

March 1, 2017

Via E-Mail and Federal Express

Evelyn Quintanilla
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Re: Landside Access Modernization Program
Final Environmental Impact Report

Dear Ms. Quintanilla:

On behalf of the City of El Segundo (“City”), we submit the following comments on the Final Environmental Impact Report (“FEIR”) for the for the Landside Access Modernization Program (“LAMP” or “Project”). Despite the City’s comments on the Draft EIR (“DEIR”), the FEIR still fails to analyze the full scope of the Project’s environmental effects, including the growth-inducing effects of removing existing ground access constraints as proposed.¹

I. The Project Would Allow LAX to Process a Higher Volume of Passengers Than Previous Planning Documents Considered.

In its responses to comments on the DEIR, Los Angeles World Airports (“LAWA”) attempts for the first time to provide a rationale for its assumption that the

¹ The City appreciates that LAWA has removed the proposal to amend the LAX Plan and LAX Specific Plan to address application of the existing curfew on engine run-ups to those occurring inside a ground run-up enclosure (“GRE”). Because the Project does not include a proposal to construct a GRE, this is not the appropriate time to propose changing the regulations governing run-ups. The City looks forward to discussing this issue further with LAWA.

ground access network is never a limit on passengers' use of LAX, and thus that expanding ground access would not cause an increase in airport use. LAWA's rationale is unconvincing. As the City has repeatedly emphasized, the environmental analysis required by the California Environmental Quality Act ("CEQA") may not simply assert that alleviating the significant and longstanding ground access constraints at LAX will have no effect on airport operations. LAWA must provide substantial evidence to support such a conclusion. Pub. Res. Code § 21080(e).

As the City explained in its earlier comments, LAWA has previously stated that ground access *is* a constraint and that LAX capacity would not grow beyond 78.9 million annual passengers ("MAP") without upgrades to the ground access network. *See, e.g.*, 2004 Master Plan EIR at 1-4.² LAWA now attempts to distance itself from its own conclusions/representations, arguing these statements proved inaccurate: instead ground access is just one "factor" in passengers' choice of air travel, and furthermore the aviation industry can process more passengers today despite ground access congestion, through increased load factors and faster turnaround times. As "evidence" that there is no correlation between passenger capacity and ground access, LAWA states it has observed that LAX passenger throughput has steadily grown since it adopted the Master Plan, from 61.5 MAP in 2005 to 80.9 MAP at the end of 2016, despite the existing congestion in the Central Terminal Area ("CTA").

The problem with LAWA's analysis is that it simply infers, based on the above data, that the existing ground access network could accommodate an *additional* 15 MAP by 2035. This is faulty logic. Even if LAWA was "wrong" in 2004, and the ground access network did not practically constrain operations to 78.9 MAP, it does not follow

² In 2005, El Segundo filed an appeal before the Los Angeles County Airport Land Use Commission over LAWA's adoption of the Master Plan. *See generally*, Los Angeles County Airport Land Use Commission Aviation Case No. 2005-00001. The Commission found the Master Plan violated the state law requiring "orderly expansion of airports" (Pub. Util. Code § 21670(a)(2)). *Id.* Commission staff's analysis, which the April 20, 2005 Commission Resolution incorporated, stated that "[t]he present maximum capacity of LAX is generally agreed to be 78.9 MAP because of the present, limited ground access system. Even if gates are added, terminals enlarged and runways reconfigured, it would not be possible to accommodate more than 78.9 MAP with the present ground access system. . . . [T]here are a number of improvements to the ground access system that would accommodate a greater number of passengers." Commission Staff Analysis and Resolution, attached as Exhibit A.

that ground access would *never* constrain ever-increasing passenger demand. *See, e.g.*, Federal Aviation Administration Advisory Circular 150/5070-6B (January 27, 2015) at 38, attached as Exhibit B (“Actions taken by local airport authorities, such as changes in user charges, *ground access policies* or their support services, can also stimulate or hinder the demand for airport services.”). LAWA nonetheless claims that, as long as the aviation industry continues to operate more efficiently (and the LAX airfield and terminals are periodically upgraded), the sky’s the limit: ground access would never need to be upgraded to accommodate growth. Of course, this makes no sense.

Even if there were always some portion of potential LAX passengers for whom air travel through the airport is an “inelastic” service (meaning they will use LAX regardless of cost, including travel time to/from the airport), there is also a second, likely bigger population of potential passengers for whom travel through LAX is an “elastic” service negatively impacted by inconvenience. If LAWA did not build the Project, this second type of passenger would make other arrangements (e.g., patronize a different regional airport). *See* FEIR at 2-84 (“[H]istorical data on passenger activity levels reflect variations in passenger activity levels that may be attributed to traffic conditions in the CTA.”). Without any evidence, LAWA assumes there is enough of the first kind of potential passenger that the airport would inevitably process 95 MAP by 2035, even if the Project were not built. Under CEQA, LAWA must provide substantial evidence for its assumption that the Project would not accommodate additional passenger demand, and thus would not cause any environmental impacts related to increased aircraft operations. Conjecture and unsubstantiated claims by LAWA do not qualify as substantial evidence. This is particularly true given LAWA’s position that its own past analysis of CTA capacity proved inaccurate.³

As the City explained in its comments on the DEIR, LAWA has never analyzed the impacts of its operations at passenger levels above 78.9 MAP. The Ventura County Superior Court recognized this fact in its recent ruling on consolidated CEQA challenges to LAWA’s 2013 approval of the Specific Plan Amendment Study, which stated that LAWA “analyze[d] environmental impacts of the SPAS alternatives at LAX’s operational capacity (on 153 passenger gates) of 78.9 MAP. LAX is not projected to reach that capacity until 2024. LAX has never operated at 75 MAP or at its 78.9 MAP capacity. Once LAX reaches capacity, there are by definition no additional impacts,

³ These and other deficiencies in LAWA’s analysis of the Project’s effect on capacity are discussed in the February 28, 2017 comments of Adib Kanafani, Ph.D., N.A.E., attached as Exhibit C and fully incorporated herein.

because the airport is operating at capacity.” *ARSAC et al. v. City of Los Angeles et al.*, Ventura County Superior Court Case No. 56-2014-00451038-CU-WM-OXN (April 8, 2016) at 80, attached as Exhibit D. In its responses to comments, however, LAWA states that LAX hit 80.9 MAP at the end of 2016. Thus, in terms of passenger operations and analysis of its environmental impacts, LAWA has entered uncharted territory. *See* Exhibit E (containing a sampling of online news and blog articles discussing the Project’s potential to dramatically modernize LAX and increase the airport’s operational efficiency). Because the EIR lacks substantial evidence that the Project would not enable additional passenger throughput, LAWA must now analyze the Project’s contribution to continued growth at LAX.

II. The Applicable Limits of 153 Gates and 78.9 MAP Contained in the LAX Plan Should Not Be Deleted as Part of LAMP.

In its comments on the DEIR, the City explained why the extensive and unnecessary changes proposed to the LAX Plan and LAX Specific Plan would remove key limits on LAX growth and gut the plan consistency review process that was specifically included by the Los Angeles City Council as a check on LAWA pursuing unconstrained growth at LAX, for the promotion of regionalism, and for the protection of LAX neighbors. LAWA’s responses to these comments fail to justify the present need for these plan amendments, which among other things would delete the limit of 153 gates at LAX from the LAX Plan (*see* Appendix C at 1, 7) as well as references to designing and building out LAX to serve just 78.9 MAP of the regional passenger demand until at least 2035 (*see* Appendix C at 2).

LAWA attempts to defend its abandonment of the 153 gate cap by stating that “proposed changes to the LAX Plan and LAX Specific Plan do not call for additional gates above 153; they simply remove the reference to a specific number of gates.” FEIR at 2-94. LAWA’s claim that abandonment of the gate cap would have no environmental impact because the LAX Plan and LAX Specific Plan are not “prescriptive plans that specify the exact number of facilities and passengers allowed at LAX” (*id.* at 2-95) does not hold water. LAWA proposes to strike text from the LAX Plan stating, “Limit airport capacity by restricting the number of gates (including remote gates) to no more than 153 at Master Plan build out.” Appendix C at 7. The LAX Plan presently states that development “shall be governed” by this and other policies and programs. *Id.* The current 153 gate cap is clearly a “prescriptive” limit. The Los Angeles City Council wisely and intentionally included real checks on LAWA’s ability to pursue unconstrained growth at LAX. Any removal of those checks requires careful consideration and full environmental review.

LAWA states that the 153-gate cap applies through 2020 as a provision of the 2006 Stipulated Settlement. *Id.* at 2-96. This is partly correct. The 153-gate cap is also mitigation which LAWA expressly adopted when it approved SPAS, and “dutifully incorporated . . . into each proposed SPAS study alternative.” *See ARSAC et al. v. City of Los Angeles et al.*, at 79. Because the Project would abandon an operational limitation adopted independently of the 2006 Stipulated Settlement, LAWA must analyze the impact of removing the 153-gate cap from the plans governing airport development.

LAWA also suggests that, regardless of whether the Project would cause an increase in passenger gates, the EIR considers the cumulative impact of additional passenger gates because the description of the environmental setting identifies other potential projects that would add gates. FEIR at 2-98. LAWA claims that these projects would not, in any event, cause the total number of passenger gates to exceed the 153-gate cap. *Id.* As an initial matter, the list of “Probable Future Projects” in the EIR contradicts LAWA’s claim in its response to comments that the total number of gates would not exceed 153; the Terminals 2 and 3 project and the “Concourse 0” project together would add 14 gates to LAWA’s current (2016) count of 141 gates. *See* FEIR at 2-97. Furthermore, this list of projects does not match the list of future projects LAWA provided to the City on January 4, 2017, in response to a Public Records Act request. *See Exhibit F.* This document indicates that LAX will have 173 passenger gates by 2032 as a result of several projects which are not mentioned in the EIR at all. *Id.* It also appears to show that LAX will have 158 gates in 2020, while the 2006 settlement remains in effect.

It is no secret that the 153 gates already slated for LAX can accommodate much more than 78.9 MAP. Moreover, LAWA intends to dramatically increase the number of passenger gates at LAX during, and beyond, construction of the Project. This will allow LAX to accommodate even more passengers and flights. Nothing in the EIR (including its cumulative impacts analysis) evaluates the noise, air quality and other impacts of that growth on El Segundo and other airport neighbors.

The City reiterates the request in its comments on the DEIR that the entire administrative record for the Terminals 2 and 3 project, including the recently released EIR (attached as Exhibit G), be included in the LAMP administrative record. Furthermore, pursuant to the California Public Records Act (“PRA”), Government Code Sections 6250 et seq., and the amendments to the California Constitution provided by Proposition 59, please make available for El Segundo’s review all background documents supporting or explaining the data in Exhibit F, and include all such documents in the administrative record for the LAMP. Please respond to this request within ten (10) days. Gov’t Code § 6256.

III. The Project Will Result in Noise Impacts that Must Be Adequately Analyzed in the DEIR.

As the City explained in its comments on the DEIR, because LAWA takes the flawed position that the Project will not contribute at all toward higher passenger capacity at LAX, it fails even to consider the potential for increased aviation noise resulting from the Project-enabled growth in passengers and aircraft operations. The exclusion of any significance determination or analysis regarding this noise impact, and the individual and cumulative impacts on people at LAX and adjoining neighborhoods, is a fatal flaw. The FEIR must be revised to resolve this obvious deficiency under CEQA.

LAWA claims that any Project noise-related impacts would be adequately addressed by the mitigation measures in the 2004 Master Plan. FEIR at 2-108. Yet LAWA also takes the contradictory position that the Project is not governed by the Master Plan or its contents, including mitigation measures. *See id.* at 2-100. In fact, LAWA generally takes the position that the Master Plan has become largely irrelevant, does not govern future projects at LAX, and need not be replaced. *See id.* at 2-104 (asserting it is “incorrect that the LAX Master Plan is the governing planning document for LAX” and that it “was based on 1995 conditions projected over a 20-year period through 2015”); *id.* at 2-105 (“there is no requirement or reason to revise the LAX Master Plan or Specific Plan Amendment Study”). LAWA cannot distance the Project from the Master Plan’s goals and capacity limits, while claiming that any impacts from the Project would be adequately addressed by the plan’s mitigation measures.

LAWA also attempts to rebut the argument that any existing noise mitigation is tailored to 78.9 MAP, and thus insufficient to address higher passenger operations, by asserting that its Part 150 Noise Exposure Map (“NEM”) is “expected to be updated every 5 years and would capture any increases in actual and forecast activity during that process.” *Id.* at 2-108. Although FAA demanded a new NEM for LAX and approved it in 2015, the previous NEM for LAX was from 1984. Contrary to its claim that noise mitigation would be kept current pursuant to federal law, LAWA’s demonstrated practice is *not* to ensure that its NEM is updated regularly to reflect current noise contours. Furthermore, the 2015 NEM, which contains a noise contour based on 77.1 MAP in contrast to the current 80.9 MAP, is already significantly outdated.

IV. The FEIR’s Analysis of and Mitigation for the Project’s Impacts on Transportation Are Inadequate.

In comments on the DEIR, the City and MRO Engineers identified numerous flaws in the DEIR's analysis of transportation impacts. The response to the vast majority of these comments is lamentably, denial. Indeed, most of the public's concerns about the Project's transportation impacts are rejected out of hand. Our comments remain relevant—and have yet to be adequately addressed. Below, we identify a few of the most egregious examples of the EIR's legal inadequacies.

A. The FEIR Fails to Adequately Disclose the Severity and Extent of the Project's Traffic Impacts.

Like the DEIR, the FEIR fails to disclose the severity and extent of the Project's traffic impacts. The EIR incorrectly asserts that alleviating the significant and longstanding ground access constraints at LAX would have no effect on the airport's operations. For this reason, the EIR does not analyze the increase in traffic that would occur as passenger activity increases to expected levels in 2035 (about 95 MAP). The EIR asserts that it analyzed the environmental impacts that would occur as passenger levels reach 86 MAP in 2034 and 95 MAP in 2035. While the EIR did, in fact, provide this analysis, because it does not evaluate the Project's impacts against a baseline of existing conditions, it determines that the Project would impact only 6 intersections in 2024 and 8 intersections in 2035. *See* DEIR Table 4.12.2-18 at 4.12-113 – 4.12-118 and DEIR Table 4.12.2-20 at 4.12-125 – 4.12-130. Had the DEIR recognized that the Project will facilitate this increase in passenger activity, it would have disclosed far more extensive impacts.

In fact, for the 2024 scenario, an additional 77 intersections would experience an increase in volume/capacity ("V/C") ratio sufficient to constitute a significant impact. Moreover, at another 40-plus intersections, the level of service ("LOS") does not change but a closer inspection could reveal that the V/C ratio may exceed the LADOT threshold. *See* DEIR Table 4.12.2-18 at 4.12-113 – 4.12-118.

Had the EIR evaluated the Project's impacts in 2035 against a baseline of existing conditions, it would have determined that over 100 additional intersections would be significantly impacted. Furthermore, although the LOS does not change at an additional 25-plus intersections, a closer inspection may reveal that the V/C ratio may exceed the LADOT threshold. *See* DEIR Table 4.12.2-20 at 4.12-125 – 4.12-130.

Because the EIR does not accurately analyze the Project's traffic impacts, it does not identify any mitigation for these significantly impacted intersections.

B. The FEIR's Evaluation of the Project's Construction-Related Traffic Impacts Remains Deficient.

In its comments on the DEIR, the City faulted the environmental document for its abject failure to analyze how the Project's lengthy construction operations would affect on-airport and off-airport roadway operations. According to the LA Controller, construction would result in reduced vehicular traffic capacity, limited access to parking garages, reduced parking capacity, guests and construction vehicles competing for space and increased congestion on CTA access routes. *See* "Industrial, Economic & Administrative Survey Report of Los Angeles World Airports," February 2016, City of Los Angeles Office of the Controller ("LA Controller Report") at I.77, attached as Exhibit W to this firm's November 15, 2016 letter. The FEIR concedes that, although construction "could result in substantial congestion and inconvenience to motorists and pedestrians on a regular or frequent basis," the DEIR did not evaluate these impacts. FEIR at 2-223 (Response AL00012-9); FEIR at 2-117 (Response AL00008-34). In lieu of conducting this impact analysis, the EIR proposes to evaluate impacts on general traffic flow as part of Worksite Traffic Control Plans that would be prepared by the various construction contractors before concluding that these would be significant and unavoidable. DEIR at 4.12-241; FEIR at 2-117 (Response AL00008-34).

As we explained in our comments on the DEIR, the EIR errs in two fundamental ways. It fails to provide the required analysis of impacts and it inappropriately defers mitigation. CEQA allows a lead agency to defer mitigation only when: (1) an EIR contains criteria, or performance standards, to govern future actions implementing the mitigation; (2) practical considerations preclude development of the measures at the time of initial project approval; and (3) the agency has assurances that the future mitigation will be both "feasible and efficacious." *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 94-95 ("CBE"); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 669-71; tit. 14, Cal. Code Regs. ("CEQA Guidelines") § 15126.4(a)(1)(B). Here, the EIR meets none of these requirements. First, the EIR include no performance standards that would govern the traffic control plan.

Second, the EIR provides no evidence of any practical considerations that prohibit LAWA from developing its traffic control plan now, prior to Project approval. LAWA, of course, knows the precise components of the Project. *See* DEIR at 2-4. It also knows which projects would be developed within each construction phase. *See* DEIR at 2-175 and Table 2-15 (Construction Phasing). In fact, LAWA even knows which highways are likely to be affected by construction activities. (*See* FEIR at 2-222 and 2-223 (Response

AL00012-9), stating that work would be conducted along the Center Way corridor; congestion would occur along World Way South; lane closures and detours would be required when Century Boulevard, Airport Boulevard, Aviation Boulevard, Arbor Vitae Street and W. 98th Street are constructed; and that work outside the CTA would primarily occur in the Manchester Square area and along W. 96th Street).

Finally, the EIR offers no evidence that the establishment of a construction task force or the adoption of a traffic control plan will be effective in addressing the extensive gridlock that is all but certain to occur during the Project's 18 years of construction. In fact, as we explain below, there is ample evidence that LAWA refuses to appropriately staff its construction task force and refuses to include appropriate measures to ensure that its traffic control plan effectively addresses these impacts.

Because the DEIR failed to identify or analyze sufficient mitigation measures capable of offsetting the Project's construction-related traffic impacts, we identified a series of measures that would help to address these impacts. These measures, which were taken directly from the LA Controller Report, were explicitly identified to proactively manage congestion at LAX during and after construction. LA Controller Report at I.77. Despite these seemingly reasonable and certainly feasible suggestions for mitigation, the FEIR ignores each one of the suggested measures.⁴ Where a commenter suggests a "mitigation measure considerably different from others previously analyzed [that] would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it," an EIR must be recirculated. CEQA Guidelines § 15088.5(a)(3). Yet here, the FEIR simply repeats the flawed measures in the DEIR and asserts time and again that the measures we identified would have "no bearing on the environmental effects of the proposed Project or the effectiveness of construction traffic mitigation measures." FEIR at 2-123 (Response AL00008-42).

For example, we suggested that the FEIR evaluate a measure calling for LAWA to increase its landside operations staffing to ensure that traffic control is effectively managed during construction. *See, e.g.*, FEIR at 2-123 (Comment AL00008). In response, the FEIR simply asserts that LAWA will have sufficient staffing to implement the LAMP and that there would be "contractual mechanisms to require that these mitigation measures be successfully implemented and enforced." *Id.* (Response AL00008-42). Yet, the FEIR provides no evidence that the agency has sufficient staffing to effectively manage this massive construction project. Nor does the document ever describe these

⁴ The measures are clearly feasible as they were developed by the LA Controller.

contractual mechanisms or explain how they would be effectively in reducing impacts. Moreover, the LA Controller Report contradicts LAWA's assertions,

LAWA has devoted insufficient staffing levels to [landside operations]. The two existing Landside operations supervisors can neither provide the oversight needed to ensure contractor performance, nor respond to operational issues that arise on a day-to-day basis. Beyond that, there are not enough operations supervisors to monitor service levels in the terminals – service levels that are critical to improving and maintaining desired guest experiences. Existing oversight appears to be conducted when and where possible by staff members who have multiple responsibilities.

LA Controller Report at 4; I.77.

We identified a second measure—which was also identified in the LA Controller Report—calling for LAWA to obtain traffic engineering capability to develop the detailed traffic control plans necessary to contain and manage construction-related roadway congestion. *See* FEIR at 2-126 (Comment AL00008-46). Once again, the FEIR preparers refuse to adopt this mitigation measure, stating instead that LAWA will have sufficient traffic engineering experience to successfully implement the construction traffic mitigation measures. FEIR at 2-127 (Response AL0008-46). Here too, the FEIR provides no evidentiary support for this assertion. The LA Controller Report again contradicts the FEIR's assertions. The LA Controller, after conducting a survey of LAWA's operations, cited the agency for its lack of dedicated traffic engineering expertise. LA Controller Report at I.77.

Apparently recognizing the flaws in its approach to mitigation, the FEIR states that the EIR includes a number of measures that LAWA may need to implement to influence how passengers access the airport during the Project's construction. FEIR at 2-127 (Response AL0008-46). Tellingly, the EIR mentions only one measure, the possible implementation of tolls, but it does even bother to explain where the tolls would be implemented or how they would function. Had LAWA actually prepared its traffic control plan now, it could design an effective toll program along with other measures capable of addressing the Project's construction-related traffic impacts.

Finally, we identified another measure calling for: (1) the use of incentives for maintaining and penalties for reducing capacity within the CTA; and (2) including

performance requirements in the construction contracts for the automated people mover (“APM”). *See* FEIR at 2-124 (Comment AL00008-44) and LA Controller Report at I.79. Unfortunately, the FEIR also rejects this measure. Instead, it asserts that construction contracts will contain provisions to enforce mitigation procedures, including penalties for noncompliance. FEIR at 2-125 (Response AL00008-44). The FEIR offers no detail as to the contents of such provisions. Nor does it explain how the provisions would be sufficient to enforce the EIR’s mitigation measures. It also provides no information as to what type of penalties might be imposed for noncompliance. The purpose of including these details now, rather than after the Project is approved, is to allow the information to be properly vetted by the public and decisionmakers.

C. The FEIR Fails to Resolve the Deficiencies Identified in MRO Engineers’ December 1, 2016 Report.

MRO Engineers identified numerous deficiencies in the DEIR’s transportation analysis. As MRO explains in the attached report, the FEIR’s responses to their comments are not satisfactory and the EIR’s analysis remains deficient. *See* Letter from MRO Engineers to L. Impett, February 27, 2017, attached as Exhibit H.

V. The FEIR’s Analysis of and Mitigation for the Project’s Impacts on Climate Change Are Inadequate.

The City previously pointed out numerous failures in the analysis and mitigation of the Project’s impacts on climate change. The vast majority of these issues remain unresolved by evasive, conclusory, and incomplete responses to comments in the FEIR.

A. The FEIR Fails to Resolve Deficiencies in the Analysis of Construction-Related GHG Impacts.

The DEIR only included direct emissions in its calculation of construction-related GHG emissions. Specifically, the DEIR stated that indirect GHG emissions associated with construction activity such as purchased electricity, solid waste disposal, water usage and wastewater disposal were omitted from the Project’s inventory because they are *negligible* compared to direct emissions. DEIR at 4.5-6. The FEIR asserts that its approach was appropriate because it relied on an industry standard model (the California Emissions Estimator Model or “CalEEMod”) to calculate GHG emissions. FEIR at 2-130 (Response AL00008-51). The FEIR then attempts to explain why its approach to calculating GHG emissions for one part of the construction-related GHG inventory—electrical emissions from grid-powered off road equipment—is appropriate. *Id.*

The FEIR does not, however, provide a satisfactory response regarding the EIR's failure to include GHG emissions from other sources of purchased electricity (i.e., non grid-powered off road equipment) or from solid waste disposal, water usage and wastewater disposal. Regarding these last categories of emissions, the FEIR simply asserts that the GHG analysis was conservative because it neglected to account for reductions in electrical, water, and solid waste demand through the demolition of previously operational structures during the construction phase. *Id.* The EIR provides no analytical support for this assertion. Moreover, the FEIR's approach of directing the reader to various technical appendices which may or may not specify the emission sources that were utilized in the construction emissions analysis violates CEQA. California courts have determined that this is a wholly unacceptable way of presenting decisionmakers and the public with essential information, and it renders the EIR legally inadequate. Whatever is required to be in the text of the EIR must be in the EIR itself, not buried in some appendix. *See Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 722-23; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 727.

B. The FEIR Incorrectly Asserts that the Proposed Project Would not Contribute to Increased Passenger and Aviation Activity and Therefore Would Result in a Decline in VMT and GHG Emissions.

The FEIR incorrectly asserts that, regardless of the Project, passenger levels will grow to 95 MAP in 2035. FEIR at 2-82 (Response AL00008-20). This is incorrect. As the Kanafani Report attached to the City's comments on the DEIR describes, each component of the airport, including the passenger terminals, the airfield, and the ground access system, is a "link in a chain," and the link with the lowest capacity "determines the capacity of the whole system." Passengers, in particular domestic travelers who have a variety of other options in the LA region for airports that provide domestic flights, take ground access congestion (along with other factors) into account when they choose an airport, particularly when congestion gets very high. *See* Kanafani Report, attached as Exhibit G to this firm's November 15, 2016 letter; *see also* Exhibit C (Feb. 28, 2017 comments of Dr. Kanafani) attached hereto.

The DEIR does quantify the increases in GHG emissions in 2024 and 2035 but conducts this analysis for "informational purposes only." DEIR at 4.5-28. Thus, although, for example, the DEIR's analysis of "2024 Future With Project Compared to 2015 Existing Conditions" identifies GHG emissions that are above the thresholds of significance, it does not identify this impact as significant. *See* DEIR Table 4.5-7 at 4.5-29); *see also id.* at 4.5-41. The EIR claims that this increase in GHG emissions is not

from the LAMP, because these emissions are not attributable to the Project. FEIR at 2-135 (Response AL00008-57). Instead, the FEIR asserts, the 2024 emissions include future emissions from future growth in regional and local traffic that would occur irrespective of the Project. *Id.*

Yet, one must ask: what is the cause of this growth in regional and local traffic? Certainly a substantial source of this traffic growth would be the phenomenal increase in annual passengers at the airport. Between 2015 and 2025, LAX will accommodate an additional 21,918 passengers on a daily basis (86 MAP – 78 MAP = 8,000,000 annual passengers (8,000,000 / 365 = 21,918 daily passengers)). In 2024 and 2035, the DEIR determines that no more than only 2% of arrivals/departures to the airport will be via transit. DEIR at 4.12-4 – 4.12-34. Thus, the vast majority of passengers will continue to travel to the airport via automobile.

C. The FEIR Fails to Adequately Analyze the Project’s Consistency With Applicable Plans, Policies and Regulations Adopted for the Purpose of Reducing GHG Emissions.

The City previously faulted the DEIR for its failure to adequately analyze the Project’s consistency with plans, policies and regulations adopted with the intent of reducing GHG emissions. The FEIR fails to resolve the numerous deficiencies identified in our comments. For example, in response to our comment that the DEIR did not analyze the Project’s consistency with Executive Orders (“EO”) S-3-05 and B-30-15 in any meaningful way, the FEIR suggests that the approach we suggested—and the one used by SANDAG in its recent RTP/SCS—would not be appropriate because the characteristics of SANDAG’s project are substantially different from those of the LAMP project. *See* FEIR at 2-139, 140 (Response AL00008-61). Specifically, the FEIR asserts:

The LAX Landside Access Modernization Program Project is a specific development project particular to LAX with initial completion in 2024 and buildout, including future potential development, in 2035. The specific “reference point” approach to determining Executive Order consistency used in the SANDAG EIR may be appropriate for a long-term comprehensive regional plan with many sources of GHG emissions (being more similar to a statewide emissions inventory), but it clearly is not appropriate for a shorter-term specific project with only a few sources of GHG emissions.

Id.

As an initial matter, the FEIR provides no explanation as to why LAWA believes a project's particular timeframe has a bearing on its ability to achieve statewide GHG emission reduction targets. The more important consideration, of course, is the amount of GHG emissions generated by the Project. Moreover, the proposed Project is not a short-term project as it would be under construction for 18 years and would result in a significant increase in GHG emissions through at least 2024, if not longer. *See* DEIR Table 4.5-7 at 4.5-29.

While SANDAG's approach to analyzing its project's consistency with the Executive Orders is, of course, not the only technical method that lead agencies may use, the FEIR does not conduct any technical analysis at all. Instead, it simply offers the following contradictory statement: "The GHG emissions associated with operation of the proposed Project in the future (2024 and 2035) would not be less than the levels estimated for 1990 conditions, notwithstanding that future GHG emissions would be less with implementation of the proposed Project." DEIR at 4.4-33.

The DEIR explicitly states that the GHG reduction target specified in EO-S-3-05 can be considered as a basis for evaluating how the GHG emission of a project compare to those targets. The EIR should be revised to undertake this evaluation in light of the specific targets established by EO-S-3-05 and B-30-15. To its credit, the FEIR does undertake a quantitative comparison of the Project GHG emissions to the GHG reduction goals identified in the LAWA Sustainability Plan and the Green LA Plan. FEIR at 2-141 (Response AL00008-62). It should conduct a similar analysis of the Project's consistency with the Executive Orders.

For the foregoing reasons, the City urges LAWA not to certify the FEIR until the document is revised to address the flaws described above.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Osa L. Wolff

Exhibits:

- A: Commission Staff Analysis and Resolution, Los Angeles County Airport Land Use Commission Aviation Case No. 2005-00001 (2005)
- B: Federal Aviation Administration Advisory Circular 150/5070-6B (January 27, 2015)
- C: February 28, 2017 comments of Adib Kanafani, Ph.D., N.A.E.
- D: *ARSAC et al. v. City of Los Angeles et al.*, Ventura County Superior Court Case No. 56-2014-00451038-CU-WM-OXN (April 8, 2016)
- E: Sampling of online news and blog articles discussing the Project's potential to dramatically modernize LAX and increase the airport's operational efficiency
- F: List of projects LAWA provided to El Segundo on January 4, 2017, in response to a Public Records Act request
- G: Draft EIR for the Terminals 2 and 3 project (due to size, this exhibit is provided separately on CD)
- H: Letter from MRO Engineers to L. Impett, February 27, 2017