

Ms, Roybal Saltarelli and Mr. Tellis  
 September 1, 2011  
 Page 13

**7. The SEA/RSDEIR fails to mitigate these severe impacts.**

The Draft EIS/EIR clearly acknowledges the substantial impacts that the Temporary Construction Easement and the Project construction would cause, even though it provides no effective mitigation measures. The Draft EIS/EIR offers several conclusory mitigation measures, none of which provides any specifics, particularly with respect to the Adjacent Properties. For example, page 3-52 of the Draft EIS/EIR states that "Bus lines that would be affected by lane closures due to construction activities would continue to operate where feasible in the remaining traffic lanes." Unless the Temporary Construction Easements on both sides of Flower Street and on 5<sup>th</sup> Street in the vicinity of the existing bus stops are strictly limited in scope and purpose as described in the meeting with LACMTA representatives on August 22, 2011, and all due care and attention is given to assure that access is provided to these stops at all times, there may be no access to buses whatsoever in this area for the period that the Temporary Construction Easements are in effect. The Draft EIS/EIR further states that "Bus stops that would be affected by sidewalk construction would be temporarily relocated and construction activities would be phased to consider the maintenance of bus service and minimize disruption." For the same reasons, this statement is more of a goal than a feasible mitigation. CEQA, including, for example, Sections 21002 and 21003.1, and CEQA Guidelines Sections 15126 through 15126.4, require that all feasible mitigation measures be adopted to address significant impacts; deferral of analysis and determination of mitigation is not allowed.

39

Additionally, an EIR is required to analyze alternatives that could achieve the project's goals but mitigate significant adverse impacts. If there were any intent to use either the Temporary Construction Easement or the Potential Revised Temporary Construction Easement for staging or other purposes that would obstruct or impede vehicles or pedestrians, then we believe that LACMTA should consider the alternative of conducting all such activities on the Maguire Gardens, which would reduce a number of the significant impacts without creating as many impacts itself. The Maguire Gardens would not require extensive infrastructure demolition (except for one restaurant), would not cause substantial impacts to access and fire safety, and would more easily be reconstructed after the Temporary Construction Easement terminates. Operation budgets for the Maguire Gardens are provided by the City of Los Angeles and could be redirected during the easement period. Based on the meeting with LACMTA representatives on August 22, 2011, we understand that the Potential Revised Temporary Construction Easement on the Adjacent Properties will not be used in any manner that would obstruct access (other than the potential impairment from a grade differential discussed above), so that the need to consider an alternative location for the Temporary Construction Easement or Potential Revised Temporary Construction Easement may not be necessary. If our understanding is incorrect, or if LACMTA's plans change, then due consideration should be given to this alternative, regardless of whether the Maguire Gardens is considered a "park" and therefore not subject to the

40

Ms, Roybal Saltarelli and Mr. Tellis  
 September 1, 2011  
 Page 14

same standards of review in terms of disruption by the Project. We noted in our meeting that it would be much more disruptive, and cause much more significant economic harm, to obstruct the Adjacent Properties than it would be to obstruct the Maguire Gardens.

40  
 cont'd

**8. The SEA/RSDEIR does not acknowledge or analyze all of the operational impacts of the Regional Connector.**

The SEA/RSDEIR makes material changes to the LPA, but fails to analyze the impacts of those changes. First, the previously planned Flower/5<sup>th</sup>/4<sup>th</sup> Street station has been eliminated, and a traction power substation is now included along Flower between 4<sup>th</sup> and 5<sup>th</sup> Streets (p. 2-2; see also p. 2-34); however, the SEA/RSDEIR makes clear that the Flower/5<sup>th</sup>/4<sup>th</sup> Street station could still be considered as a future project (p. 2-7). Since this station is a foreseeable consequence of the LPA, its impacts must be analyzed in conjunction with the impacts of the LPA with the other changes to the LPA identified in the SEA/RSDEIR.

41

As noted above, TPG strongly believes that the station at Flower/5<sup>th</sup>/4<sup>th</sup> Street is critical to the utility of the Regional Connector and fundamental to the usefulness of the subway system to serve the many thousands of visitors and employees located within the immediate vicinity of this location. The proposed cut and cover construction along Flower Street near the Adjacent Properties will cause our property significant inconvenience and disruption while not providing any of the benefits of the originally proposed station at Flower/5<sup>th</sup>/4<sup>th</sup> Street. TPG would accept the necessity of using cut and cover construction on Flower Street if LACTMA were building the station at Flower/4<sup>th</sup>/5<sup>th</sup> Street. However, TPG objects to use of the cut and cover construction in front of the Adjacent Properties if no such station is being constructed. If that station will not be provided, then TPG believes that LACMTA should use the tunnel boring machine to continue tunneling south under Flower Street past 6<sup>th</sup> Street, at which point a machine access point can be created, with cut and cover construction to continue south on Flower Street to the existing tracks adjacent to the 7<sup>th</sup> Street Metro Station. TPG believes that there is sufficient distance to allow for the necessary elevation changes from the 7<sup>th</sup> Street Metro level to the planned depth of the subway tunnels without using cut and cover methods in front of the Adjacent Properties. At the August 22, 2011 meeting, when the subject of using the tunnel boring machine was raised for the segment of Flower Street near our Adjacent Properties, the LACMTA representatives stated that existing tie-backs in the street bed would require higher costs to remove if the tunnel boring machine were used. TPG believes that the circulated studies have not adequately analyzed the alternative of using the tunnel boring machine for this segment of the work as compared to the costs and disruption of the cut and cover technique, especially in the context of the elimination of the station at Flower/5<sup>th</sup>/4<sup>th</sup> Streets.

42

Ms, Roybal Saltarelli and Mr. Tellis  
 September 1, 2011  
 Page 15

Second, the LPA appears to include a pocket track, which could also serve as a crossover, located beneath Flower Street between 5<sup>th</sup> and 6<sup>th</sup> Streets, which the SEA/RSDEIR states would allow for a new possible future station at this location as a separate project (pp. 2-2, 2-34). Since this new station is a foreseeable consequence of the LPA, its impacts must be analyzed in conjunction with the impacts of the LPA with the other changes to the LPA identified in the SEA/RSDEIR. (See, e.g., *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 396 [an EIR must analyze a "project" defined to include not only the current project, but also future phases of, and other foreseeable consequences of, the initially approved project]; see also, CEQA § 21065 ["project" under CEQA is defined as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment"].) As discussed, TPG understands from the August 22, 2011 meeting that the location of the pocket track in this area is being reconsidered in the final plans, but that even with the relocation of the pocket track, a station could be constructed at Flower/5<sup>th</sup>/4<sup>th</sup> Streets.

43

Third, the SEA/RSDEIR states that an enhanced pedestrian walkway has been added to the LPA. However, the SEA/RSDEIR contains only a few sentences describing the walkway - about the length of the walkway - but includes no discussion or analysis of its construction, its construction and operational impacts, or even how it will be accessed, or any other details, ***other than to indicate that it will require removing at least one traffic lane from the west side of Flower Street***, which is evidence of a significant impact in and of itself. Other details, such as access to and from the walkways, particularly for handicapped patrons, and other potential impacts are simply not discussed. Additionally, as first mentioned in the first bullet point on Page 2-1 of the SEA/RSDEIR, the reference to the west side of Flower Street is inconsistent with the enhanced pedestrian walkway on the east side of Flower Street, as shown on the Exhibit. Please correct this reference in the Final EIS/EIR to remove any confusion.

44

While TPG's clear preference is for the station to be built at Flower/5<sup>th</sup>/4<sup>th</sup> Streets, TPG is supportive of plans to improve pedestrian access from the vicinity of the Adjacent Properties to the 7<sup>th</sup> Street Metro Station if no station will be built on Flower Street. However, there is no question that this walkway will create significant impacts. To accommodate this enhanced walkway, one traffic lane would be removed from the east side of Flower Street between 4<sup>th</sup> and 6<sup>th</sup> Streets. The Draft EIS/EIR acknowledged that the removal of one traffic lane from the east side of Flower Street between 4<sup>th</sup> and 6<sup>th</sup> Streets needed for the now-eliminated station would result "in increased intersection congestion along this intersection of Flower Street" (p. 3-43). Despite the fact that the SEA/RSDEIR now removes the same traffic lane from the east side of Flower Street for a different purpose, it does not acknowledge any such significant impact. In fact, it states that it would be a future station at Flower/5<sup>th</sup>/4<sup>th</sup> Streets that would require eliminating one traffic lane from the east side of Flower Street in the future. It is unclear how a future station at

45

Ms, Roybal Saltarelli and Mr. Tellis  
September 1, 2011  
Page 16

Flower/5<sup>th</sup>/4<sup>th</sup> Streets would impact the widened sidewalk that is being contemplated on the east side of Flower. We believe that the SEA/RSDEIR requires more clarity to avoid any implication that more than one of the existing lanes of Flower Street would be eliminated

45  
cont'd

Again, CEQA, including Sections 21002 and 21003.1, and CEQA Guidelines Sections 15126 through 15126.4, require that an EIR identify all significant impacts and feasible mitigation measures to reduce those impacts to a less than significant level; deferred analysis and determination of mitigation is not allowed.

46

Compensation

Under California eminent domain law, LACMTA is, of course, required to compensate TPG for the value of the final Temporary Construction Easement that may be taken and to pay severance damages for the impact of the taking on the remainder of the parcel, which would include the entire City National Plaza and Towers. The potential impacts on the tenants and visitors to the City National Plaza and Towers could be very substantial unless the scope and purpose of the Temporary Construction Easement are tightly restricted as described for the Potential Revised Temporary Construction Easement above. Use of the Temporary Construction Easement for anything other than preserving vehicular and pedestrian access and for separating pedestrians on the sidewalks from the street work by K-rails and fences along the specific areas of the property line that were discussed in the meeting with LACMTA would potentially disrupt the ability of tenants and visitors to use the stores, restaurants, offices and parking in City National Plaza and Towers, and the parking at J-2 Garage in a normal fashion, as a result of impaired access, noise and vibration from work that is contemplated immediately adjacent to the stores, restaurants and offices in City National Plaza and Towers.

47

48

Any such disruption to our tenants will give rise to claims by those tenants that such disruption has caused them to incur damages. Moreover, prospective new tenants will likely consider several years of disruption and inconvenience to be a major impediment to entering into a lease at our property. Downtown office space is currently quite competitive and lessees have a wide range of choices. It is possible, even likely, that any disruptive work adjacent to or on City National Plaza and Towers will cause potential lessees to divert to other spaces in the area instead of leasing at the City National Plaza and Towers.

49

The impairment of TPG's existing leases and the loss of even one or two new leases could reasonably cause tens of millions of dollars in damages to TPG, all of which would be compensable as severance damages by the taking of the Temporary Construction Easement, if such easement permits any obstruction or impairment of access to the property by tenants or visitors. Such severance damages would add substantially to the cost of the Regional

Connector Project, and unnecessarily so, since the impacts of any such disruptive uses of the Temporary Construction Easement in other areas would be significantly less.

49  
cont'd

For all of these reasons, TPG respectfully requests that we be an active participant in the specific planning for use of the final Temporary Construction Easement along the Adjacent Properties as well as in the implementation of the mitigation measures associated with the actual work. We request that the general contractor for the Regional Connector be required to consult and coordinate with TPG with respect to all of the work done on and below Flower Street and 5<sup>th</sup> Street along the Adjacent Properties, so that TPG is assured that the necessary mitigation measures will actually be implemented during the work. As owner and property manager of two properties whose operations, employees, tenants, patrons, guests and visitors will be directly, and negatively, impacted by construction of any of the alternatives, and given the extreme reliance on the functionality of both 5<sup>th</sup> Street and Flower Street, TPG has a vested interest in minimizing the short term impacts of the construction. As indicated above, TPG expects to be intimately involved during the planning phases to ensure that LACMTA provides all feasible mitigation measures to reduce construction impacts and effects in the vicinity of the Adjacent Properties.

50

In summary:

- TPG requests that the Project be constructed using the tunnel boring technique along the Adjacent Properties, avoiding the surface impacts on the access to, and desirability of, the Adjacent Properties that would result from cut and cover construction.

51

- TPG requests that the proposed station at Flower/5<sup>th</sup>/4<sup>th</sup> Street be reinstated in the planning for the Project and be constructed as part of the Project, in which case TPG would accept the cut and cover construction in the area of the station.

52

- If cut and cover construction is used on Flower Street, the steel plates that cover the construction area should be installed at existing grade level to avoid any grade differential between existing sidewalk and Flower Street levels and the level of the construction area, so that vehicles and pedestrians have safe and unobstructed access to and from the Adjacent Properties.

53

- The noise and vibration from the construction under Flower Street should be mitigated by appropriate measures to minimize the impact on the tenants and visitors in our subterranean retail area.

54

- The potential harm to the Adjacent Properties from the tunneling and construction should be minimized by appropriate mitigation measures.

55

Ms, Roybal Saltarelli and Mr. Tellis  
September 1, 2011  
Page 18

- The Temporary Construction Easement should be strictly limited to the area along the property line of the Adjacent Properties that is required for the installation of any necessary K-rails to protect pedestrians from the construction area. If cut and cover construction is used and the steel plates are installed at existing grade level, no ramping would be required at the mid-block crosswalk or at the bus stop and sidewalks. TPG is very concerned about the impact of any grade differential created by the construction and the resulting need for ramps at each garage ramp and pedestrian access point, which may cause safety issues and interfere with the access to and from the Adjacent Properties during all of the hours that our businesses are operating.
- The traffic impacts from the construction on Flower Street and the proposed reduction in the number of traffic lanes on Flower Street should be more carefully studied and mitigated.
- TPG should be consulted with in the design of the final mitigation measures and should be provided with updated plans for the Project that confirm both the limited scope of the Potential Revised Temporary Construction Easement as well as the relocation of the pocket track away from Flower Street.

56

57

58

Thank you for your consideration of our concerns and our requests. TPG looks forward to working with LACMTA for the long-term success of the Regional Connector Project.

59

Sincerely,

THOMAS PROPERTIES GROUP, INC.



Thomas S. Ricci  
Executive Vice President

TSR/ct

cc: Martha Welborne, Los Angeles Metropolitan Transit Authority  
Paul S. Rutter, Thomas Properties Group, Inc.  
Ayahlushim Getachew, Thomas Properties Group, Inc.  
Alix Wisner, Thomas Properties Group, Inc.

## R-BU4

## Responses to Comments from Thomas Properties Group, Inc., Ricci, Thomas S.

**Response to Comment R-BU4-1**

Thank you for the information regarding the properties. As written in the 2011 CEQA guidelines §15088.5(f)(2):

*When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.*

Also, per 23 CFR 771.130(b), an Environmental Assessment may be prepared to assess the impacts of changes, new information, or new circumstances and to ascertain the significance of any new impacts. Sections containing significant new information were recirculated as part of the Supplemental EA/Recirculated Draft EIR Sections. Sections that were not recirculated do not contain significant new information. Responses to comments from the Thomas Properties Group (TPG) on the Supplemental EA/Recirculated Draft EIR Sections below are provided in context with both the Supplemental EA/Recirculated Draft EIR Sections and the Draft EIS/EIR. Responses to Thomas Properties Group's comments received during the Draft EIS/EIR comment period (September 3, 2010 to October 18, 2010) are provided in Volume F-2 of this Final EIS/EIR as responses to comment letters BU30 and BU36.

**Response to Comment R-BU4-2**

Metro appreciates TPG's support of the Regional Connector project. The Locally Preferred Alternative alignment would run underneath Flower Street, adjacent to the referenced properties. It is Metro's goal to minimize construction impacts to the extent feasible. Metro has made refinements to the Locally Preferred Alternative since publication of the Draft EIS/EIR to minimize the construction impacts of the Regional Connector, as described in Chapter 2, Alternatives Considered, of this Final EIS/EIR. Metro would coordinate construction activities with emergency service personnel to ensure that emergency services and response times are not impacted, as indicated in Section 4.15.4.1 of the Draft EIS/EIR and Section 4.15.4.2 of this Final EIS/EIR. This coordination has been included as mitigation measure number CN-2 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR).

**Response to Comment R-BU4-3**

The Metro Board of Directors designated the Fully Underground LRT Alternative, without the Flower/5<sup>th</sup>/4<sup>th</sup> Street station, as the Locally Preferred Alternative on October 28, 2010. As indicated in Chapter 2, Alternatives Considered, of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, the Locally Preferred Alternative would not preclude the

Flower/5<sup>th</sup>/4<sup>th</sup> Street station from being built as a separate future project. Neither the Draft EIS/EIR nor the Supplemental EA/Recirculated Draft EIR Sections identify the Flower/5<sup>th</sup>/4<sup>th</sup> Street station as a reasonably foreseeable future development. The Locally Preferred Alternative would be fully functional and would fully meet the purpose and need identified in Chapter 1 of the Draft EIS/EIR regardless of whether the Flower/5<sup>th</sup>/4<sup>th</sup> Street station is built, thus the ability to construct the Flower/5<sup>th</sup>/4<sup>th</sup> Street station does not affect the scope of the project. At this time, while the design of the Regional Connector system would allow construction of the station, no funding has been identified for such a station, and it is therefore not considered a reasonably foreseeable future phase of the Regional Connector. Metro understands the beneficial access and added convenience that a station at this location would provide. The Locally Preferred Alternative includes an enhanced pedestrian walkway that would improve connections to the existing 7<sup>th</sup> Street/Metro Center Station from the area around 5<sup>th</sup> and Flower Streets.

#### Response to Comment R-BU4-4

Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on Thomas Properties Group's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. The reduced temporary construction easement would cover areas expected to be required for Americans with Disabilities Act (ADA)-compliant access from the sidewalk to the private property, and access from the roadway to the parking garage and driveways. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences.

#### Response to Comment R-BU4-5

- A. Raised Deck. Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Concrete deck panels would be used for this activity. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street. Any decking configurations would be designed to safely accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks.

Access to and from the bus stop, shuttle area, and mid-block pedestrian crossing would be accommodated in any decking configuration.

- B. Garage Access. Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street. Any decking configurations would be designed to accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks. The temporary (during construction) roadway configurations will be reviewed with the Los Angeles Department of Transportation (LADOT) for compliance with roadway standards and designed to meet vehicle standards.

Access to and from the bus stop, shuttle area, and mid-block pedestrian crossing would be accommodated in any decking configuration.

#### Response to Comment R-BU4-6

The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards, including those pertaining to sight lines.

Access to and from the bus stop, shuttle area, and mid-block pedestrian crossing would be accommodated in any decking configuration.

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction.

As shown in mitigation measure number AQ-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), construction activity that affects traffic flow on the arterial system would be primarily limited to off-peak hours, thus minimizing the traffic congestion impacts on Flower Street during construction.

#### Response to Comment R-BU4-7

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes late-night businesses such as the 24-hour gym. Access to and from the buses, shuttles, 505 Flower retail escalators, and pedestrian bridges would be maintained throughout construction. As indicated in Section 3.3.5.1.2 of the Draft EIS/EIR and this Final EIS/EIR, intermittent lane closures would be needed during construction. When a crosswalk is closed due to construction activities, pedestrians would be directed to nearby alternate crosswalks, as indicated in mitigation measure number TR-4 of the Mitigation Monitoring and Reporting Program (Chapter 8 of this Final EIS/EIR).

#### Response to Comment R-BU4-8

Metro would keep entrances and exits clear of obstructions, and would ensure that adequate exit routes and safe zones are maintained at all times during construction, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and mitigation measure number SS-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro would not allow construction activities to impede safe evacuation of the buildings at any time.

#### Response to Comment R-BU4-9

Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Concrete deck panels would

be used as a temporary deck for vehicles and pedestrians during cut and cover operations on Flower Street. Preference for deck panels to be installed at existing grade level is noted.

Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to safely accommodate pedestrians, the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections.

#### Response to Comment R-BU4-10

As stated in Section 3.4.1.2 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during their business operating hours throughout construction. This includes businesses with late hours and those that operate 24 hours per day. As stated in Section 4.7.3.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, construction would be consistent with the goals of Section 41.40(a) of the Los Angeles Municipal Code. The construction contractor would also use best management practices (BMPs) to reduce construction-related noise levels, such as temporary noise barriers, high performance mufflers, portable noise sheds, and other measures indicated in the Noise and Vibration section of the Mitigation Monitoring and Reporting Program (Chapter 8 of this Final EIS/EIR).

#### Response to Comment R-BU4-11

Some land use types are more sensitive to noise than others. For example, parks, churches, and residences are typically more noise-sensitive than industrial and commercial areas. The noise analysis contained in Section 4.7, Noise and Vibration, of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR used the Federal Transit Administration noise impact criteria classification of sensitive land uses:

- Category 1: Buildings or parks where low noise is an essential element of their purpose (e.g., amphitheaters and concert pavilions)
- Category 2: Buildings where people normally sleep, including residences, hospitals, and hotels where nighttime sensitivity is assumed to be of utmost importance
- Category 3: Institutional land uses with primarily daytime uses that depend on low noise as an important part of operations (e.g., schools, libraries, churches, theaters, and places of study)

The City National Plaza and Towers is an office land use, which is not considered a sensitive land use. The same applies for the property's restaurant and retail uses.

As indicated in Section 4.7, Noise and Vibration, of this Final EIS/EIR, consistency with the goals of applicable local ordinances and implementation of BMPs would ensure that noise and

vibration levels associated with construction of the Locally Preferred Alternative would not result in a significant adverse noise impact under CEQA or NEPA. Given that the Locally Preferred Alternative would not result in an adverse noise impact during construction, mitigation is not required. The alignment would be constructed beneath Flower Street in the vicinity of the City National Plaza and Towers using cut and cover construction. Cut and cover construction would involve large bulldozers and drill rigs as the main sources of construction vibration. As indicated in Section 4.7, Noise and Vibration, vibration impacts (including ground-borne noise) associated with large bulldozers and drill rigs would be less than significant under CEQA and not substantially adverse under NEPA. Nonetheless, mitigation measures were included in the Supplemental EA/Recirculated Draft EIR Sections which would further reduce annoyance to sensitive land uses caused by ground-borne vibration. Since designation of a Locally Preferred Alternative, mitigation measures have been refined and confirmed for the Locally Preferred Alternative, which are listed in Section 4.7, Noise and Vibration, of this Final EIS/EIR, based on input received during the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections public review periods. Mitigation measures for the Locally Preferred Alternative have been carried forward and included in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR).

#### Response to Comment R-BU4-12

The proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. The pocket track is being considered for relocation as a refinement to the Locally Preferred Alternative, however that determination has not been made at this time. Only locations that would not create new impacts beyond those disclosed in the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections are under consideration. Locations under consideration would minimize or avoid impacts, or otherwise would not create new impacts. The location will be confirmed during final design.

#### Response to Comment R-BU4-13

The proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. The pocket track is being considered for relocation as a refinement to the Locally Preferred Alternative, however that determination has not been made at this time. Only locations that would not create new impacts beyond those disclosed in the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections are under consideration. Locations under consideration would minimize or avoid impacts, or otherwise would not create new impacts. The location will be confirmed during final design. The comments in the bulleted list are addressed individually in Responses to Comments R-BU4-14 through R-BU4-21, below.

#### Response to Comment R-BU4-14

Flower Street from 4<sup>th</sup> Street to the existing tracks just south of 6<sup>th</sup> Street is highly constrained with existing subsurface tie-backs from previous construction projects that interfere with

tunneling activity. Tunneling activities using a tunnel boring machine south of 4<sup>th</sup> Street are hindered as existing tie-backs are encountered. Each time a tie-back is encountered, tunneling would halt in order to allow the tie-back to be removed. This constraint renders tunnel boring machine construction not practicable in this area. Also, it would not be feasible to construct the proposed pocket track in this location using a TBM. This is indicated in Section 2.3.6.2 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR.

#### Response to Comment R-BU4-15

Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Metro will continue to review opportunities to reduce construction impacts and improve schedule. The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards. As part of the Metro Construction Community Relations program, Metro will meet with all business and property owners to confirm access need and to keep the community aware of construction activities prior to initiation. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to safely accommodate pedestrians, the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections.

As stated in Section 3.4.1.2 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during their business operating hours throughout construction. As shown in mitigation measure number AQ-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), construction activity that would affect traffic flow on the arterial system would be primarily limited to off-peak hours, thus minimizing the traffic congestion impacts on Flower Street during construction.

#### Response to Comment R-BU4-16

Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Metro will continue to review opportunities to reduce construction impacts and improve schedule. Access will be maintained. As part of the Metro Construction Community Relations program, Metro will meet with all business and property owners to confirm access need and to keep the community aware of construction activities prior to initiation. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to safely accommodate pedestrians, the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections. Impacts to pedestrian circulation during

construction, such as temporary sidewalk closures and changes to pedestrian flow, are discussed in Section 3.3.5.1.4 of the Draft EIS/EIR and this Final EIS/EIR.

#### Response to Comment R-BU4-17

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction.

#### Response to Comment R-BU4-18

As discussed in Section 3.3.5.1.2 of the Draft EIS/EIR and this Final EIS/EIR, temporary peak period lane closures would be minimal, and temporary off-peak lane closures would be intermittent, so as to minimize traffic circulation impacts during peak times. As included in mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), Metro would maintain traffic flow to the degree feasible. Mitigation measure number TR-9 would ensure that shuttle bus drop-off areas at City National Plaza would be provided throughout construction. Mitigation measure numbers TR-12 and TR-13 would ensure that Metro would maintain access to bus stops, minimize temporary bus stop closures, and ensure that any temporarily closed bus stops are relocated to a nearby location to minimize inconvenience. Similar candidate mitigation measures were also discussed in Sections 3.4.1.1 and 3.4.1.2 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and the Transportation Impacts section of the Mitigation Monitoring and Reporting Program (Chapter 8 of this Final EIS/EIR).

#### Response to Comment R-BU4-19

Metro does not anticipate construction-related damage to the building. As discussed in Section 4.7.3.5.1 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR, Metro would conduct a pre-construction survey of all structures within 21 feet of anticipated vibration-producing construction activity to verify the building category (type of construction), structural condition, and to provide a baseline for monitoring of ground-borne vibration and the potential for ground-borne vibration to cause damage. During construction, use of building protection measures such as underpinning, soil grouting, or other forms of ground improvement, use of lower vibration equipment and/or construction techniques, combined with a geotechnical and vibration monitoring program would be used to protect identified sensitive structures. These mitigation measures were included in Sections 4.7.4.1 and 4.9.4.1 of the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections, Section 4.7.4.2.1 and 4.9.4.2.1 of this Final EIS/EIR, and are included as mitigation measure numbers NV-1 and GT-1 of the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). In the unlikely event that there is damage due to construction, Metro would ensure that any damage caused by construction is repaired to pre-construction survey condition.

#### Response to Comment R-BU4-20

Please refer to Response to Comment R-BU4-11, above. Section 4.7.5 of the Supplemental EA/Recirculated Draft EIR Sections specifically identified mitigation measures for the Locally Preferred Alternative. This section includes mitigation measures that would be implemented to

ensure to address the potential for noise and vibration impacts in the vicinity of the TPG properties. Since designation of a Locally Preferred Alternative, mitigation measures have been refined and confirmed for the Locally Preferred Alternative, which are listed in Section 4.7, Noise and Vibration, of this Final EIS/EIR, based on input received during the public review periods for the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections. Mitigation measures for the Locally Preferred Alternative have been carried forward and included in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR).

#### **Response to Comment R-BU4-21**

Refinements made to the Locally Preferred Alternative would not create new significant traffic impacts under CEQA or adverse effects under NEPA, or exacerbate impacts beyond what is disclosed in the Draft EIS/EIR. The Draft EIS/EIR analyzed this permanent reduction in traffic lanes on Flower Street in Section 3.3.5.2.2. The same mitigation measures for this lane reduction identified in Section 3.4.2.2.4 of the Draft EIS/EIR have been included in Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure numbers TR-6, TR-7, and TR-8.

#### **Response to Comment R-BU4-22**

Mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR) contains additional detail about how Metro will meet its commitment to maintain access to businesses (including those on the TPG property) during operating hours, including temporary driveways and signage.

Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. This reduced easement would cover less of the street frontage adjacent to the referenced properties. Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections. The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards.

The construction traffic impacts on Flower Street were adequately analyzed in Section 3.3.5.1.2 of the Draft EIS/EIR and this Final EIS/EIR. Mitigation measures to address construction traffic impacts were presented in Section 3.4.2.2.4 of the Draft EIS/EIR, and have been adopted in Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred

Alternative (Chapter 8) of this Final EIS/EIR. These mitigation measures would minimize traffic impacts during construction.

Metro would ensure that construction activities do not cause safety hazards. Candidate construction safety measures were included in Section 4.15.4.1 of the Draft EIS/EIR. These mitigation measures have been expanded and incorporated into Section 4.15.4.2.1 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR.

Per the discussion with TPG at the referenced meeting, and as stated in Section 3.4.1.2 of the Draft EIS/EIR and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during their business operating hours throughout construction. This includes late night and 24-hour businesses.

#### Response to Comment R-BU4-23

The Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR do not defer analysis or mitigation. The Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR identify the proposed temporary construction easement in Section 4.2.3.5 and Appendix II, Conceptual Drawings for Build Alternatives Analyzed in the Draft EIS/EIR. In compliance with CEQA, all proposed activities to be performed on temporary construction easements corridor-wide are clearly defined in a bulleted list in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. These activities were included in the analysis performed in Chapters 3 and 4 of the Draft EIS/EIR and this Final EIS/EIR. Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. In addition to a mapped outline of the location of the proposed easement on within the parcel, Table 4.2-5 provides maximum square footage. Metro plans to use the reduced temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. Mitigation measures identified in Section 4.18.4 of the Draft EIS/EIR and refined and confirmed in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR indicate how Metro would reduce or avoid construction impacts.

#### Response to Comment R-BU4-24

Any decking configurations would be designed to accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks. The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards.

Mitigation measure number TR-9 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR) would ensure that shuttle bus drop-off areas at City National Plaza would be provided throughout construction. Mitigation

measure numbers TR-12 and TR-13 would ensure that Metro would maintain access to bus stops, minimize temporary bus stop closures, and ensure that any temporarily closed bus stops are relocated to a nearby location to minimize inconvenience. Metro would also coordinate any temporary closures and relocations with other affected bus operators. Candidate mitigation measures similar to these final mitigation measures were also discussed in Sections 3.4.1.1 and 3.4.1.2 of the Draft EIS/EIR. Decking configurations used during construction would be designed to accommodate access to and from the bus stop, shuttle, and taxi drop-off areas. This is discussed in Section 4.18.2.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, which states that decking would allow the street to be open while construction activities occur underneath. No impacts to the pedestrian overpass over 5<sup>th</sup> Street are anticipated, since it would not be blocked or altered by construction activities.

As stated in Section 3.4.1.2 of the Draft EIS/EIR and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during their business operating hours throughout construction. This includes the office towers and garages.

Mitigation measures identified in Section 4.18.4 of the Draft EIS/EIR and refined and confirmed in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR indicate how Metro would reduce or avoid construction impacts.

#### **Response to Comment R-BU4-25**

The Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR do not defer analysis or mitigation. The Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR identify the proposed temporary construction easement in Section 4.2.3.5 and Appendix II, Conceptual Drawings for Build Alternatives Analyzed in the Draft EIS/EIR. In compliance with CEQA, all proposed activities to be performed on temporary construction easements corridor-wide are clearly defined in a bulleted list in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. These activities were included in the analysis performed in Chapters 3 and 4 of the Draft EIS/EIR and this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. The Draft EIS/EIR and Final EIS/EIR fully disclose that reduction of access to properties along the proposed alignment would be a potential construction impact of the Locally Preferred Alternative in Section 4.3.3.5.

Feasible mitigation measures to address these impacts exist, were proposed as candidate measures in the Draft EIS/EIR, and have been committed to in this Final EIS/EIR. Mitigation measures to address the impacts of the activities to be performed on the temporary construction easements corridor-wide are identified in Section 4.18.4.3 of the Draft EIS/EIR and have been refined and confirmed as committed mitigation measures in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. Mitigation measures to address property and business access are proposed in Section 4.3.4 and 3.4.1.4 of the Draft EIS/EIR and have been refined and confirmed as

committed mitigation measures in Sections 3.4.2 and 4.3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure numbers TR-1, CN-1, CN-2, CN-3, CN-4, CN-5, CN-6, DR-4, and DR-5. Metro would ensure that any further refinements made to the Locally Preferred Alternative during the final design phase of the project do not create new significant impacts under CEQA or adverse effects under NEPA, or worsen impacts beyond what is disclosed in the EIS/EIR. Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR.

#### Response to Comment R-BU4-26

The limitation of comments to the contents of the Draft EIS/EIR and the Supplemental EA/Recirculated Draft EIR Sections is noted.

#### Response to Comment R-BU4-27

Metro is aware of the vehicular access and egress points on the property. Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections. The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards.

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes both of the City National Plaza office towers. Metro would keep entrances and exits clear of obstructions, and would ensure that adequate exit routes and safe zones are maintained at all times during construction, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and mitigation measure number SS-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro would not allow construction activities to impede safe evacuation of the buildings or access for emergency personnel at any time.

It may not be possible to keep all vehicular entrances to garages open at all times during operating hours, but Metro would ensure that access is provided via other vehicular entrances during those times as part of its goal to maintain access to businesses. Metro would coordinate with garage owners to ensure safety and minimize inconvenience.

#### Response to Comment R-BU4-28

Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower

Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to accommodate the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections. The temporary (during construction) roadway configurations will be reviewed with LADOT for compliance with roadway standards and designed to meet vehicle standards. As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This applies to parking garages, including those that operate 24-hours a day. It may not be possible to keep all vehicular entrances to garages open at all times during operating hours, but Metro would ensure that access is provided via other vehicular entrances during those times so that the garages can continue to operate. Metro would coordinate with garage owners to ensure safety and minimize inconvenience.

#### **Response to Comment R-BU4-29**

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes both of the City National Plaza office towers. Access would be ADA-compliant. Any decking configuration would be designed to accommodate the mid-block crosswalk on Flower Street between 5<sup>th</sup> and 6<sup>th</sup> Streets, as well as pedestrian crossings at intersections.

#### **Response to Comment R-BU4-30**

The Draft EIS/EIR and this Final EIS/EIR state that reduction of access to properties along the proposed alignment would be a potential construction impact of the Locally Preferred Alternative in Section 4.3.3.5. As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes access to B Level businesses. No restaurants or other businesses on the referenced property would be required to close as part of construction activities. No changes to this potential impact have occurred since its analysis in the Draft EIS/EIR, so it was not necessary to repeat this discussion in the Supplemental EA/Recirculated Draft EIR Sections.

#### **Response to Comment R-BU4-31**

The access to and from the pedestrian overpasses would thereby be maintained during construction through the use of temporary ramps and K-rail. Safe pedestrian access would be provided at all times. Transportation impacts during construction, including those to pedestrian circulation, are described in Section 3.3.5.1 of the Draft EIS/EIR and this Final EIS/EIR. Mitigation measures to address these impacts were included in Section 3.4.1 of the Draft EIS/EIR and have been incorporated into Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR.

**Response to Comment R-BU4-32**

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes both of the City National Plaza office towers. Metro would keep entrances and exits clear of obstructions, and would ensure that adequate exit routes and safe zones are maintained at all times during construction, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and mitigation measure number SS-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro would not allow construction activities to impede safe evacuation of the buildings or access for emergency personnel at any time.

**Response to Comment R-BU4-33**

Metro would coordinate construction activities with emergency service personnel to ensure that emergency services and response times are not impacted, as indicated in Section 4.15.4.1 of the Draft EIS/EIR. This coordination has been included as mitigation measure number CN-2 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro is aware of the difference in elevation between the plaza level and Figueroa Street and would not allow construction activities to impede access for emergency personnel at any time.

**Response to Comment R-BU4-34**

Metro is aware of the subterranean location of the B level retail area. Metro would keep entrances and exits clear of obstructions, and would ensure that adequate exit routes and safe zones are maintained at all times during construction, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and mitigation measure number SS-15 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro would not allow construction activities to impede safe evacuation of the retail area or access for emergency personnel at any time.

**Response to Comment R-BU4-35**

Metro does not allow its buses to double park at bus stops, or to park or stop illegally or unsafely. Potential traffic and transit impacts during construction were discussed in Sections 3.3.5.1.1 and 3.3.5.1.2 of the Draft EIS/EIR and this Final EIS/EIR. Mitigation measure number TR-9 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR) would ensure that shuttle bus drop-off areas at City National Plaza would be provided throughout construction. Mitigation measure numbers TR-12 and TR-13 would ensure that Metro would maintain access to bus stops, minimize temporary bus stop closures, and ensure that any temporarily closed bus stops are relocated to a nearby location to minimize inconvenience. Metro would also coordinate any temporary closures and relocations with other affected bus operators. Similar candidate mitigation measures were also discussed in Sections 3.4.1.1 and 3.4.1.2 of the Draft EIS/EIR. Decking configurations used during construction would be designed to accommodate access to and from the bus stop, shuttle, and taxi drop-off areas.

**Response to Comment R-BU4-36**

The pocket track is being considered for relocation as a refinement to the Locally Preferred Alternative; however, that determination has not been made at this time. Only locations that would not create new impacts beyond those disclosed in the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections are under consideration. Locations under consideration would minimize or avoid impacts, or otherwise would not create new impacts. The location will be confirmed during final design. If the pocket track is relocated, the width of the tunnel may not change in order to not preclude construction a 5<sup>th</sup> and Flower Station in the future. Drainage and utility lines would be protected in place or relocated prior to construction in conjunction with mitigation measure numbers CN-11 and GT-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR. No damage to adjacent structures is anticipated. As discussed in Section 4.7.3.5.1 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR, Metro would conduct a pre-construction survey of all structures within 21 feet of anticipated vibration-producing construction activity to verify the building category (type of construction), structural condition, and to provide a baseline for monitoring construction effects. This mitigation pertains to both geotechnical and vibration impacts. During construction, use of building protection measures such as underpinning, soil grouting, or other forms of ground improvement, use of lower vibration equipment and/or construction techniques, combined with a geotechnical and vibration monitoring program would be used to protect identified sensitive structures. These mitigation measures were included in Sections 4.7.4.1 and 4.9.4.1 of the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections, Section 4.7.4.2.1 and 4.9.4.2.1 of this Final EIS/EIR, and are included as mitigation measure numbers NV-1 and GT-1 of the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). In the unlikely event that there is damage due to construction, Metro would ensure that any damage caused by construction is repaired to pre-construction survey condition.

**Response to Comment R-BU4-37**

Metro does not anticipate that the proposed construction staging activities would cause damage to the subterranean structures. As discussed in Section 4.7.3.5.1 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR, Metro would conduct a pre-construction survey of all structures within 21 feet of anticipated vibration-producing construction activity to verify the building category (type of construction), structural condition, and to provide a baseline for monitoring construction effects. This mitigation pertains to both geotechnical and vibration impacts. During construction, use of building protection measures such as underpinning, soil grouting, or other forms of ground improvement, use of lower vibration equipment and/or construction techniques, combined with a geotechnical and vibration monitoring program would be used to protect identified sensitive structures. These mitigation measures were included in Sections 4.7.4.1 and 4.9.4.1 of the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections, Section 4.7.4.2.1 and 4.9.4.2.1 of this Final EIS/EIR, and are included as mitigation measure numbers NV-1 and GT-1 of the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). In the unlikely event that there is damage due to construction, Metro would ensure that any damage caused by construction is repaired to pre-construction survey condition.

**Response to Comment R-BU4-38**

Please refer to Response to Comment R-BU4-11, above, and responses to comment letter BU36 in Volume F-2 of this Final EIS/EIR.

The referenced mitigation measures from Section 4.12.1, Cultural Resources – Built Environment, were repeated from Section 4.9, Geotechnical/Subsurface/Seismic/Hazardous Materials. These mitigation measures will be used during construction of the Locally Preferred Alternative to limit ground movement along the entire alignment, not just adjacent to historic resources. Since publication of the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections, mitigation measures to limit ground movement have been refined and confirmed for the Locally Preferred Alternative, as indicated in Section 4.9.4.2, of this Final EIS/EIR. With implementation of mitigation, impacts associated with ground movement would be reduced to less than significant under CEQA and not substantially adverse under NEPA.

**Response to Comment R-BU4-39**

Neither the Draft EIS/EIR nor this Final EIS/EIR defers analysis or mitigation. Detailed construction mitigation measures were identified in Section 4.18.4.3 of the Draft EIS/EIR, and have been refined and confirmed to Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR. These mitigation measures are adequately specific to address the potential impacts at the referenced properties during construction. The referenced mitigation measures from the Draft EIS/EIR have been included in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure numbers TR-12 and TR-13. Metro would fulfill its commitment to these mitigation measures by staggering construction activities so as to maintain bus access. Not all construction activities would occur simultaneously. Temporary re-routing of bus service would be necessary, as discussed in Section 3.3.5.1.1 of the Draft EIS/EIR and this Final EIS/EIR. Temporary alternate stops would be established in accordance with mitigation measure numbers TR-12 and TR-13, and all parts of the project area would have continuous access to bus service during construction via the alternate stops. As a result of refinements made since publication of the Supplemental EA/Recirculated Draft EIR Sections, the temporary construction easements at APNs 5151-023-400 and 5151-018-017 have been reduced in size, as shown in Table 4.2-5 and the parcel data table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. This would allow more curb space for bus stop use along Flower Street during construction. As a key operator of bus service in the area, Metro has determined that the construction mitigation measures pertaining to bus service are feasible, and has committed to their implementation in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR).

**Response to Comment R-BU4-40**

Based on the analysis presented in the Draft EIS/EIR, Metro believes that the Locally Preferred Alternative is the least impactful build alternative. Consistent with Metro's continuing goal to minimize construction impacts, Metro has refined the Locally Preferred Alternative since publication of the Draft EIS/EIR to reduce cut and cover construction, reduce acquisitions of private property, and further minimize construction impacts, as discussed in Chapter 2, Alternatives Considered, of the Supplemental EA/Recirculated Draft EIR Sections and this Final

EIS/EIR. Chapter 2 also shows other alternatives studied, each with a unique construction scenario on Flower Street. As a result of refinements made since publication of the Supplemental EA/Recirculated Draft EIR Sections, the temporary construction easements at APNs 5151-023-400 and 5151-018-017 have been reduced in size, as shown in Table 4.2-5 and the parcel data table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR.

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. This includes the referenced properties.

As discussed in Chapter 5, Section 4(f) Evaluation, of the Draft EIS/EIR and this Final EIS/EIR, Maguire Gardens is a public park space. Since the Regional Connector would be partially funded by the United States Department of Transportation, it is subject to the federal USDOT Act of 1966. Section 4(f) of this act prohibits use of public parks for transportation projects, unless no feasible and prudent avoidance alternative exists. Based on the findings of the Draft EIS/EIR and the Supplemental EA/Recirculated Draft EIR Sections, there are no constraints that would render temporary construction easements across the identified portions of APNs 5151-023-400 and 5151-018-017 not feasible and prudent. As such, the USDOT Act of 1966 would not allow the use of Maguire Gardens as part of the Regional Connector project. Metro has included mitigation measures in the Mitigation Monitoring and Reporting Program to minimize and avoid construction impacts associated with temporary construction easements, as noted in the responses to comments above.

#### Response to Comment R-BU4-41

The Metro Board of Directors designated the Fully Underground LRT Alternative, without the Flower/5<sup>th</sup>/4<sup>th</sup> Street station, as the Locally Preferred Alternative on October 28, 2010. However, the impacts of a station at this location were analyzed in the Draft EIS/EIR as part of the Fully Underground LRT Alternative and the Underground Emphasis LRT Alternative. As indicated in Chapter 2, Alternatives Considered, of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, the Locally Preferred Alternative would not preclude the Flower/5<sup>th</sup>/4<sup>th</sup> Street station from being built as a separate future project. Neither the Draft EIS/EIR nor the Supplemental EA/Recirculated Draft EIR Sections identify the Flower/5<sup>th</sup>/4<sup>th</sup> Street station as a reasonably foreseeable future development. The Locally Preferred Alternative would be fully functional and would fully meet the purpose and need identified in Chapter 1 of the Draft EIS/EIR regardless of whether the Flower/5<sup>th</sup>/4<sup>th</sup> Street station is built. A separate NEPA/CEQA process would be completed as necessary should a future separate Flower/5<sup>th</sup>/4<sup>th</sup> Street station project be undertaken.

The proposed Flower/5<sup>th</sup>/4<sup>th</sup> Street station would have included a traction power substation (TPSS) in an ancillary room. Construction of the TPSS would not preclude a station from being built in this location as a separate future project. TPSS construction would be consistent with the description of cut and cover construction in Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR.

**Response to Comment R-BU4-42**

Support for the Flower/5<sup>th</sup>/4<sup>th</sup> Street station is noted. As indicated in Chapter 2, Alternatives Considered, of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, the Locally Preferred Alternative would not preclude the Flower/5<sup>th</sup>/4<sup>th</sup> Street station from being built as a separate future project. Flower Street from 4<sup>th</sup> Street to the existing light rail tunnel just south of 6<sup>th</sup> Street is highly constrained with existing subsurface tie-backs from previous construction projects that would interfere with tunneling activity. Tunneling activities south of 4<sup>th</sup> Street presents additional issues of removing tie-backs as well as retrieving the tunnel boring machine from under Flower Street at 6<sup>th</sup> Street which is the narrower part of Flower Street. Tunneling activities using a tunnel boring machine south of 4<sup>th</sup> Street would not be practicable due to the need to remove tie-backs ahead of the tunnel boring machine. As such, cut and cover construction, as identified in Figure 2-13 of the Draft EIS/EIR and Figure 2-16 of this Final EIS/EIR, is continuing to be pursued in this location. Using tunnel boring machine construction would also create some challenges on the ability of not precluding a 5<sup>th</sup> and Flower station as the alignment would be changed from a box structure to separate bored tunnels.

**Response to Comment R-BU4-43**

The referenced language in the introduction to Chapter 2, Alternatives Considered, and in Section 2.3.6.2 has been clarified since publication of the Supplemental EA/Recirculated Draft EIR Sections. The pocket track beneath Flower Street between 5<sup>th</sup> and 6<sup>th</sup> Streets would not preclude a possible future station from being constructed beneath Flower Street between 4<sup>th</sup> and 5<sup>th</sup> Streets as a separate project. Neither the Draft EIS/EIR nor the Supplemental EA/Recirculated Draft EIR Sections identify the Flower/5<sup>th</sup>/4<sup>th</sup> Street station as a reasonably foreseeable future development. The Locally Preferred Alternative would be fully functional and would fully meet the purpose and need identified in Chapter 1 of the Draft EIS/EIR regardless of whether the Flower/5<sup>th</sup>/4<sup>th</sup> Street station is built. A separate NEPA/CEQA process would be completed as necessary should a future separate Flower/5<sup>th</sup>/4<sup>th</sup> Street station project be undertaken.

**Response to Comment R-BU4-44**

This language has been corrected in Chapter 2, Alternatives Considered, of this Final EIS/EIR. The traffic lane would be removed from the east side of Flower Street, as shown in Appendix II, Conceptual Drawings for Build Alternatives Analyzed in the Draft EIS/EIR, of the Draft EIS/EIR and this Final EIS/EIR, Appendix R-1, Locally Preferred Alternative Drawings, of the Supplemental EA/Recirculated Draft EIR Sections, and Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. The proposed walkway would include a widened sidewalk, landscaping, and potentially additional pedestrian and bicycle facilities. The walkway would be similar in character to the previously proposed Flower/5<sup>th</sup>/4<sup>th</sup> Street station entrance, and would occupy the same location. The impacts and mitigation measures associated with lane removal for the station entrance would be the same for the walkway. The Draft EIS/EIR and this Final EIS/EIR analyzed this permanent lane reduction on Flower Street in Section 3.3.5.2.2. The same mitigation measures for this lane reduction identified in Section 3.4.2.2.4 of the Draft EIS/EIR have been included in Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure numbers TR-6, TR-7, and TR-8. All Regional Connector facilities would comply with the ADA, as discussed in Section 4.15.4.2 of the Draft EIS/EIR. This commitment has also been included in

Section 4.15.4.2.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure number SS-8.

#### Response to Comment R-BU4-45

Impacts of the enhanced pedestrian walkway and the associated lane removal would be the same as those analyzed in Section 3.3.5.2.2 of the Draft EIS/EIR and this Final EIS/EIR. The same mitigation measures for this lane reduction identified in Section 3.4.2.2.4 of the Draft EIS/EIR have been included in Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR as mitigation measure numbers TR-6, TR-7, and TR-8. No significant new information has been added to Chapter 3, Transportation Impacts and Mitigation, since publication of the Draft EIS/EIR; therefore, it was not included in the Supplemental EA/Recirculated Draft EIR Sections. As it did in the Draft EIS/EIR, Chapter 3 continues to acknowledge the significant impact under CEQA and adverse effect under NEPA of removing a traffic lane from Flower Street for the Regional Connector in this Final EIS/EIR in Section 3.3.5.2.2. If the Flower/5<sup>th</sup>/4<sup>th</sup> Street station is built as a separate future project, the entrance could fit within the enhanced pedestrian walkway with no further lane removals required. The Supplemental EA/Recirculated Draft EIR Sections does not say that further lane removal would be required to accommodate a separate future Flower/5<sup>th</sup>/4<sup>th</sup> Street station project.

#### Response to Comment R-BU4-46

The Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR do not defer analysis or mitigation. Please see Responses to Comments R-BU4-41 through R-BU4-45, above.

#### Response to Comment R-BU4-47

Since the Regional Connector would be partially funded by the United States Department of Transportation, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) would apply instead of the California Relocation Act, as discussed in Section 4.2.1 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. Metro would compensate TPG for the temporary construction easements in accordance with the Uniform Act.

In compliance with CEQA, all proposed activities to be performed on temporary construction easements corridor-wide are clearly defined in a bulleted list in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. These activities were included in the analysis performed in Chapters 3 and 4 of the Draft EIS/EIR and this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. Mitigation measures to address the impacts of the activities to be performed on the temporary construction easements corridor-wide are identified in Section 4.18.4.3 of the Draft EIS/EIR and have been refined and confirmed as committed mitigation measures in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR.

**Response to Comment R-BU4-48**

The temporary construction easement identified in the revised right of way plan would be used to preserve vehicular and pedestrian access and for separating pedestrians on the sidewalks from the street work by K-rails and fences.

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. In compliance with CEQA, all proposed activities to be performed on temporary construction easements corridor-wide are clearly defined in a bulleted list in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. These activities were included in the analysis performed in Chapters 3 and 4 of the Draft EIS/EIR and this Final EIS/EIR. Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. In addition to a mapped outline of the location of the proposed easement on within the parcel, Table 4.2-5 provides maximum square footage. Metro plans to use the reduced temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians on the sidewalks from street work by K-rail and fences. Mitigation measures identified in Section 4.18.4 of the Draft EIS/EIR and refined and confirmed in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR indicate how Metro would reduce or avoid construction impacts.

**Response to Comment R-BU4-49**

As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction. It is Metro's goal to minimize disruption and inconvenience stemming from construction activities. Refinements to the Locally Preferred Alternative have reduced the size of the proposed temporary construction easement on TPG's property to 3,960 square feet, as shown in Table 4.2-5 and the parcel data table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. It is unlikely that this type of temporary activity on the easement, intended to preserve safe pedestrian access to the property, would cause substantial disruption. Mitigation measures to address the impacts of the activities to be performed on the temporary construction easements corridor-wide are identified in Section 4.18.4.3 of the Draft EIS/EIR and have been refined and confirmed as committed mitigation measures in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR. Construction staging areas have been identified on portions of both of the non-park plazas in the vicinity of 5<sup>th</sup> and Flower Streets (APNs 5151-023-400 and 5151-018-017), as shown in Table 4.2-5 and the parcel data table in Appendix R-1, Locally Preferred Alternative Drawings, of the

Supplemental EA/Recirculated Draft EIR Sections and Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR, and Table 4.2-5 and Appendix II, Conceptual Drawings for Build Alternatives Analyzed in the Draft EIS/EIR, of the Draft EIS/EIR and this Final EIS/EIR. All other properties along the alignment in the vicinity of 5<sup>th</sup> and Flower Streets are occupied by aboveground structures or precluded from use by Section 4(f) of the USDOT Act of 1966, thus rendering them unsuitable for temporary construction easements.

#### Response to Comment R-BU4-50

Metro will continue its ongoing coordination with TPG throughout the planning, design, and construction phases of the project, and will involve the construction contractor as needed to ensure effective implementation of the mitigation measures in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Metro recognizes the importance of Flower and 5<sup>th</sup> Streets to the operation of TPG's properties. It is Metro's goal to minimize construction impacts, as demonstrated by the extent of measures included in the Mitigation Monitoring and Reporting Program, which include adequate mitigation measures to reduce or avoid significant environmental impacts under CEQA and adverse effects under NEPA. As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction.

#### Response to Comment R-BU4-51

Flower Street from 4<sup>th</sup> Street to the existing light rail tunnel just south of 6<sup>th</sup> Street is highly constrained with existing subsurface tie-backs from previous construction projects that would interfere with tunneling activity. Tunneling activities using a tunnel boring machine south of 4<sup>th</sup> Street would not be practicable due to the need to remove tie-backs ahead of the tunnel boring machine. Tunnel boring would also preclude a future Flower/5<sup>th</sup>/4<sup>th</sup> Street station due to the separate bored tunnels instead of a box structure.

As such, cut and cover construction, as identified in Figure 2-13 of the Draft EIS/EIR and Figure 2-16 of this Final EIS/EIR, is continuing to be pursued in this location. As stated in Section 3.4.1.4 of the Draft EIS/EIR, Section 3.4.2 of this Final EIS/EIR, and mitigation measure number TR-1 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR), access to businesses would be maintained during business operating hours throughout construction.

#### Response to Comment R-BU4-52

The Metro Board of Directors designated the Fully Underground LRT Alternative, without the Flower/5<sup>th</sup>/4<sup>th</sup> Street station, as the Locally Preferred Alternative on October 28, 2010. As indicated in Chapter 2, Alternatives Considered, of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR, the Locally Preferred Alternative would not preclude the Flower/5<sup>th</sup>/4<sup>th</sup> Street station from being built as a separate future project. As noted in Response to Comment R-BU4-51 above, tunnel boring machine construction would not be practicable due to the presence of tie-backs in the area. This segment of the alignment is identified for cut and cover construction in Figure 2-13 of the Draft EIS/EIR, Figure 2-14 of the Supplemental EA/Recirculated Draft EIR Sections, and Figure 2-16 of this Final EIS/EIR. As shown in Figure 2-

14 of the Supplemental EA/Recirculated Draft EIR Sections and Figure 2-16 of this Final EIS/EIR, Metro has reduced the amount of cut and cover construction required on Flower Street since publication of the Draft EIS/EIR. Cut and cover would no longer be needed between 3<sup>rd</sup> and 4<sup>th</sup> Streets.

#### Response to Comment R-BU4-53

Decking of the construction area is a necessary component of cut and cover construction to maintain vehicular and pedestrian access throughout construction. Concrete deck panels would be used as a temporary deck for vehicles and pedestrians during cut and cover operations on Flower Street. Preference for deck panels to be installed at existing grade level is noted.

Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to safely accommodate pedestrians, the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections.

#### Response to Comment R-BU4-54

Please refer to Response to Comment R-BU4-11, above.

#### Response to Comment R-BU4-55

As shown in Figure 2-14 of the Supplemental EA/Recirculated Draft EIR Sections and Figure 2-16 of this Final EIS/EIR, the Locally Preferred Alternative would not involve tunneling adjacent to the referenced TPG properties. These segments of the alignment would be constructed using cut and cover construction. Metro does not anticipate that the proposed construction would cause damage to adjacent structures. As discussed in Section 4.7.3.5.1 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR, Metro would conduct a pre-construction survey of all structures within 21 feet of anticipated vibration-producing construction activity to verify the building category (type of construction), structural condition, and to provide a baseline for monitoring construction effects. This mitigation pertains to both geotechnical and vibration impacts. During construction, use of building protection measures such as underpinning, soil grouting, or other forms of ground improvement, use of lower vibration equipment and/or construction techniques, combined with a geotechnical and vibration monitoring program would be used to protect identified sensitive structures. These mitigation measures were included in Sections 4.7.4.1 and 4.9.4.1 of the Draft EIS/EIR and Supplemental EA/Recirculated Draft EIR Sections, Section 4.7.4.2.1 and 4.9.4.2.1 of this Final EIS/EIR, and are included as mitigation measure numbers NV-1 and GT-1 of the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). Detailed construction mitigation measures are also identified in Section 4.18.4.3 of the Draft EIS/EIR, and have been refined and confirmed in Section 4.18.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR. In the unlikely event that there is damage due to construction, Metro would ensure that any damage caused by construction is repaired to pre-construction survey condition.

**Response to Comment R-BU4-56**

Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. In compliance with CEQA, all proposed activities to be performed on temporary construction easements corridor-wide are clearly defined in a bulleted list in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. These activities were included in the analysis performed in Chapters 3 and 4 of the Draft EIS/EIR and this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences. Concrete deck panels would be used as a temporary deck for vehicles and pedestrians during cut and cover operations on Flower Street. Preference for deck panels to be installed at existing grade level is noted.

Any decking configurations would require construction of ADA-compliant ramps and accesses as well as modifications to vehicular access points to the garages and driveway along Flower Street, as indicated in Section 4.15.4.2.1 of this Final EIS/EIR and Section 4.18.2.5.1 of the Supplemental EA/Recirculated Draft EIR Sections and this Final EIS/EIR. Any decking configurations would be designed to safely accommodate pedestrians, the undercarriage and overhead clearances of vehicles using the driveways, garages, and loading docks as indicated in the same sections.

**Response to Comment R-BU4-57**

The construction traffic impacts on Flower Street were adequately analyzed in Section 3.3.5.1.2 of the Draft EIS/EIR and this Final EIS/EIR. The permanent reduction of traffic lanes on Flower Street is also adequately analyzed in Section 3.3.5.2.2 of the Draft EIS/EIR and this Final EIS/EIR. Since no significant new information regarding these impacts resulted from refinements made to the Locally Preferred Alternative since publication of the Draft EIS/EIR, no repetition of this discussion was required in the Supplemental EA/Recirculated Draft EIR Sections. Traffic circulation analysis was performed using the methodology presented in Section 3.1.2 of the Draft EIS/EIR and this Final EIS/EIR. As indicated in Section 3.3.5.2.2 of the Draft EIS/EIR and this Final EIS/EIR, significant increases in delay would occur at one intersection during the AM peak hour, and three intersections during the PM peak hour. Sufficient feasible mitigation measures are included in the Draft EIS/EIR to reduce these impacts below the level of significance except at one intersection during the AM peak hour. As shown in Figure 3-16 of the Draft EIS/EIR and this Final EIS/EIR, the 4<sup>th</sup> and Flower Streets intersection would continue to experience a significant decrease in performance after mitigation during the AM peak hour. Mitigation measures to address both construction and operation traffic impacts are presented in Sections 3.4.1.2 and 3.4.2.2.4 of the Draft EIS/EIR, and have been refined and confirmed in Section 3.4.2 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) of this Final EIS/EIR.

**Response to Comment R-BU4-58**

Metro will coordinate with the community, including TPG, regarding construction activities through the Regional Connector Community Leadership Council, as provided in mitigation measure numbers CN-4 and CN-5 in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR). It is Metro's goal to provide timely information to stakeholders.

Since publication of the Supplemental EA/Recirculated Draft EIR Sections, the size of the proposed temporary construction easement on TPG's property has been reduced, consistent with Metro's continuing goal to minimize construction impacts and the use of private property. This reduction is reflected in Table 4.2-5 and the parcel impacts table in Appendix 1, Locally Preferred Alternative Drawings, of this Final EIS/EIR. The proposed activities to be performed on temporary construction easements corridor-wide are discussed in Sections 2.4.1 and 4.18.2.3 of the Draft EIS/EIR, Supplemental EA/Recirculated Draft EIR Sections, and this Final EIS/EIR. Metro plans to use the temporary construction easement on TPG property to preserve vehicle and pedestrian access, and to separate pedestrians from street work with K-rail and fences.

**Response to Comment R-BU4-59**

Thank you. Metro also looks forward to continued coordination with TPG throughout the project process.

**Little Tokyo Community Council**

100 North Central Ave.  
Los Angeles, CA 90012  
213-625-0414 ext 5720  
Email: info@littletokyola.org  
http://littletokyola.org

**Little Tokyo Business Association**

**Little Tokyo Business Improvement District**  
200 S. San Pedro St., #400B  
Los Angeles, CA 90012  
213-620-0764  
Email: tsc.main.wliu@att.net

August 29, 2011

Mr. Diego Cardoso  
Executive Officer, Countywide Planning and Development  
METRO  
One Gateway Plaza  
Los Angeles, CA 90017

Dear Mr. Cardoso:

On behalf of the Little Tokyo Community Council, Little Tokyo Business Association and the Little Tokyo Business Improvement District, we take this opportunity to reiterate in writing priority and outstanding concerns of the Little Tokyo community related to the Regional Connector transit project, and to ensure inclusion of our concerns as public commentary.

1

The refined alignment does not fully mitigate impacts of four years of construction to small independent businesses and community/cultural institutions that define the cultural character of Little Tokyo. Loss of business and patronage due to perceived or real accessibility into the Little Tokyo area will negatively impact these entities that operate within modest margins of profitability or depend upon patronage and donations.

2

We have identified key areas previously and are dismayed that they were not specifically addressed in the environmental document: Community Marketing, a Business Interruption Fund, a Community Valet Parking System and a Community Shuttle Bus Service System. We note that the Environmental Assessment and final environmental documents do not address anything beyond the draft environmental documents in this and other areas of concern to our business entities and non-profit community organizations. We are prepared to provide specifics for the Community Marketing, Business Interruption Fund, the Community Valet Parking System and the Community Shuttle Bus Service System in order to support implementation.

3

The structure and responsibilities of the Regional Connector Community Resource Council (RCCRC) were also unaddressed in the environmental document. Previous timeline had announced formation of the Council in early summer 2011.

4

We are anxious to move forward the marketing, business interruption fund, and parking/shuttle bus projects, as well as the formation of the RCCRC, and look forward to discussing all these matters with you in the near future.

5

Sincerely,

  
Little Tokyo Community Council *Chair*

  
Little Tokyo Business Association  
Little Tokyo Business Improvement District

---

**R-BU5****Responses to Comments from the Little Tokyo Business Association and Little Tokyo Business Improvement District; Little Tokyo Community Council, Liu, Wilson; Okamoto, Mike****Response to Comment R-BU5-1**

Metro appreciates this input from the Little Tokyo Community Council and the Little Tokyo Business Improvement District. Responses to the identified concerns are provided in Responses to Comments R-BU5-2 through R-BU5-5 below.

**Response to Comment R-BU5-2**

Metro recognizes the importance of small independent businesses and community/cultural institutions in Little Tokyo. Metro has developed the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR) with input from the Little Tokyo Working Group, Little Tokyo Community Council, and Little Tokyo Business Improvement District. Metro and the Federal Transit Administration (FTA) are fully committed to all mitigation measures in the Mitigation Monitoring and Reporting Program. The Mitigation Monitoring and Reporting Program includes measures to address and minimize loss of business and patronage, and to maintain access to businesses at all times during operating hours. These mitigation measures, developed with input from the community, would reduce the impacts below the level of significance under CEQA and to a not substantially adverse level under NEPA.

**Response to Comment R-BU5-3**

These concerns are addressed in the Environmental Justice section, Section 4.17 of the Draft EIS/EIR and this Final EIS/EIR. It should be noted that the Environmental Justice section was not included in the Supplemental EA/Recirculated Draft EIR Sections because it contains no significant new information beyond what was included in the Draft EIS/EIR. The Mitigation Monitoring and Reporting Program in this Final EIS/EIR incorporates the specific mitigation measures for the Locally Preferred Alternative that address the issues raised in this comment, such as alternative parking services and targeted marketing services. Both Section 4.17 and the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8) are included in this Final EIS/EIR and contain the specific mitigation measures to address these issues. Metro looks forward to continued coordination with the Little Tokyo community regarding the implementation of the Mitigation Monitoring and Reporting Program mitigation measures.

**Response to Comment R-BU5-4**

The Regional Connector Community Leadership Council (RCCLC) formation is included in the Mitigation Monitoring and Reporting Program for the Locally Preferred Alternative (Chapter 8 of this Final EIS/EIR) as mitigation measure number CN-6. Metro will establish the RCCLC following FTA's issuance of a Record of Decision.

## Response to Comment R-BU5-5

Metro looks forward to continued coordination with the Little Tokyo community regarding the implementation of the Mitigation Monitoring and Reporting Program mitigation measures. This coordination, including formation of the RCCLC and further discussions regarding implementation of mitigation measures, would occur following FTA's issuance of a Record of Decision.



DLA Piper LLP (US)  
1999 Avenue of the Stars, Suite 400  
Los Angeles, California 90067-6023  
www.dlapiper.com

Ryan M. Leaderman  
ryan.leaderman@dlapiper.com  
T 310.595.3152  
F 310.595.3452

September 2, 2011

Your File No. SCH # 2009031043  
Our File No. 231259-000013

Via FedEx

Ms. Dolores Roybal Saltarelli, AICP, Project Manager  
Los Angeles County Metropolitan Transportation Authority ("Metro")  
One Gateway Plaza, MS 99-22-2  
Los Angeles, CA 90012  
E-mail: roybald@metro.net, regionalconnector@metro.net

**Re: Comments on the Regional Connector Transit Corridor Supplemental Environmental Assessment/Recirculated Sections of the Draft Environmental Impact Statement/Environmental Impact Report and the Regional Connector Transit Corridor Project Draft Environmental Impact Statement/Environmental Impact Report**

Dear Ms. Roybal Saltarelli:

This office represents Hines Interest Limited Partnership, the owner (the "Owner") of Citigroup Center, the 48-story skyscraper located at 444 S. Flower Street, Los Angeles, California 90017 (the "Property"). On behalf of the Owner, this letter constitutes comments on the *Regional Connector Transit Corridor Supplemental Environmental Assessment/Recirculated Sections of the Draft Environmental Impact Statement/Environmental Impact Report* ("Draft EIR") as well as the *Regional Connector Transit Corridor Project Draft Environmental Impact Statement/Environmental Impact Report* ("Original DEIR") (collectively, the "DEIR").

1

The Property is immediately adjacent to the proposed Regional Connector light rail transit ("LRT") line (the "Project"). The Project and all of the construction alternatives include a construction staging area that would destroy the Property's street-level open air plaza (the "Plaza") during the multi-year construction timeline of 2014 to 2019. See Original DEIR p. 4-362, Draft EIR p. 4.7-12.

The Owner supports improved access and traffic conditions in the area that may eventually occur with the implementation of the Project, but cannot support Metro's proposed take and destruction of the Plaza and replacement of it for several years with construction noise, fumes, increased air pollution, vibration, and other hazards associated with potentially contaminated soil removal and blocked emergency ingress and egress into the Property, none of which has been adequately analyzed or mitigated in the DEIR. While the Owner appreciates the commitments Metro staff made to dramatically

2

3



September 2, 2011  
Los Angeles Metropolitan Transportation Authority  
Regional Connector Comment Letter  
Page Two

reduce the size of the temporary construction easement and construction staging area on or adjacent to the Property (the "Revised Construction Design") at the August 22, 2011 meeting,<sup>1</sup> placing a construction staging area in the two easterly lanes of Flower Street adjacent to the Plaza, while substantially better than the destruction of the Plaza described in the DEIR, will still have significant and unavoidable environmental impacts that have not been adequately analyzed or mitigated.<sup>2</sup> As such, because it is uncertain whether the Revised Construction Design and additional mitigation measures will become part of the Project, the Owner has no choice but to comment on the Revised Construction Design and the Project analyzed and described in the DEIR that would cause significant new construction traffic, noise, air, and aesthetic impacts, among others.

3  
cont'd

4

The approval process for the Project must comply with the California Environmental Quality Act ("CEQA") which requires an applicant not only to disclose environmental impacts to the public, but also to mitigate the significant impacts and consider alternatives that can reduce or eliminate the significant environmental impacts. As a general matter, in several areas critically important to the Owner, Project impacts have not been adequately analyzed or mitigated in the DEIR. In fact, the negative environmental impacts would be significantly more severe than disclosed in the DEIR.

5

Consequently, unless Metro irrevocably commits to the Revised Construction Design presented at the August 22, 2011 meeting and agrees to additional enforceable mitigation measures to reduce the construction noise, vibration, air quality and hazard impacts, the Owner requests recirculation of the Draft EIR pursuant to Section 15088.5 of the California Code of Regulations ("CCR") because not only has the public been deprived of a meaningful opportunity to comment on the Project's impacts, it is impossible for the public and decision makers to understand the true environmental impacts of the Project.

1. Legal Inadequacies

Pursuant to Public Resources Code Section 21177(a) which allows public comment on the Project prior to the close of the public hearing, the following is a list of the most significant DEIR legal inadequacies.

6

<sup>1</sup> The meeting between the Metro and the Owner occurred to address Project impacts on the Property. Meeting attendees included Ginny-Marie Brideau, Ann Kerman, John S. Prizner, Jr., Dolores M. Roybal Saltarelli, Martha Welborne, Tracey Chavira, Leia Jensen, Jim Bonham, Diego Cardoso, and Girish Roy.

<sup>2</sup> See the attached "Construction Area Plan Structure Cut and Cover" Site Plan depicting the reduced Temporary Construction Easement and reduced Construction Staging Area that was presented at the 8/22/11 meeting.



September 2, 2011  
 Los Angeles Metropolitan Transportation Authority  
 Regional Connector Comment Letter  
 Page Three

a. Noise Analysis Inadequate

The Project would create substantial temporary or periodic increases in ambient noise levels in the vicinity of the Property above levels existing without the Project. See CEQA Guidelines Appendix G Section XII(d). There is inadequate analysis of these significant environmental impacts.

7

i. The Draft EIR Does Not Adequately Analyze The Noise Impacts Of Construction

The Draft EIR states that construction noise impacts on the Property would be less than significant, even though a construction staging area would be located on the Property or immediately in front of the Property. See Draft EIR p. 10-18. There would be no setback separating the construction staging area and noise and vibration generating activities from the building entrance, offices and restaurants located on the Property. According to p. 2-36 of the Draft EIR, "construction staging areas are locations needed for: equipment storage; construction materials delivery and storage; equipment assembly; materials production; dewatering activities; access roads; construction worker parking; temporary trailer offices; demolition staging; removal of excavated materials; other related activities during the construction period." Thus, these noise and vibration generating activities must be assumed to occur immediately adjacent to the sensitive receptors at the building entrance, offices and restaurants on the Property, whether for the construction staging area on the Property or for the construction staging area proposed in the Revised Construction Design. The analysis in the DEIR only examined noise impacts at 50 feet from the noise source when in fact the impact will occur much closer than analyzed. Draft EIR pp. 4.7-15, 4.7-23 and 4.7-31. With no separation among the noise generating activities of bulldozers, dewatering, and other construction activities and the sensitive receptors both on the Property and across the street at the Bonaventure hotel, the noise impacts have not been adequately disclosed, analyzed and/or mitigated. For example, bulldozers would create 85 dBA of noise at 50 feet from the noise source. Draft EIR p. 4.7-15. As the construction staging area is on the Plaza or in the Flower Street right-of-way pursuant to the Revised Construction Design, bulldozers and other construction equipment would operate much closer than 50 feet to sensitive uses on the Property. Noise impacts will not only be worse than analyzed; when multiple pieces of construction equipment are operated together, they will greatly exceed the thresholds of significance (even though the DEIR does not appear to have analyzed the construction noise impact of multiple pieces of equipment operating simultaneously). In addition, increased noise from

8



September 2, 2011  
Los Angeles Metropolitan Transportation Authority  
Regional Connector Comment Letter  
Page Four

construction haul trucks does not appear to have been analyzed. Thus, new significant and unavoidable impacts may occur.

8  
cont'd

Because the extent of the significant impacts has been greatly underestimated, substantial evidence does not support the conclusion that "consistency with the goals of the applicable local ordinances and implementation of best management practices would ensure that noise and vibration levels associated with construction of the Locally Preferred Alternative ("LPA") would not result in a significant impact." Draft EIR p. 10-18. As described later in this letter, it will be impossible for the Project to be consistent with the Los Angeles Municipal Code ("LAMC") regarding noise generating activities. If a Project with a construction schedule lasting five years, affecting thousands of sensitive receptors along a 1.9 mile route with massive excavation does not have a significant construction noise impact, then it would be highly unlikely that any Project would ever have a significant construction noise impact. Because this significant noise impact was not disclosed, nor was there any analysis as to how the mitigation proposed would reduce impacts to less-than-significant, CEQA requires revision and recirculation of the EIR. See CEQA Guidelines Appendix G Section XII(a).

9

ii. City of Los Angeles Significance Thresholds and the LAMC

The DEIR does not place any standard on the acceptable noise limit in the City of Los Angeles. The Draft EIR states that "neither CEQA nor the City of Los Angeles provides quantitative thresholds for a substantial noise impact..." Draft EIR p. 4.7-7. To the contrary, the *LA CEQA Thresholds Guide* states that a project would normally have a significant impact on noise levels from construction if:

"Construction activities lasting more than one day would exceed existing ambient exterior noise levels by 10 dBA or more at a noise sensitive use; Construction activities lasting more than 10 days in a three month period would exceed existing ambient exterior noise levels by 5 dBA or more at a noise sensitive use; or Construction activities would exceed the ambient noise level by 5 dBA at a noise sensitive use between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday, before 8:00 a.m. or after 6:00 p.m. on Saturday, or at anytime on Sunday."

10

These are existing significance thresholds for construction noise in the City of Los Angeles, and it is difficult to understand why Metro has not utilized these City of Los Angeles CEQA thresholds when the Project is in the center of the City. There is no justification for why Appendix G of the State CEQA



September 2, 2011  
Los Angeles Metropolitan Transportation Authority  
Regional Connector Comment Letter  
Page Five

Guidelines and the *LA City CEQA Thresholds* were not followed for noise or other environmental thresholds. There are likely to also be other significant environmental impacts that have not been disclosed or analyzed. The *LA CEQA Thresholds Guide* should be followed because the Project is within the City of Los Angeles, a responsible agency. It must approve a number of discretionary entitlements to allow the Project, such as a haul route and street vacations. If these thresholds were followed, there would be a number of new significant construction noise environmental impacts because construction activities would last more than one day and would exceed ambient exterior noise levels by 10 dBA or more at a noise sensitive use (such as the Plaza and the Bonaventure hotel); construction activities would last more than 10 days in a three month period and would exceed existing ambient exterior noise levels by 5 dBA or more at a noise sensitive use; and construction activities would exceed the ambient noise level by 5 dBA at a noise sensitive use after 9 p.m. on weekdays and during the weekend prohibited hours. See *LA CEQA Thresholds Guide* p. I.1-3. DEIR Appendix FF ("Construction Impacts") lists these thresholds of significance for noise impacts and it is unclear why the body of the DEIR ignores the analysis of these thresholds.

10  
cont'd

In addition, the City of Los Angeles has standards both in the LAMC as well as the General Plan specifying when noise is clearly unacceptable, and these are omitted from the DEIR. The LAMC states that "it is hereby declared to be the policy of the City to prohibit unnecessary, excessive and annoying noise from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interests shall be systematically proscribed." See LAMC Section 111.00. The high noise level of construction as it relates to the Property and the Plaza, lasting several years, will be excessive and annoying and therefore prohibited by the LAMC. And since the noise levels in the DEIR underestimate the noise levels that will be heard by sensitive receptors (people will be much closer to noise sources than analyzed in the DEIR), the significant impacts will be much worse than analyzed. The EIR fails to disclose this significant impact.

11

iii. Noise and Vibration Attenuation Mitigation Measures Are Inadequate

While the Draft EIR states that "construction would be consistent with the goals of Section 41.40(a) of the Los Angeles Municipal Code," there is nothing to indicate that compliance with goals would make the significant construction noise impacts less than significant. Draft EIR p. 4.7-15. It would be impossible for construction to occur in compliance with LAMC Sec. 41.40(a)'s preclusion of work

12



September 2, 2011  
 Los Angeles Metropolitan Transportation Authority  
 Regional Connector Comment Letter  
 Page Six

between 9 p.m. and 7 a.m. (Draft EIR p. 4.7-30) since the Draft EIR on p. 4.18.2-6 states that "based on experience with the cut and cover construction of the two underground stations on the Metro Gold Line Eastside Extension, after the shoring system was in place, decking installation occurred in only several weekends with non-stop activity from Friday at 5:00 PM to Monday morning at 6:00 AM with community and local agency approval. Similar progressive staging could be performed for the Regional Connector project..." This internal inconsistency demonstrates that the mitigation measure cannot mitigate the impact, rendering this a new significant and unavoidable impact. Other mitigation measures discussed in the DEIR do not indicate how construction noise levels are brought to a level that is less-than-significant. While Best Management Practices ("BMPs") are welcome, there is no indication in the Draft EIR how these BMPs would reduce the impact to less-than-significant. *Id.* Merely stating that a mitigation measure reduces the impact to less-than-significant is insufficient when there is no substantial evidence to support the claim that the mitigation measure will reduce the impact to less-than-significant. Punting the analysis on the applicable level of noise makes it impossible for the public to know whether there is a significant impact or how much of a noise reduction is necessary to reduce the impact to less-than-significant. Even if one were to actually believe that these vague measures would be enforceable and implemented, it is uncertain how much these measures would reduce noise heard by sensitive receptors and how they would attenuate noise to a less-than-significant level, especially considering that the construction staging areas will produce noise generating activities much closer to people than assumed in the EIR, including those across the street at the Bonaventure hotel.

12  
 cont'd

Claiming that there would be a Worksite Traffic Control Plan and a Construction Mitigation Program without providing any details as to how the significant and unavoidable environmental impacts would be reduced, or providing standards for reducing the significant environmental impacts (Original DEIR p. 3-55) does not satisfy CEQA's minimum legal requirements. This constitutes deferred analysis that does not meet the minimum requirements of *Sacramento Old City Association v. City Council* (1991) 229 Cal.App.3d 1011 and *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603. The existing construction mitigation measures are unenforceable and infeasible as they include language such as "to the extent practical," or "when feasible" without a binding obligation to mitigate. Original DEIR p. 3-55 and Draft EIR p. 4.7-21 to 22. If a mitigation measure turns out to not be practical or infeasible, it does not satisfy its legal obligation to mitigate a significant environmental impact.

13



September 2, 2011  
Los Angeles Metropolitan Transportation Authority  
Regional Connector Comment Letter  
Page Seven

Consequently, the vibration mitigation measures on p. 4.7-21 of the Draft EIR should remove the words "where feasible." If it is not feasible, it is not legally adequate mitigation.

13  
cont'd

The construction noise mitigation measures on p. 4.7-42 need to be required whether or not there is a noise complaint. It is difficult to understand why a noise complaint should trigger monitoring and the implementation of mitigation measures to reduce significant impacts. CEQA does not make it the responsibility of the Owner and other members of the public to ensure that the Project does not violate the law. Since the worst case (and most probable likelihood) is that noise will exceed FTA (and City) thresholds, the mitigation measures on Draft EIR p. 4.7-42 cannot contain any complaint contingency to trigger their applicability.

14

At the very least, additional mitigation measures should be added requiring (1) a sound barrier wall at ground level around the perimeter of the construction staging areas around/adjacent to the Property such that it attenuates noise to a minimum of 20 dBA; and (2) where health and safety are not compromised, additional temporary sound walls to be used in conjunction with noise intensive construction equipment that has limited mobility while in use (i.e. jackhammers, compressors, etc.). These sound barriers and other noise attenuation features must be aesthetically pleasing. Further, to reduce noise impacts at the Property, there should be a break in heavy noise-generating construction activities during the lunch hour. Construction activity that generates a significant amount of noise should be scheduled for weekends, evenings and early mornings.

15

iv. Construction Vibration Impacts Are Significant

The Project involves a construction staging area on the Plaza adjacent to restaurants, the Property's skyscraper, and/or in the right of way in front of the Property. While the Property involves a reinforced steel structure and is within the FTA Vibration Damage Criteria I category, vibration damage may occur if a large bulldozer or caisson drilling occurs within eight feet of the Property's buildings. Draft EIR p. 4.7-7. The DEIR failed to analyze impacts of multiple vibration causing events occurring simultaneously. If equipment operates simultaneously there would need to be a greater separation between the construction equipment and vibration-sensitive uses on the Property since there would be greater impacts than analyzed. As this standard is based on *damage* to a building, the Draft EIR does not make any sense when it says that bulldozer use near buildings would remain infrequent and therefore, a vibration impact based on damage to a building would be less than significant. Damage may

16



September 2, 2011  
 Los Angeles Metropolitan Transportation Authority  
 Regional Connector Comment Letter  
 Page Eight

occur with infrequent events (and in any event, the DEIR does not provide a mitigation measure reducing the frequency of use of vibration-causing equipment in close proximity to buildings affected by the Project). According to the Draft EIR, the threshold is based on the vibration that may cause damage without specifying any frequency of events or simultaneous construction activities. *Id.* Thus, whether or not vibration events are infrequent, there may still be damage to the Property as a result of the proposed construction staging area, and this was not disclosed in the DEIR. In addition, with regard to the threshold regarding general assessment of vibration impacts (i.e., vibration annoyance) that depends on frequency of events, while the standard is listed on p.4.7-6 of the Draft EIR, there is no analysis as to whether the general assessment (i.e. annoyance) threshold would be exceeded for construction. There is no analysis of (1) the maximum amount of vibration that would occur or its frequency; (2) why there would be "a 10 dBA reduction in vibration for coupling to building foundation loss"; and (3) why this would result in a less than significant impact. Draft EIR p. 4.7-17. Consequently, due to all of the construction staging activities that would occur on the Property or nearby that would be annoying to sensitive receptors on the Property, and no mitigation measures or other Project features committing Metro to not use vibration-causing machinery within a distance that may cause damage to the Property's buildings, there may be new significant vibration impacts that have not been disclosed.

b. Air Pollution Analysis Inadequate

i. Hazards Analysis Necessary

The DEIR states that soil removal may involve contaminated soil and "testing of materials would be required prior to transportation." Draft EIR p. 4.18.2-4. It is unknown whether the soil is contaminated with harmful pollutants and whether the excavation, storage, removal and hauling of these unknown contaminants, as well as the air-borne exposure of these contaminants through dewatering will pose a threat to sensitive receptors immediately adjacent to the construction staging and cut and cover areas. CEQA does not allow this deferral of analysis and mitigation. If there is contamination, what will be the hazard posed to the thousands of people who are daily on the Property, let alone adjacent to other proposed construction staging areas and cut and cover construction areas? While the DEIR analyzes Localized Significance Thresholds ("LST"), Original DEIR p. 4-75, for example, it has not analyzed the health risks of the potentially hazardous soil and water that would be brought into close proximity to thousands of people daily. A Health Risk Assessment is absolutely mandatory not just to analyze

16  
cont'd

17

18



September 2, 2011  
Los Angeles Metropolitan Transportation Authority  
Regional Connector Comment Letter  
Page Nine

construction equipment emissions, but also emissions associated with the removal of potentially hazardous soil and water, considering the high volume of people who would be exposed on a daily basis, for years, to excavation and removal. Appendix FF to the original DEIR claims that the Construction Health Risk Assessments demonstrate a less than significant impact (pp. 79 and 93), however, Tables 5-8 and 5-11 appear to show thresholds exceeded. If the threshold of significance is exceeded, there would be a significant impact. At the very least, the DEIR needs to redo the Health Risk Assessment to better explain why there is no significant impact, if that is the case, once it takes into account the potentially hazardous materials present in the soil and groundwater. Mitigation measures are also required to address the excavation, storage and removal of potentially contaminated soil. Merely indicating that hazardous materials will be removed to certain landfills does not protect the public prior to the disposal of that hazardous waste to appropriate landfills, and especially if the excavated hazardous waste is stored in the Plaza or adjacent to the Property. Draft EIR p. 4.18.2-4. The EIR fails to adequately analyze and mitigate the potential impacts from air-borne hazards associated with the construction of the Project.

18  
cont'd

19

(a) Inadequate Analysis Of Release Or Transport Of Hazardous Materials

Original DEIR p. 4-139 states that "indirect impacts could occur from the accidental release of hazardous materials during the transport of soil or other media contaminated with hazardous materials to a disposal facility located away from the project area during construction." CEQA Guidelines Appendix G Sections VIII(b), and (c) require analysis of whether the Project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment and whether the Project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 1/4 mile of a school, respectively. But there was no analysis of the very real impact that may result from the excavation and transport of hazardous materials from the Project site, including construction staging areas, or whether schools are located within 0.25 miles of the Project's hazardous materials. While Original DEIR p. 4-145 lists a requirement for a Contaminated Soil/Groundwater Management Plan in case hazardous materials are found within the Project site, it impermissibly defers analysis. As the construction staging area is on the Plaza, information regarding the "procedures for the proper handling, storage, transport, and disposal of contaminated soil and/or groundwater, in consultation with regulatory

20