 PM  
**To:** Scott Johnson  
**Subject:** FEIR comment on Kings Arena

The final EIR for the Kings arena does not adequately address such defects and problems as traffic impacts, noise and billboards identified in the comments on the draft EIR.

Please register my objection to the City's adoption of the project and EIR.

Thank you.

Sincerely,

Jeanie Keltner  
916 444 3203

**Scott Johnson**

---

**From:** Maggie Coulter <mcoulter@dcn.org>  
**Sent:** Monday, May 19, 2014 10:24 AM  
**To:** Scott Johnson  
**Subject:** EIR for Kings Arena comment

Please register my objection to the City's adoption of the Arena project and its EIR. The EIR for the Arena does not adequately address the environmental impacts related to traffic impacts, noise and billboards.

Thank you.

Maggie Coulter  
5601 V Street  
Sacramento, CA 95817  
916-456-1420

**Scott Johnson**

---

**From:** Stop Arena Subsidy <stoparenasubsidy@gmail.com>  
**Sent:** Monday, May 19, 2014 1:19 PM  
**To:** Scott Johnson  
**Cc:** Ron  
**Subject:** Comments on Kings arena REIR

Dear Mr. Johnson:

The Final EIR for the Kings Arena fails to address many of the defects identified by the comments on the Draft EIR, in particular the traffic impacts, noise, and billboards.

Please register my objection to the City's adoption of the project and EIR."

Sincerely,

Ron Emslie  
916 813 4200

**From:** Heather Fargo [<mailto:h-fargo@comcast.net>]

**Sent:** Monday, May 19, 2014 5:46 PM

**To:** Angelique Ashby; Steve Cohn; Darrell Fong; Steve Hansen; Kevin McCarty; Bonnie Pannell; Jay Schenirer; Allen Warren; Mayor Johnson

**Cc:** John F. Shirey; Shirley Concolino

**Subject:** Billboard statute on 5/20/14 agenda

Mayor and Council Members:

I am writing to oppose the proposed changes to the city's billboard statute. The current rules limit the intrusion of new billboards, and helped to remove what is generally referred to as blight. Changeable billboards are not only unattractive, they are distracting, and we already have enough distracted drivers. At least apply location criteria that protects the few views that we have, especially our skyline and waterfronts. The current billboard at Jibboom St. really distracts from both the waterfront and future Science Center.

Previous councils worked hard to make Sacramento more attractive. These signs take us in the wrong direction.

If it's such a great idea and so necessary to build the new arena, perhaps the city could talk Roseville, Folsom, Elk Grove and other cities into placing them along their freeways and adding that revenue as a small contribution to the cost of this regional facility.

Thanks for considering my concerns.

Heather Fargo  
Mayor of Sacramento 2000-2008

**Scott Johnson**

---

**From:** Ron Maertz <ronmaertz@surewest.net>  
**Sent:** Monday, May 19, 2014 9:08 PM  
**To:** Scott Johnson  
**Cc:** 'Alex Kelter'; Rick Guerrero  
**Subject:** FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED DEVELOPMENT PROJECT (P13-065)

Scott,

The Environmental Council of Sacramento submits the following comments on the subject FEIR. **Please acknowledge receipt of these comments.**

O11-2

City chose to respond to a different comment from the one that was made. In response to the apparent threat to the availability of SRO units near the arena, the City pointed out that, even with the removal of the Hotel Marshall from the SRO program, the number of available units would not fall below the legal floor of 712 units. But the comment did not allege this would occur. The comment was:

“The immediate vicinity of the SESC includes a mixture of housing types including Single Room Occupancy. Urban redevelopment projects of this type sometimes stimulate the real estate market to the point that people who might, say, have minimum-wage jobs at the SESC could no longer afford to maintain their households. If this occurred, a preventable increase in transportation costs, greenhouse gas emissions and unemployment could easily result for these individuals.”

Thus, City’s answer to this comment was totally unresponsive, except for the affirmation that, indeed, the number of SRO hotel spaces will decline as stated in the ECOS comment. No mitigation was proposed for this acknowledged decline.

O11-3

City’s response includes the following:

. “The Proposed Project includes new housing opportunities in downtown Sacramento and will pay City of Sacramento Housing Trust Fund fees, as appropriate, that helps to achieve the goals and policies listed above.

. “The comment requests assessment of the consistency of the Proposed Project with a number of other goals and policies of the 2013-2021 Housing Element, including policies H-1.2.5, H-1.3.1, H-1.3.2, H-1.3.4, and H-3.1.1. The policies cited in the comment address future actions of the City related to such issues as the process of receiving neighborhood input on development, encouraging social equity and elimination of discrimination, economic integration of neighborhoods, providing housing opportunity for all segments of the community, and promotion of extremely low income housing. These policies address social and economic issues, and the comment does not describe any relationship of these policies to physical environmental effects, which are the focus of evaluation in an EIR. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA, and Response to Comment O11-2 regarding the potential indirect effects of the Proposed Project on single room occupancy housing in the downtown area.” But the project does not commit to any specific number of housing units. In response to comment O11-14, a commitment of “up to 550 multi-family residential units” is made, but it does not represent a true commitment because the range of the proposed entitled number of units includes zero. The same applies to the project’s contribution to the Housing Trust Fund. These statements are, therefore, unresponsive.

O11-4

City's response includes the following:

"Housing affordability is not an effect of the Proposed Project on the existing physical environment. Please also see Response to Comment O4-17 for a discussion of the consideration of social and economic effects under CEQA."

Response to Comment O4-17 follows:

"Under the heading, "Economic Viability," the comment includes an array of requested actions and programs related to economic and social issues that would promote housing availability and cost, business improvement, and street parking in the Alkali Flat and Mansion Flats neighborhoods. Under CEQA, economic and social effects are relevant only insofar as they may serve as a link in a chain of cause and effect that may connect the proposed action with a physical environmental effect, or they may be part of the factors considered in determining the significance of a physical environmental effect. The comment includes no discussion or information that suggests a connection between the requested measures and the physical environmental effects of the Proposed Project. No evidence has been presented that the Proposed Project would affect, involve or otherwise be connected to the availability or affordability of housing or the level of business activity in the Alkali Flat or Mansion Flats neighborhoods. As such, there is no basis upon which to require the project to implement the measures suggested in this comment."

But the project has already caused (1) building owners nearest the project to raise rents and lease costs, and (2) a plan to remove at least one SRO hotel from the city's SRO program. City provides no evidence to demonstrate at what distance from the project these appreciated land values will fall to zero, leaving open the question of whether Alkali Flat or Mansion Flats will be affected.

City's response to this question also includes the following:

. "As stated on page 5-18 of the Draft EIR, the analysis concludes that the Proposed Project combined with cumulative retail projects would not cause or contribute to urban decay." However, City does not identify what these "cumulative retail projects" are, making this response impossible to analyze and assess for responsiveness. Project itself is lacking in specifics regarding its own retail projects, in that the proposed range of square footage includes zero.

*Ron Maertz*  
*Land Use Chair*  
*Environmental Council of Sacramento*

**Scott Johnson**

---

**From:** Kevin Coyle <caysea@comcast.net>  
**Sent:** Monday, May 19, 2014 9:38 PM  
**To:** Scott Johnson  
**Subject:** Your responses were inadequate and your EIR is insufficient

My dear Mr. Johnson,

I found your responses to my comments on the arena DEIR to be inadequate.

Here are 9 specific examples of your failure to deliver the goods followed by two general comments.

You wrote: “Regional Transit does not plan to reduce service in other parts of the city in order to accommodate demand at the Downtown project site.”

I wasn’t talking about RT’s plans now. I was talking about the plans they will have to make if thousands of people have to wait in line for 45 minutes to get an RT ticket. In the real world, the ticket queues plus the large, milling crowds plus the alcohol suggest a real possibility for what I called “incidents.” In these situations, crowd control measures, plus the noise of the crowd being controlled, impact the environment with respect to noise, traffic flow and automotive emissions into the air. I can’t see how ignoring these truths in the EIR properly informs the decision-making body.

You wrote: “Further no correlation exists between reduced transit service and blighted environmental conditions.”

In making that argument, you should at least give the title and author of one peer-reviewed study that supports your theory. If you can’t get a bus home X nights a month, you will have incentive to move to a neighborhood with better political connections and bus service. If people begin to abandon a neighborhood, property values go down, meaning poorer people will live there who can less afford to maintain their property up to middle class standards, and the neighborhood will have even less political clout to maintain or enhance other city services. I call that blight.

You wrote: “the Proposed Project would be located in an existing urban environment, which includes occasional police activity and helicopter flyovers.”

When I wrote about the sounds of police helicopters being a true noise issue, I explicitly was not talking about “occasional...helicopter flyovers.” I wrote about the noise pollution a

neighborhood experiences when the bird circles for hours. Not long ago, the helicopter circled for a long time in our neighborhood because there was a rumor that a notable gang leader had been seen—to contain one possible suspect, not to contain thousands of drunken revelers. One time, the copter circled near my house for over 2 hours, I left for 30 minutes, and it was still there when I returned. The Sacramento PD considers the helicopter a very useful tool, particularly when unruly crowds are involved.

You wrote: “Section 4.9, Public Services, in the Draft EIR discusses police presence and law enforcement at the Downtown project site.”

Because police services were discussed in the DEIR, I felt encouraged to comment on policing issues and the inadequacy of your analysis. I argued that the DEIR tended to downplay and obscure the realities of a mixture of boisterous crowds, alcohol, policing measures and Sacramento’s long tradition of unruly, drunken crowds at night. In the 1980s, the St. Patrick’s Day Parade was held after dark on J Street. There were many unruly drunks. It was changed into a daylight venture and moved to Old Sacramento.

In the 1990s, drunken, unruly crowds at the Thursday Night Market drew complaints from citizens, police and city officials, so this popular event was terminated. The Sacramento Heritage Festival was a popular outdoor event, but became a drunken orgy and ceased to exist. More recently, we’ve had several murders associated with the Second Saturday Art Walk, and there is talk of cancelling it.

You can’t have drunken, unruly crowds and an adequate police response without a lot of noise and traffic tie-ups, which in turn increase air pollution.

In most cultures on this planet, in case you are new here, people like to occasionally gather in large crowds, ingest a psychoactive substance, and get wild and crazy. In Sacramento, the number one drug used at outdoor gatherings is alcohol. This is reality; denying it distorts the EIR.

You wrote: “In a survey of 13 other arenas in similar-sized cities around the country, out of over 1,000 events, only 3 had attendance over 18,000.... Because of the infrequency of these events, they are not evaluated further in this EIR.”

Again, a guiding premise of the project is that the arena and plaza will host many, many large events. Again, it doesn’t take 18,000 people to set off a major disturbance that absorbs most of Sacramento’s police force and ties up downtown traffic for hours.

You wrote: “Because of the infrequency and unique character of these types of events, it would be impossible to account for them in the context of an EIR.”



This is another example of you minimizing potential problems because you don't grasp the dynamics of mixing crowds, alcohol, Sacramento and policing practices. How do you know that large events at the arena will be infrequent? One of the City's big pitches in seeking support for the arena was that it would host many more large events than was possible at the present arena in Natomas. Another big pitch was that the public plaza associated with the arena would be Sacramento's night-time gathering spot. Yet another pitch was that these big crowds would generate the market which would entice a huge surge in "induced development" throughout the area. For you to say big crowds will be infrequent contradicts most of the purposes of the project.

Also, drunken, unruly crowds don't have to be all that big to draw a large and nervous police response. To support your view, the EIR should have some discussion of how many squad cars would be drawn to the scene of a public disturbance involving just 5000 people and how much the police response and the subsequent melee with the crowd will lead to noise and traffic congestion. In my experience, unruly crowds become much, much louder at the first sniff of tear gas.

A few smart people with a good "hook" and skill with Facebook and Twitter could turn out 5,000 people for an informal rave in the plaza. It's not that hard.

Do the police enjoy fighting with 5,000 drugged-out ravers? What does the police chief say about that? How much does one of those fights cost taxpayers, and how do the costs not effect other services citywide?

You wrote: "The environmental effects of induced growth are addressed in Section 5.4.3, page 5-9 of the Draft EIR."

Yes, they are—5 whole pages!!!!!! My point was that you did not address those effects to a degree sufficient to properly inform the decision-making body of the consequences of their decision. Key word: insufficient.

You wrote about the growth the City hopes to stimulate by this venture: "actual environmental consequences of this type of economic growth are too speculative to predict or evaluate."

I completely agree. Does the EIR sufficiently inform the decision-making body of this problem—such an important problem that it should be vigorously called to their attention? Would you agree that the induced growth triggered by the "Project" will contribute much more noise, traffic congestion and air pollution to the Sacramento area than the "Project" itself? Shouldn't the fact that these unpredictable environmental consequences of the induced growth may be horrible ones be called to the decision-making body's attention? I would say

yes, especially given the decision-making body's stated intent to induce massive growth. I think the EIR obscures this important decision point.

You wrote: "The information available regarding the proposed mixed use development is sufficient to evaluate the potential physical environmental impacts of the project."

Here, you lack credibility. Since the SPD hasn't yet been designed, and the final agreement between the City and the ownership group hasn't been settled, we don't know if the SPD will include 500 condos, a luxury hotel and a bevy of fine shops and restaurants or will amount to two condos and a cigar store. Therefore, the level of traffic, pollution and noise is too speculative to predict or evaluate. Instead of speculating on the unpredictable, why not wait and do an EIR on the SPD after you know there will really be one and what it will entail? Doesn't CEQA expect EIRs to be based on known quantities?

My general observations about your questionable "responses" to my legitimate comments are as follows: the EIR ignores some important environmental issues, plays down some issues and distorts other. It is not based on the real experiences Sacramento has had for decades. Therefore, I find it completely inadequate for its purpose: to guide the decision-making body with full, balanced, unbiased information on ALL the issues of concern and relevance. Your responses to me encapsulate in just a few pages the general tendency of the EIR to duck or massage the tough questions, the questions about which the decision-making body most desperately needs full, unbiased information.

Worse are the many ways in which the EIR's description of the project differs so drastically from what the members of that decision-making body have been talking about for 14 months. You think that large events will be rare, 7 out of 9 City Council members think those events will be common. You think large outdoor events in the plaza will be rare. The 7 think they will be common. You think the SPD will be modest. They think it will be grand or grandiose. You think induced growth will tend to be modest. They think it will be huge.

My worry is that with your EIR, the Council will go blithely forward on the project as they conceive it, rather than the Potemkin project you analyzed in the EIR. In such a situation, does your EIR serve the intent of CEQA? I can't imagine how.

With all due respect,

Kevin Coyle, Sacramento

**Scott Johnson**

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**From:** sarah foster <sarahfoster7433@att.net>  
**Sent:** Tuesday, May 20, 2014 12:11 AM  
**To:** Scott Johnson  
**Subject:** Kings' Arena Final EIR

To: [SRJohnson@cityofsacramento.org](mailto:SRJohnson@cityofsacramento.org)

Subject: Kings' Arena FEIR

Mr. Johnson:

The Final EIR for the proposed Kings' Arena fails to address many of the defects identified by comments on the Draft EIR, my particular concern being the impact of increased traffic and displacement of parking in surrounding neighborhoods.

I live in Midtown near the intersection of Capital and 23<sup>rd</sup> St. There's a growing restaurant scene developing just down the street from me on Capital.

The streets are not devoid of traffic, but neither are they gridlocked. Parking is not an insurmountable problem. There is usually sufficient parking for residents, attendees to the churches, and customers of businesses along Capital, L, K and J Streets and north-south streets from 16<sup>th</sup> to 29<sup>th</sup> .

That will change. It's not hard to visualize the effect of thousands of cars circling our residential and commercial blocks, their drivers looking for parking spaces. Arena-goers will seek parking near the new facility, forcing residents and shoppers that are currently able to park downtown to go further east, into Midtown – displacing residents and shoppers in that part of town. .

This matter of parking displacement of residents and customers of local businesses in Midtown and other neighborhoods has not been sufficiently addressed. in the Final EIR. The impact of the Arena and associated traffic problems on the quality of life of our community must be carefully studied and provisions made for mitigation.

Please register my objection to the adoption of the Arena Plan and its much-flawed EIR.

Very truly yours,

Sarah E. Foster

**Scott Johnson**

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**From:** Kelly T. Smith <ktsmith@thesmithfirm.com>  
**Sent:** Tuesday, May 20, 2014 9:51 AM  
**To:** Scott Johnson  
**Subject:** Kings arena comment; freeway interchange impacts

Mr. Johnson: The FEIR prepared for the downtown Sacramento corporate sports arena fails to address the potentially significant impacts to Interstate 80 and SR 160, and the potential for mitigation to reduce those impacts.

Kelly T. Smith  
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**Scott Johnson**

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**From:** Stop Arena Subsidy <stoparenasubsidy@gmail.com>  
**Sent:** Tuesday, May 20, 2014 10:01 AM  
**To:** Scott Johnson  
**Cc:** Ron  
**Subject:** Comments on Kings arena REIR

Dear Mr. Johnson:

The Final EIR for the Kings Arena fails to address many of the defects identified by the comments on the Draft EIR, in particular the traffic impacts, noise, and billboards.

Please register my objection to the City's adoption of the project and EIR.

Sincerely,

Ron Emslie

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