

April 1, 2019

**VIA EMAIL**

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**Re: Comments on Citadel Outlets Expansion Project Draft Environmental Impact Report (SCH#2016091024)**

Dear Mr. Jimenez:

Wittwer Parkin, LLP represents the Southwest Regional Council of Carpenters (“Southwest Carpenters”). Southwest Carpenters represents 50,000 union carpenters in six states, including in Southern California. Southwest Carpenters has a strong interest in addressing environmental impacts of development projects, including the proposed Citadel Outlets Expansion Project in Commerce, California (“Project”). We submit the following comments on the Draft Environmental Impact Report (“DEIR”) on the Southwest Carpenters’ behalf.

The Project is located in three areas in the City of Commerce. Area 1 encompasses 8 acres at 5780 Smithway Street. (DEIR, p. 15.) It is located inside the existing Citadel shopping center complex, which includes surface parking and two warehouses. (*Ibid.*) Area 2 encompasses 26 acres at 5819 and 5901 Telegraph Road and 2366 Travers Avenue. (*Ibid.*) Area 3 encompasses 10 acres on the corner of Washington Boulevard and Telegraph Road at 4241 Telegraph Road. (*Ibid.*; *Id.* at p. 11.) The majority of Area 3 is vacant, but the site includes a furniture outlet retailer. (*Id.* at p. 15.) The Project would extend the main Citadel complex into these surrounding locations. (*Id.* at p. 16.)

The Project, as proposed, would include the construction of several new buildings. Area 1 would include a 15,000 square foot, three-level commercial building (“Building 20”); a 107,150 square foot commercial building (“Building 21”); three new parking structures, as well as an expansion to an existing structure that would provide an additional 1,618 spaces; a five level, 80,000 square foot hotel with approximately 174 guest rooms (“Traveler’s Hotel”); an additional five-level hotel building constructed on top of a four-level parking structure, which will include 96 guestrooms, encompass 98,000 square feet, and include a monorail platform (“Loft Hotel”); and approximately 41,571 square feet of retail/food uses. (DEIR, pp. 16, 21.)

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 2

Area 2 would include a new 46,834 square-foot commercial retail building that includes tenant spaces (“Building 22”); a new 23,107 square-foot retail building that will also include tenant spaces (“Building 23”); a 120,000 square foot retail space with parking (“Adventure Experiential Retail”); an additional 500 guest room, 185,000 square foot hotel with a parking structure with 700 parking spaces; a 150,000 square foot theater with supporting food amenities; and a 3,140 restaurant. (*Id.* at p. 23.) Area 3 will include a 2,000 square foot restaurant space with 38 parking spaces (“Fast Food Restaurant Pad 1”); a 4,400 square foot restaurant with 42 parking spaces (“Fast Food Restaurant Pad 2”); a 5,000 square foot restaurant with 77 parking spaces (“Fast Food Restaurant Pad 3”); a 2,000 square foot restaurant with a drive through lane and 33 parking spaces (“Fast Food Restaurant Pad 4”); a 55,000 square foot warehouse with a total of 62 surface area parking spaces, and either a 4,500 square foot fast food restaurant with 73 parking stalls or a four level, 70,000 square foot office building. (*Id.* at p. 26.) In total, if the office building is constructed, the new development will result in the construction of 1,007,202 square feet of floor area, 237,662 square feet of retail use, 358,000 square feet of hotel use, 270,000 square feet of theater, entertainment, and recreation use, 16,540 square feet of food service, 70,000 square feet of office use, and 55,000 square feet of industrial uses. (*Id.* at p. 28.)

In order to construct the Project, two sites in Area 1 will need a zone change from M-2 (Heavy Industrial) to C-2 (Commercial). (DEIR, p. 30.) According to the DEIR, Area 3 will require “up to” two zone changes – the site of the proposed industrial building will need to be rezoned to M-2 (Heavy Industrial) and, according to the DEIR, “if an institutional/public/government facility is to be located on a portion of the joint venture site, the site must be zoned CPF (Commercial Public Facility Zone) to allow for the proposed use.” (*Ibid.*)

This large Project will create significant environmental impacts, and thus requires a careful, complete and thorough environmental analysis. As explained herein, the DEIR, however, is confusing, missing key analysis, does not provide sufficient support for conclusions that the Project will have less than significant impacts in a number of areas, and fails to provide appropriate mitigation for significant impacts. Please remedy these deficiencies as requested below.

### **I. Project Description**

“Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative), and weigh other alternatives in the balance.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193 [*“County of Inyo”*].) “An accurate, stable and finite project

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 3

description is the *sine qua non* of an informative and legally sufficient EIR.” (*Id.* at p. 193, italics omitted.)

The Project Description, however, is unclear. In the Project Description, the DEIR explains that Area 3 will either have a 4,500 square foot fast food restaurant with 73 parking stalls or a four level, 70,000 square foot office building. (DEIR at p. 26.) It also is unclear how many rooms the Traveler’s Hotel will include. (See *id.* at p. 21.) This makes it difficult to accurately or adequately evaluate the Project’s environmental impacts. For example, whether Area 3 will include a 70,000 square foot office building or a 4,500 square foot restaurant and the number of rooms included in the Traveler’s Hotel will alter traffic impacts for the Project. In addition, according to the DEIR, “if an institutional/public/government facility is to be located on a portion of the joint venture site, the site must be zoned CPF (Commercial Public Facility Zone) to allow for the proposed use.” (*Id.* at p. 30.) This is not mentioned in the Project description and makes it unclear whether this site will be used for either an institutional or public or government building will be located at the Project site. Without this data, decision makers and the public cannot sufficiently assess Project impacts.

Please update the DEIR to explain the specific number of rooms that will be constructed in the Traveler’s Hotel, and to definitively state whether an office building or a restaurant will be constructed in Area 3, and whether institutional or public or government building will be located within the Project site.

## **II. Aesthetics**

In Southwest Carpenters’ Initial Study comments for this Project (“Initial Study Correspondence”), Southwest Carpenters requested that the City “provide a full description of the Samson’s Tire Plant façade, its historic context, and whether other nearby structures and façades are attributable to the same era or style as the Samson’s Tire Plant façade” in the DEIR, so that Southwest Carpenters could fully understand the Project’s impacts on Aesthetics. The DEIR, however, only mentions the Samson Tire Plant in passing, and does not discuss whether there are other nearby structures or façades from the same style or era and how they might be impacted by the Project. (See generally DEIR; DEIR, p. 71.) Without this data, the City’s conclusion that the Project would not have a significant impact on aesthetics is not supported by the evidence. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code § 21168 [applying the Section 1094.5 standard to CEQA actions].) Please update the DEIR to include this information.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 4

### III. Air Quality

The City is required to disclose baseline conditions for air quality in the DEIR. Yet, as explained herein, in the DEIR, the City has failed to do so. The Initial Study incorrectly indicated that the South Coast Air Basin (“SCAB”) is only in nonattainment for two categories of criteria pollutants. In fact, the SCAB is in nonattainment for 1-hour ozone, 8-hour ozone, Lead, and PM<sub>2.5</sub>. Yet, in the DEIR, the City does not provide a clear explanation of the current air quality baseline conditions at the Project site or in SCAB, nor does it explain that SCAB is in nonattainment for 1-hour ozone, 8-hour ozone, and lead. (See DEIR, pp. 55, 56.) Please remedy this deficiency.

The DEIR provides daily construction emissions estimates for individual components of the Project – including, for example, demolition of buildings in Area 1, and construction of specific buildings in Areas 1, 2, and 3, and then compares these individual estimates to emissions thresholds. (See DEIR, pp. 59-60.) According to the DEIR, however, construction and demolition of individual components of the Project will occur concurrently. (*Id.* at pp. 29-30.) For example, work in Area 1, “will commence in 2019... and [be] fully opened in 2023,” work in Area 2, is slated to “commence as early as 2020” and be completed in 2026, and work in Area 3 “will commence in 2019” and open in 2020. (*Ibid.*) Thus, construction and demolition for each component of the Project will have to occur simultaneously. The DEIR, therefore, does not provide accurate information on daily emissions from Project construction as a whole, because it does not analyze total emissions from each component of joint construction and operation the Project Areas that will occur concurrently. The DEIR thus does not adequately disclose or determination whether Project construction will have a significant impact on air quality. Please update the Air Quality analysis to accurately disclose Project air quality impacts and update the conclusions and mitigation for such emissions accordingly.

The analysis also does not indicate where the DEIR obtained the daily thresholds it relies upon to determine whether the Project will have significant impacts. (See DEIR, pp. 59-60.) Please update the DEIR to indicate where the City obtained these thresholds.

The City concludes that the Project will result in significant impacts to air quality, both during the construction and operation of the Project. (DEIR, p. 63.) It finds that construction will exceed the South Coast Air Quality Management District (“SCAQMD”) thresholds for ROG and will generate operational emissions that would still exceed the thresholds for ROG, NO<sub>x</sub>, and PM<sub>10</sub>. (*Ibid.*) Yet the DEIR does not explain whether it exceeds California Ambient Air Quality Standards in addition to the National Ambient Air Quality Standards. Please update the DEIR to clearly explain which standards the Project exceeds.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 5

The DEIR provides no mitigation for construction-related impacts. (See DEIR, pp. 61-62.) An agency “shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures,” and must have a monitoring program to ensure the implementation of mitigation. (Cal. Pub. Resources Code § 21081.6 (a) and (b).) “*The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.*” (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 189 [“*California Clean Energy*”] [emphasis in original] [citations omitted]; Pub. Resources Code, § 21002.1(b).) The current DEIR does not meet this standard. Please update the DEIR to include additional enforceable mitigation to minimize the impacts of the Project on air quality.

The DEIR states that the Project will emit harmful air pollutants near sensitive receptors, including a single-family residential neighborhood, Rosewood Park School, and Rosewood Park. (DEIR, p. 65.) The DEIR includes a table showing permissible thresholds of emissions within 25, 50, 100, 200, and 500 meters from sensitive receptors, and concludes that the Project would not exceed such thresholds. (*Id.* at p. 66.) It does not, however, explain how far the residential neighborhood is from the Project, and therefore, it is not possible to determine whether the Project meets SCAQMD’s threshold requirements for sensitive receptors. In addition, it does not disclose how far the Park and school are from the Project in meters, and does not analyze, specifically, whether the emissions from the Project are sufficiently safe at this distance. (See *Id.* at pp. 65-66.) Please remedy this deficiency.

The discussion of Project emissions only addresses construction emissions. (See DEIR, pp. 65-66.) The DEIR also fails to analyze how the operation of the Project will impact sensitive receptors, as requested in my Initial Study Correspondence. (*Ibid.*) Please update the DEIR to include this analysis and mitigation of impacts to sensitive receptors.

#### **IV. Cultural Resources**

The DEIR does not draw a clear conclusion as to whether there is a potential for significant impacts to cultural resources. (DEIR, p. 72.) This undermines the DEIR’s primary function: “an EIR is ‘an informational document’” aimed at providing “‘detailed information about the effect which a proposed project is likely to have on the environment....’” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391 [“*Laurel Heights*”], citing Cal. Pub. Resources Code, § 21061 and Cal. Code Regs., tit. 14, § 15003(b)-(e).) An EIR that is unclear fails to adequately inform the public about a potential project’s impacts on the environment.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 6

In addition, absent extensive excavation at the Project site, the City cannot find that the Project will not have impacts to cultural resources or disturb human remains. Please update the DEIR to include a clear conclusion, supported by the evidence, as to whether the Project may have significant impacts to cultural resources.

The DEIR fails to provide adequate mitigation for potential impacts to cultural resources. An agency “shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures,” and it must have a monitoring program to ensure the implementation of mitigation. (Cal. Pub. Resources Code § 21081.6 (a) and (b); *California Clean Energy Committee, supra*, 225 Cal.App.4th 173, 189.)

The City indicates that a Native American monitor will be present during construction and demolition that may uncover cultural resources. (DEIR, p. 72.) But it does not provide for what will happen in the event that cultural resources are discovered and how the developer and the City will ensure that such resource are protected. (See *ibid.*) It is particularly important that the DEIR include such provisions to protect Native American finds. Yet, there is no mechanism to ensure that such resources will be properly preserved, documented, excavated, or transmitted to the appropriate group, organization, or authority post-excavation. (See DEIR, p. 72.) The DEIR thus does not ensure enforceable protection of cultural resources. (See Cal. Pub. Resources Code, § 21081.6(a)(1); see also Cal. Pub. Resources Code, § 21081.6(a) and (b).) Please update the DEIR to provide specific, enforceable mitigation mechanisms that will be followed in the event of a find during construction.

#### **V. Geology and Soils**

The conclusions in the Initial Study regarding potential liquefaction and erosion impacts were not supported by evidence. The DEIR did not improve or elaborate on this deficient analysis, nor did it include any mitigation measures related to geology and soils. (See generally DEIR.)

Please complete this analysis and update the DEIR accordingly.

#### **VI. Greenhouse Gas Emissions**

The DEIR does not disclose baseline greenhouse gas emissions (“GHGs”) at the Project site. (DEIR, pp. 73-76.) Failure to include this information contravenes CEQA. “The fundamental purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 7

(2007) 40 Cal.4th 412, 428, citing Cal. Pub. Resources Code, § 21061.) “[A]n EIR must adequately identify and analyze the significant environmental effects of the proposed project.” (*San Joaquin Raptor Rescue v. County of Merced* (2007) 149 Cal.App.4th 645, 660, citing Cal. Pub. Resources Code, § 21100(b); Cal. Code Regs, tit. 14, § 15126.2(a).)

The analysis of Threshold 3.4.4.1 only provides data on Project emissions of CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, and CO<sub>2</sub>e after mitigation. (DEIR, p. 77.) The DEIR’s discussion of GHG emissions only addresses how the Project will reduce GHGs but does not provide a clear explanation or analysis of pre-mitigation Project-related GHG emissions. (*Ibid.*) Please remedy this deficiency.

The DEIR discloses that the Project will emit a massive 19,480 metric tons of carbon-dioxide equivalent each year. Despite these massive emissions the City, in a conclusory fashion, lists under the Mitigation of Potential Impacts section, that the Project will have to comply with Green Building Code requirements. (DEIR, p. 77.) This is sham mitigation. In reality, the City proposes doing *nothing*—providing absolutely *no* mitigation *whatsoever*—to address the massive GHG emissions of the Project. The Project, as with all development in the state, is required to comply with the Green Building Code. It is utterly unacceptable and an abdication of the City’s duties to not even *attempt* to impose real, binding mitigation to reduce the impacts of such a massive project. Also, because the Project will have to comply with the California Building Code regardless, it is unclear whether the City has improperly accounted for pre- and post-mitigation Project impacts, or if the City has artificially portrayed Project GHG reductions compared to an impossible “business-as-usual” scenario where the Project does not adhere to the state-mandated Building Codes. Please update the DEIR to include specific requirements that the Project must adhere to in order to actually reduce GHG emissions, such as reducing the Project size and density, requiring “net-zero” building efficiency, requiring the installation of solar panels on all open surfaces (as opposed to “solar-ready”), complete installation of dozens of electric vehicle charging stations (as opposed to “EV-ready”), exclusive use of Tier IV and electric construction equipment, and the purchase of carbon offsets, to name a few of the countless options available to the City.

Under Threshold 3.4.4.2, the DEIR indicates that the City does not have a Climate Action Plan or greenhouse gas reduction plan. (DEIR, p. 78.) The DEIR also does not indicate whether the City intends to adopt other thresholds to ensure that Projects within its boundaries do not significantly contribute to increased greenhouse gas emissions. Please update this analysis to indicate how the City is ensuring that projects do not hinder the City’s ability to meet statutory emissions reductions goals, and what thresholds and plans the City is utilizing to do so.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 8

The DEIR also states that the Project does not pose any apparent conflict with the California Air Resources Board's ("CARB") recommendation actions for reducing GHGs, and includes a table where it indicates whether the Project conflicts with the CARB recommendations, but it does not explain clearly how or why the Project does not conflict with the CARB recommendations, nor does the City provide reasoning to justify use of the statewide Scoping Plan at the Project-level. (*Id.* at pp. 78-80; *Center for Biological Diversity v. Department of Water Resources* (2015) 62 Cal.4th 204.) Please update this analysis to clearly explain how the Project does not conflict with the CARB recommendations.

The DEIR confusingly lists "measures identified in Table 3-9 as being 'applicable to the project.'" (DEIR, p. 80.) However, the City fails to describe whether it views these items on the list as Project features or mitigation measures. While the City touts this list as "beneficial in reducing the overall GHG emissions," these items, which the City poorly describes, are likely just basic statutory requirements, any "benefit" from which would be entirely Pyrrhic and outside of the City's power to control. Improperly or inadequately identifying such features does not provide an accurate project description, discussion of impacts and impact reductions. The City's reliance on the statewide Scoping Plan and minimum statutory requirements in the face of overwhelming Project greenhouse gas impacts fails to provide any actual mitigation to address these impacts. (See *County of Inyo v. City of Los Angeles*, *supra*, 71 Cal.App.3d 185, 192-193 [requiring an accurate project description]; *California Clean Energy Committee*, *supra*, 225 Cal.App.4th 173, Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation measures]; Cal. Code Regs., tit. 14, § 15370 [defining mitigation].) Please update the DEIR to include real mitigation. Absent substantial revision of this section, the City cannot further rely on this analysis to conclude the Project will have less-than-significant GHG impacts without mitigation, as doing so is uninformative and misleading, especially in light of the massive GHG emissions of the Project. It defies reason to conclude a project with such heavy impacts is entirely consistent with all applicable greenhouse gas *reduction* plans, simply because the Project is required by law to incorporate certain basic features.

The DEIR's conclusion that the Project will comply with applicable plans or policies is not supported by substantial evidence, both because the analysis incorporates mitigation in its review of the Project, and because the DEIR's analysis of how the Project complies or conflicts with applicable plans is incomplete. (See DEIR, p. 80.) Please update the DEIR to review the Project's compliance with applicable plans in depth and look at Project impacts with and without mitigation, in order to adequately determine if the Project will comply with applicable plans and policies regarding GHG emissions.



## VII. Hazards and Hazardous Materials

The DEIR indicates that the U.S. EPA's Comprehensive Environmental Response, Compensation, and Liability Information System ("CERCLIS") identifies "hazardous waste sites that require investigation and possible remedial action" within 0.50 miles of the Project site, but it does not identify the hazardous waste sites, their distance to the Project, or any other information regarding such sites. (DEIR, p. 81.) Likewise, the DEIR mentions a local National Priorities List ("NPL") site that is currently being investigated but does not indicate how close that site is to the Project whether this site may any effect on Project impacts. (*Ibid.*) The DEIR's hazards and hazardous waste analysis is incomplete without this information, and failure to discuss or disclose this information demonstrates that the City's conclusions regarding environmental impacts are not supported by the evidence. Please update the DEIR accordingly.

In the City's discussion of Area 1 site conditions, the DEIR indicates that former Pacific Tubing Company ("PATCO") property, now located in a Citadel Parking Lot, had groundwater that exceeded maximum contaminant levels for Tetrachloroethylene ("PCE"), trichloroethylene ("TCE"), chromium, hexavalent chromium. (DEIR, p. 84.) The DEIR indicates that tests were conducted on PATCO groundwater but does not indicate whether recent tests of for these substances have been completed or what the results of such tests may be. (*Ibid.*) The DEIR suggests that no groundwater monitoring has been completed since this time. (*Ibid.*) Nor does the DEIR explain whether this site will be involved in the Project, or whether groundwater that may be disturbed by this Project contains such chemicals. (*Ibid.*) This does not provide sufficient information for the public and decision makers to determine whether the Project may release such compounds and constitute a hazard to the environment or public health and safety. Please update the DEIR to include information regarding recent testing of groundwater at the PATCO site, the relation of the PATCO site may to the Project, whether such contamination levels have been found in groundwater within the Project site, whether and to what extent the City has conducted testing to determine contaminant levels in soils and groundwater underlying the Project site, and how this might create impacts related to hazards and hazardous materials.

In the DEIR's discussion of Area 2 site conditions, the City indicates that Partner Engineering and Science conducted a Phase I Environmental Site Assessment ("ESA") in Area 2. (DEIR, p. 84.) But it does not indicate when the assessment was completed or what was involved. Please update the DEIR to include this information.

The City also indicates that a "closure letter was *reportedly*" issued for two Underground Storage Tanks ("USTs") at Service Air Cargo. (*Id.* at p. 85.) Please confirm whether a closure letter was, in fact, issued for the Service Air Cargo USTs. The DEIR lists several USTs and other hazardous materials stored in Area 2, indicates that they "are not expected to have created

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 10

an environmental concern at the subject Property,” but does not explain upon which evidence the City has reached this conclusion. (*Id.* at pp. 84, 85, 86.) Please update the DEIR to explain why all of the sources of hazardous waste in Area 2 do not create an environmental concern.

In the DEIR’s discussion of Area 3 site conditions, it mentions that there is a Leaking Underground Storage Tank (“LUST”) cleanup site in Area 3. (DEIR, p. 86.) The DEIR indicates that the case regarding this LUST “was closed in 1993 and no further action is required,” but it does not explain or provide the reasons why the case was closed, if the responsible agency determined that the site no longer posed an environmental hazard, and why no further action is required. (*Ibid.*) Please update the DEIR with this information.

The City also concludes that “no further action is required” for two businesses formerly located in Area 3, Boyd Furniture and California Furniture Shop, which are listed on the Federal Resource Conservation and Recovery Act (“RCRA”) database. (DEIR, p. 86.) Yet, the DEIR does not explain the significance of inclusion on a RCRA database, nor whether these two sites currently contain hazardous waste and why no further action is required. (*Ibid.*) Please remedy this in an updated and recirculated DEIR.

In its analysis of Threshold 3.5.4.1, the City does not discuss how the groundwater contamination, hazardous materials, USTs and the LUST described in the environmental setting might be impacted by transportation and disposal associated with demolition and construction of the Project and whether this might result in significant environmental impacts. (DEIR, pp. 88-89.) In addition, the analysis suggests that, due to construction best practices, hazardous materials will not result in a hazard to the public or the environment. (*Id.* at p. 88.) But the DEIR provides no specific information regarding what practice will be used, nor does it provide a construction plan to explain how exposure to hazardous materials will be avoided and to ensure that best practices with hazardous materials are employed. (*Ibid.*) Please update the DEIR to include such specifics.

The analysis of Threshold 3.5.4.1 states that potential hazards will be mitigated because a “demolition management plan (SMP) will be required” and an “Operations and Maintenance (O&M) Program must be implemented,” but this does not include specific, enforceable mitigation measures that will actually reduce the impacts of the hazardous materials on site. This is insufficient under CEQA. (Cal. Code Regs., tit. 14, § 15126.4(a)(1) [“An EIR shall describe feasible measures which could minimize significant adverse impacts...”]; Cal. Code Regs., tit. 14, § 15126.4(a)(2) [“Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments”].) Please remedy this deficiency.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 11

The DEIR concludes, without adequate evidence, that the Project would not have the potential for creating a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (*Id.* at p. 89.) This is not supported by the evidence. The City must update the DEIR to specifically examine how the transport, use, and disposal of these hazardous materials will result in environmental impacts.

In the DEIR's discussion of Threshold 3.5.4.2, the DEIR states "given the nature of the project, no hazardous or acutely hazardous materials will be emitted that may affect a sensitive receptor. As a result, no impacts from the operation or the future uses are anticipated." (DEIR, p. 90.) This conclusion is not supported by the evidence, or adequately explained or justified in the DEIR. In addition, the City also erroneously found that the Project will have less than significant impacts to emitting hazardous emissions or handling hazardous materials within one-quarter mile of an existing school after implementing mitigation measures. (DEIR, pp. 89-90.) This improperly conflates mitigation measures with a baseline analysis of Project impacts, and, as a result, makes it difficult to enforce mitigation. (See *County of Inyo v. City of Los Angeles*, *supra*, 71 Cal.App.3d 185, 192-193 [requiring an accurate project description]; *California Clean Energy Committee*, *supra*, 225 Cal.App.4th 173, Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation measures]; Cal. Code Regs., tit. 14, § 15370 [defining mitigation].) The DEIR must provide an analysis of Project impacts pre-mitigation.

In addition, the DEIR did not discuss the Project's potential to interfere with emergency plans. Please update the DEIR to include an analysis of Project impacts to emergency plans.

### **VIII. Land Use and Planning**

The DEIR's discussion of relevant land use and planning regulations does not include the General Plan designation or zoning designations for the Project site. (DEIR, pp. 104-105.) The DEIR also does not describe whether the Project would be compatible with zoning designed to mitigate environmental impacts. (*Ibid.*) The DEIR further does not explain whether the Project is consistent with all applicable General Plan policies and requirements. Please evaluate Project consistency with all applicable General Plan and zoning designations and policies, and mitigate any impacts caused by the inconsistency of the Project with these designations and policies.

In addition, it is unclear how many and what type of zone changes the Project will need to be constructed – the DEIR provides that Area 3 will require "up to two zone changes" but does not explain what the original zoning designation is, what the new zoning designation must be, and whether such a designation would be compatible with applicable regulations or plans. (DEIR at pp. 106-107.) It states that Area 3 will require a zone change if an "institutional/public/government facility" is located there but does not explain under what

circumstances this might occur, whether this is compatible with applicable regulations and plans, and if this may cause impacts. (*Ibid.*)

Without this data, the DEIR's conclusion that the Project would not result in significant land use impacts is not supported by the evidence. Please update the DEIR to remedy these deficiencies.

#### **IX. Public Services**

The DEIR does not adequately disclose existing emergency response times for police services. (DEIR, p. 127.) Without this data, the City cannot credibly determine whether the Project will exceed the threshold of a five-minute response time for emergencies within the City. (*Ibid.*) Please update the DEIR to include this information.

The DEIR concludes that the Project would not require increased fire protection services. (DEIR, p. 128.) The City bases this conclusion on the number of vehicular access points that the Project will provide for fire services and building standards related to fire safety. (*Ibid.*) It, however, does not discuss how the increased population's need for fire services may increase the need for fire stations or staff, nor does it discuss how such a large new development and resulting traffic, etc. might increase response times. (*Ibid.*) Please update the DEIR accordingly.

#### **X. Noise**

The discussion of Threshold 3.8.4.1 does not include an analysis of construction noise impacts, as required. (DEIR, pp. 117-118.) Please update the DEIR with this analysis.

#### **XI. Transportation and Circulation**

In the City's analysis of Threshold 3.11.4.3, it explains that the traffic study found various service levels ("LOS") for the 23 studied intersections. Yet, for each set of circumstances that it analyzed (Existing Conditions, Future Without Project Conditions, Existing with Project Conditions, Future with Project Conditions), it only provides LOS projections for some of the 23 studied intersections. (DEIR, pp. 167-168.) This does not provide a complete or accurate picture of the traffic impacts of the Project. Please update the DEIR to include the number of intersections that are operating at each service level for Existing Conditions, Future Without Project Conditions, Existing with Project Conditions, Future with Project Conditions, so that the public and decision makers can fully understand Project impacts.

The City also states that significant impacts to traffic under Threshold 3.11.4.3 will be mitigated by a Transportation Demand Management ("TDM") Program. (DEIR, p. 170.) However, the City does not explain what, specifically, the TDM program will entail, or how it

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 13

will reduce traffic impacts. (*Id.* at pp. 170-172 [stating that the Program “could include” certain components].) The City also recommends certain Transportation Systems Management Program (“TSM”) upgrades, but does not include concrete, enforceable specifics for the implementation of the TSM program. (*Id.* at pp. 173-174.) This is not permissible under CEQA. (See Cal. Pub. Resources Code § 21081.6 (a) and (b) [requiring enforceable mitigation].) Please update the DEIR to provide clear, enforceable components of the TSM program.

When conducting an environmental impact analysis, an agency’s determinations must be supported by evidence in the record. (Cal. Code Civ. Proc. § 1094.5 [providing that agency findings must be supported by record evidence]; Cal. Pub. Resources Code § 21168 [applying the Section 1094.5 standard to CEQA actions].) An agency cannot simply draw conclusions without analysis. (See *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511–512, 515.) It “must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Ibid.*) In the City’s analysis of Threshold 3.11.4.4, it states that the Project “would not result in any significant adverse impacts to the generation of potential traffic hazards.” (DEIR, p. 180.) This is not supported by the evidence. In contrast to this conclusion, the analysis in the DEIR states that the freeway off ramps from I-5 and I-710 will exceed capacity before 2040. (*Id.* at p. 179.) Please update the DEIR’s analysis to discuss whether the Project will cause this impact, and, if so, provide mitigation measures to address this impact to traffic and transportation.

In the City’s analysis of Threshold 3.11.4.5, it concludes that the Project would not conflict with “adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.” (DEIR, pp. 180-181.) Contrary to the City’s conclusions, extensive infrastructure will be impacted by the Project, including two bus stops and sidewalks running adjacent to and within the Project sites. The DEIR does not discuss how the performance and safety of this infrastructure will be temporarily or permanently impacted by the Project. The City must evaluate these impacts in the DEIR and mitigate these impacts, yet it fails to mention or discuss these impacts in its analysis. The City’s conclusion regarding impacts under Threshold 3.11.4.5, therefore, is not supported by substantial evidence. Please update the DEIR to include these items in its analysis.

## **XII. Cumulative Impacts**

The City concludes that cumulative greenhouse gas impacts would be significant but does not provide mitigation measures to remedy this. (DEIR, p. 202.) Likewise, the cumulative air quality impacts analysis concludes that NO<sub>x</sub> emissions would exceed SCAQMD thresholds but does not provide mitigation. (*Id.* at p. 201.) Please update the DEIR to provide mitigation for these items.

The cumulative impacts traffic analysis does not indicate whether the Project, in conjunction with other development, will have a cumulatively considerable impact on traffic and transportation, except to state, without evidence, that “no planned or proposed developments beyond City boundaries are expected to have a noticeable impact on traffic levels in the Planning Area.” (DEIR, p. 205.) The evidence, however, shows that related Projects will impact traffic levels. They will result in the generation of thousands of additional daily trips and the operation of 11 of 23 nearby intersections at a level of LOS E or F during peak traffic hours. (*Id.* at pp. 205-206; see Cal. Code Civ. Proc. § 1094.5, Cal. Pub. Resources Code § 21168 [findings must be supported by evidence in the record].) This is a significant impact. Please update the cumulative impacts analysis and include mitigation measures accordingly.

### **XIII. Alternatives**

The CEQA alternatives analysis has been described by the California Supreme Court as the “core of an EIR.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) CEQA provides a “*substantive mandate* that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures” that can lessen the environmental impact of proposed projects. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134, citing Pub. Resources Code § 21081 [emphasis added].) It compels government to mitigate adverse effects through the selection of feasible alternatives. (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1233; see also Pub. Resources Code § 21002.) A lead agency’s ability to comply with this mandate is predicated on a clear analysis of correct findings of a project’s impacts. “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process.” (*Laurel Heights, supra*, 47 Cal.3d at 404; *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1350.)

An EIR’s review of Project alternatives must analyze alternatives “which are capable of avoiding or substantially lessening any significant effects of the project.” (Cal. Code Regs., tit. 14, § 15126.6(b).) An EIR’s very purpose is to identify ways to reduce or avoid significant environmental impacts. (*Laurel Heights, supra*, 47 Cal.3d at 403.) In order to achieve this purpose, the EIR must correctly identify project impacts. Yet, the Project alternatives analysis, as drafted, does not adequately assess whether alternatives would avoid or substantially lessen significant Project effects, because the DEIR either does not provide a sufficient analysis or incorrectly finds impacts to be less than significant, including in the areas of aesthetics, air quality, cultural resources, greenhouse gases, hazards and hazardous materials, land use and planning, noise, public services, and transportation and circulation. The DEIR’s alternatives analysis, therefore, does not identify feasible alternatives that lessen adverse impacts, nor does it sufficiently examine whether the alternatives listed would mitigate or avoid Project impacts.

Mr. Jose Jimenez  
Re: Citadel Outlets Expansion DEIR  
April 1, 2019  
Page 15

Please revise the DEIR as requested throughout this correspondence. Should a reexamination of the DEIR result in altered findings or information, please concurrently update the alternatives analysis to include options that would lessen or avoid all significant and inadequately mitigated impacts.

#### **XIV. Conclusion**

Southwest Carpenters thanks the City for providing an opportunity to comment on the DEIR. Please update the DEIR to adequately address the issues raised in these comments, then recirculate a revised DEIR.

Pursuant to Section 21092.2 of the Public Resources Code and Section 65092 of the Government Code, please notify Southwest Carpenters of all CEQA actions and notices of any public hearings concerning this Project, including any action taken pursuant to California Planning and Zoning Laws. In addition, pursuant to Public Resources Code section 21167(f), please provide a copy of each Notice of Determination issued by the City or any other public entity in connection with this Project and add Southwest Carpenters to the list of interested parties in connection with this Project. All notices should be directed to my attention. Please send all notices by email, or if email is unavailable, by U.S. Mail to:

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