

Chapter F.2 Comments and Responses

This section includes the comment letters received on the Draft EIR. Each comment letter is labeled with a unique number and comments within each letter are numbered consecutively. For example, the letter from the South Coast Air Quality Management District is labeled Letter 2 and the first comment in this letter is labeled 2-1.

The City of Desert Hot Springs received a total of five (5) comment letters from state, regional and local agencies; and interested parties. The following list provides the name of the commenter along with his/her affiliation, the date the letter was sent and the page number where the comment letter begins.

Comment Letters

Letter	Author/Affiliation	Date	Page No.
1	Anita M. Petke, Transit Communications Service Specialist SunLine Transit Agency	January 24, 2018	F.2-3
2	Lijin Sun, J.D. Program Supervisor, CEQA IGR South Coast Air Quality Management District	February 7, 2018	F.2-5
3	Anthony Madrigal Junior, Tribal Historic Preservation Officer Twenty-Nine Palms Band of Mission Indians	February 7, 2018	F.2-13
4	Richard Drury, Lozeau Drury LLP on behalf of the Laborers International Union of North America	February 13, 2018	F.2-17
5	Nicholas Whipps, Wittwer Parkin LLP on behalf of the Southwest Regional Council of Carpenters	February 20, 2018	F.2-21

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Letter 1 - Anita Petke, SunLine Transit Agency (Page 1 of 1)

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Letter 6 Anita Petke, SunLine Transit Agency – January 24, 2018

This letter contained no comments only acknowledgement of the City's request for comments.

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Letter 2 South Coast Air Quality Management District (page 1 of 4)

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Letter 2 South Coast Air Quality Management District - February 7, 2018

- Comment 2-1 SCAQMD staff summarized their understanding of the project and the methodology utilized to evaluate the project's emissions of criterial pollutants; and how the EIR addressed the project's compliance with SCAQMD's 2016 Air Quality Management Plan. In addition, SCAQMD staff evaluated the ability of the mitigation measures identified in the Draft EIR and recommended additional measures that could further reduce NOx and ROG.
- Response 2-1 Recommended revisions to existing Air Quality measures and the recommended new measures are discussed further below in Responses 2-3 and 2-4.
- Comment 2-2 SCAQMD has requested to receive written responses to all comments contained in its comment letter prior to certification of the Final EIR.
- Response 2-2 As required under CEQA Guidelines Section 15088, the lead agency must provide a written response to a public agency's comments at least 10 days prior to certifying an EIR. The City will provide the responses to SCAQMD's comments within the stipulated time.
- Comment 2-3 SCAQMD has requested that mitigation measures, AQ-1 and AQ-8 be revised to ensure that during construction and operation of the proposed project, emissions of VOC-containing materials and paints are not to exceed SCAQMD's air quality CEQA significance threshold for VOC of 75 lbs/day during construction and 55 lbs/day during operation, and that there is an enforcement mechanism to ensure effective implementation of these measures.
- Response 2-3 As shown in Tables 7 and 8 of the *Air Quality and Global Climate Change Impact Analysis* and Draft EIR Tables 4.3-5 and 4.3-6, with incorporation of the construction mitigation measure AQ-1, to limit architectural coatings applied to buildings within the project site to 10 grams per liter VOC and traffic paints to 100 grams per liter VOC content, construction-related VOC emissions do not exceed SCAQMD daily regional construction thresholds. By its very nature, the construction of the project is not a life-long activity. However, to ensure compliance with this measure, mitigation measure AQ-1 has been amended to include enforcement text as follows:
- AQ-1 Architectural coatings applied to buildings within the project site are to be limited to 10 grams per liter VOC and traffic paints shall be limited to

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100 grams per liter VOC content and shall be verified by the City Building Official or his/her designee, prior to application of coatings and/or traffic paint.

As shown in Table 14 of the *Air Quality and Global Climate Change Impact Analysis*, and Draft EIR Table 4.3-8, even with mitigation to reduce paint VOC content, the overall mitigated operational VOC emissions for the proposed project still exceed the 75 lbs per day emissions threshold. Area sources constitute 40.06 pounds per day of the total 90.19 pounds per day of mitigated VOC emissions; therefore, even though the proposed project exceeds the VOC threshold, when viewed by itself, the area source emissions (which includes not only emissions from painting, but also emissions from hearths, consumer products and landscaping equipment) of 40.06 pounds per day, meet the SCAQMD daily regional operation thresholds. Even before any mitigation, as shown in Table 13 of the *Air Quality and Global Climate Change Impact Analysis*, and Draft EIR Table 4.3-7, the area sources for the project are 51.85 pounds per day, which, by itself, does not exceed the SCAQMD's daily regional operational threshold of 75 pounds; therefore, the additional mitigation text and enforcement mechanism are not warranted or required.

Furthermore, the project is required to meet a 75 pound per day operational VOC threshold and not the 55 pound per day operational VOC threshold stated by SCAQMD in its comment. The project is located within Coachella Valley (in the Salton Sea Air Basin), as such per the SCAQMD's own threshold guidance for, Coachella Valley, the mass daily thresholds for operation are the same as the construction thresholds (<http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2>)

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| Comment 2-4 | The comment recommends additional mitigation measures to further reduce ROG and NOx emissions associated with project operation. |
| Response 2-4 | Four of the six additional measures recommended by SCAQMD for inclusion in the Draft EIR, have been incorporated into the <i>Air Quality and Global Climate Change Impact Analysis</i> (see revised Air Quality and Global Climate Change Impact Analysis in Final EIR Appendix B), and have been added into Draft EIR Section 4.3, as well as in Table 1.3, <i>Summary of Environmental Impacts, Regulatory Requirements and Mitigation Measures</i> , in Chapter 1, <i>Executive Summary</i> . These are as follows: |

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Air Quality Report Mitigation Measure 12 (Draft EIR Mitigation Measure 4.3-12). The project applicant shall require the use of 2010 model year diesel haul trucks that conform to 2010 EPA truck standards or newer diesel haul trucks (e.g., material delivery trucks and soil import/export) during construction and operation, and if the Lead Agency determines that 2010 model year or newer diesel haul trucks are not feasible, the Lead Agency shall use trucks that meet EPA 2007 model year NOx emissions requirements, at a minimum. This requirement shall be stipulated in all contract documents between the applicant and his/her contractors as applicable which shall be available upon request from City staff.

Air Quality Report Mitigation Measure 13 (Draft EIR Mitigation Measure 4.3-13). The project applicant shall ensure that 240-Volt electrical outlets or Level 2 chargers are installed in parking lots that would enable charging of NEVs and/or battery powered vehicles. This shall be verified prior to occupancy of each building as it is developed.

Air Quality Report Mitigation Measure 14 (Draft EIR Mitigation Measure 4.3-14). The project applicant shall require the use of electric or alternatively fueled sweepers with HEPA filters. This shall be verified periodically during operation by City Code Enforcement.

Air Quality Report Mitigation Measure 15 (Draft EIR Mitigation Measure 4.3-15). The project applicant shall require the use of electric lawn mowers and leaf blowers. This shall be verified periodically during operation by City Code Enforcement.

The additional, recommended mitigation measure c) limiting parking supply, is not feasible and was not incorporated, as the DLVSP is already required to comply with the City's parking standards. The additional mitigation measure d) maximize the planting of trees in landscaping and parking lots, was also found to be infeasible and not incorporated, as the proposed project maximizes the number of trees already by planting one tree per every thirty feet of perimeter and one tree per five parking spaces.

Comment 2-5 SCAQMD has requested that a section discussing SCAQMD Rule 403(e) – Large Operations be added to the Draft EIR.

Response 2-5 A section discussing SCAQMD Rule 403(e) – Large Operations has been added to page 32 of the *Air Quality and Global Climate Change Impact Analysis* and to page X of the Draft EIR as follows:

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SCAQMD Rule 403(e) are additional requirements for Large Operations.

1. Any person who conducts or authorizes the conducting of a large operation subject to this Rule shall implement the applicable actions specified in Table 2 of this Rule at all times and shall implement the applicable actions specified in Table 3 of this Rule when the applicable performance standards cannot be met through use of Table 2 actions; and shall:

A. submit a fully executed Large Operation Notification (Form 403 N) to the Executive Officer within 7 days of qualifying as a large operation;

B. include, as part of the notification, the name(s), address(es), and phone number(s) of the person(s) responsible for the submittal, and a description of the operation(s), including a map depicting the location of the site;

C. maintain daily records to document the specific dust control actions taken, maintain such records for a period of not less than three years; and make such records available to the Executive Officer upon request;

D. install and maintain project signage with project contact signage that meets the minimum standards of the Rule 403 Implementation Handbook, prior to initiating any earthmoving activities;

E. identify a dust control supervisor that:

i. is employed by or contracted with the property owner or developer;

ii. is on the site or available on-site within 30 minutes during working hours;

iii. has the authority to expeditiously employ sufficient dust mitigation measures to ensure compliance with all Rule requirements;

iv. has completed the AQMD Fugitive Dust Control Class and has been issued a valid Certificate of Completion for the class; and

F. notify the Executive Officer in writing within 30 days after the site no longer qualifies as a large operation as defined by paragraph (c)(18).

2. Any Large Operation Notification submitted to the Executive Officer or AQMD-approved dust control plan shall be valid for a period of one year from the date of written acceptance by the Executive Officer. Any Large Operation Notification accepted pursuant to paragraph (e)(1), excluding those submitted by aggregate-related plants and cement manufacturing facilities must be resubmitted annually by the person who conducts or

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authorizes the conducting of a large operation, at least 30 days prior to the expiration date, or the submittal shall no longer be valid as of the expiration date. If all fugitive dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously accepted submittal or in an AQMD-approved dust control plan, the resubmittal may be a simple statement of no-change (Form 403NC). .

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Letter 3 Twenty-Nine Palms Band of Mission Indians (Page 1 of 2)

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Letter 3 Twenty-Nine Palms Band of Mission Indians – February 7, 2018

Comment 3-1 The comment states that the Cultural Resources Report prepared for the project, referenced evidence of archaeological sites within and adjacent to the project area. Therefore, there is possibility of inadvertent discoveries during development of the proposed project, which could have an adverse effect on potential cultural resources that concern the Tribe. Avoidance, if feasible, would negate adverse effects on the project. The Tribe also requested that an approved Native American Monitor(s) from the Tribe be present during any ground disturbing activities associated with the proposed project.

Response 3-1 Mitigation Measure TCR-1 requires an approved Native American Monitor be present during all ground-disturbing activities associated with the proposed project, but does not stipulate who would approve the monitor. This is because more than one tribe has requested that a monitor from their tribe be utilized, either as a comment on the Draft EIR, as in this case, or in response to the City's notification to tribes pursuant to Senate Bill (SB) 18. At this time there are no development projects proposed at the project site. However, the applicant is aware that prior to any ground disturbing activity, a Native American monitor must be on site. Mitigation Measure TCR-1 has been revised to reflect that prior to commencement of any ground disturbing activities, the applicant or his/her designee shall coordinate with the tribes to identify a Native American monitor. As an alternative, a rotating schedule of monitors could be established. New text is underlined and deleted text is ~~stricken~~.

TCR-1 Prior to commencement of any ground disturbing activities, the applicant or his/her designee shall coordinate with the tribes who have requested the presence of a Native American monitor to ensure that their request has been addressed. ~~At~~ The approved Native American Cultural Resource Monitor shall be present during ground-disturbing activities (including archaeological testing and surveys). Should buried tribal cultural resources deposits be encountered, the monitor may request that construction be halted, and the monitor shall notify a qualified archaeologist, meeting the Secretary of Interior's Standards and Guidelines for Professional Qualifications, to investigate and, if necessary, prepare a mitigation plan for submission to the State Historic Preservation Officer (SHPO) and the Agua Caliente Tribal Historical Preservation Office (THPO).

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Letter 4 Lozeau Drury LLP on behalf of the Laborers International Union of North America – February 13, 2018

- Comment 4-1 The comment provides a summary of the location of the project and a brief summary of the specific plan.
- Response 4-1 No response is required.
- Comment 4-2 The comment states that the Draft EIR fails as an informational document, fails to analyze all significant impacts, and fails to impose all feasible mitigation measures to reduce the project's impacts. The comment references *Galante Vineyards v. Monterey Peninsula Water Management District (1997)*.
- Response 4-1 The comment is conclusory and provides no evidence for the opinion that the Draft Program EIR fails to analyze all significant impacts or impose feasible mitigation measures. As a program EIR for a specific plan, the intent of the document is to provide the environmental framework for the evaluation of development projects within the specific plan project boundary that will be proposed at a later date. As set forth in CEQA Guidelines Section 15168, future projects must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. If a later activity is found to have the potential to result in impacts that were not evaluated in the program EIR, then a new Initial Study would be prepared leading to the preparation of either a Subsequent EIR or a Mitigated Negative Declaration. As new projects are proposed, the City would undertake this exercise as set forth in the CEQA Guidelines.

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Letter 5 Wittwer Parkin LLP on behalf of the Southwest Regional Council of Carpenters – February 20, 2018

Comment 5-1 The comment provides a summary of the proposed project including the entitlements requested by the applicant in order to implement the Specific Plan.

Response 5-1 The comment adequately summarized the proposed project and no response is required.

Comment 5-2 The comment states that the City has not provided evidence that the project would not have an impact on aesthetics. The comment states that the development of the project would affect views from I-10 traffic as well as local residents and requests that further evidence be provided that supports the City's determination that there will be no aesthetic impacts from the Project, without mitigation.

Response 5-1 Regarding impacts to aesthetics, the project site is currently vacant and is surrounded by vacant land with the exception of one dwelling unit to the east. Therefore, scenic resources such as the Little San Bernardino Mountains to the north, the San Jacinto Mountains to the south and southwest, and the San Bernardino Mountains to the northwest would not be affected by the development of the project because there are no viewers to be adversely affected with the exception of one dwelling to the east. These residents would still have substantial views of the surrounding mountains except to the immediate west where the site would be developed. This view would be partially blocked with new buildings; however, the Specific Plan calls for a number of buildings to be developed and the Specific Plan Site Design Guidelines and Standards require setbacks between buildings that would allow views between buildings. Therefore, views to the west from the adjacent dwelling unit would be impacted but not significantly.

With regard specifically to views of the mountains by passing motorists on the I-10 Freeway, first, this freeway is not listed as a scenic highway by Caltrans, the County of Riverside or the City of Desert Hot Springs. Second, due to the fast moving vehicles on the freeway, future development of the site would not significantly impact the views of the mountains north of the project site, because the site would only be within the passing motorists views for a matter of seconds at an average speed of 70 miles per hour. Additionally, the proposed project is

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not in close proximity to any mountains in the region and the project is proposed in an area with minimal development nearby.

Comment 5-3 The comment states that the Draft EIR provided an inconsistent project description and sites examples of the inconsistencies, including that the project will be permitted to contain dwelling units.

Response 5-3 Residential development is not permitted within the Desert Land Ventures Specific Plan. There is a discussion of residential land uses in the Project Description (e.g. Page 3-1, paragraph 3), because the Existing General Plan and Zoning Designations within the project site are Light Industrial (LI) and Rural Desert (RD). The RD and LI designations are representative of Riverside County designations that were adopted by the City as interim designations with City Equivalent Land Uses which are Residential Estate (R-E-10) and Light Industrial (I-L). The R-E-10 has a 10-acre minimum lot size and allows single family residential and various recreational land uses.

Later in the same paragraph, proposed land use changes are explained as follows: *The project proponent for the DLVSP is also proposing a General Plan Amendment (GPA 01-16) and Zoning Map Amendment (ZMA 01-16) in order to re-designate the 123.4-acre project site from the County's RD and LI to the City's Light Industrial (I-L), General Commercial (C-G) and Private Open Space (OS/PV) designations for both the General Plan and Zoning designations* (page 3-1, paragraph 3).

Additionally, Section 3.4.1, *Permitted Land Uses*, expands further on types of development permitted within the DLVSP. Table 3-2 (page 3-11 and 3-12) shows that no residential uses will be permitted within the project site. Within Planning Area 1 – Mixed Use, which covers 62.9 acres, the DLVSP anticipates a variety of light industrial development (approximately 1.5 million square feet) and commercial development (approximately 360,000 square feet). A maximum of 150 hotel rooms/keys are anticipated to be developed as part of the total commercial development. In conclusion, consistent with Chapter 3 of the DEIR, the DLVSP would allow for a wide variety of commercial and industrial land uses but residential development would not be permitted.

With regard specifically to the size of the project site, the Draft EIR is internally consistent in stating that the project site is 123.4 acres in size per Vesting Tentative Tract Map No. 37185. Nowhere in the Draft EIR is the site identified as being 104 acres.

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Comment 5-4 The DEIR does not discuss the project from the viewpoint of its impacts as a leapfrog development. Please address the regulatory framework surrounding leapfrog development as it relates to the project, and provide further justification to support project approval where the project is proposed almost three miles away from the edge of development within the City.

Response 5-4 Leapfrog development is the development of lands in a manner requiring the extension of public facilities. In addition the services are extended on the periphery of an existing urbanized area where such extension is not provided for in the existing plans of the local governing body. (SOURCE: uslegal.com)

The project site is within the corporate boundary of the City of Desert Hot Springs, in an area that was incorporated into the City as part of the I-10 Community Annexation completed in 2010 (see Draft EIR Section 3.2.3, paragraph 1). The annexation was undertaken by the City in order to take advantage of additional economic opportunities that occur due to direct visibility from and convenient access to I-10, which is a major regional transportation corridor in Coachella Valley. The annexed land provides expanded opportunity for the City to increase its sales-tax base and reduce sales-tax leakage through development of additional retail uses, and to expand its job base through additional commercial and industrial development. Such economic expansion would also help to balance the City's jobs-to-housing ratio that is currently skewed to the housing side (Mitigated Negative Declaration; State Clearinghouse No. 2007061049). The development principles and objectives of the I-10 Community Annexation are weaved into and form, in part, the basis for the land plan principles, objectives, vision, goals and permitted land uses of the DLVSP.

The project site is located west of the Palm Drive Corridor, which is the primary gateway entrance to the City's retail and spa centers. The City developed a conceptual master plan of beautification and circulation improvements to the Palm Drive corridor. The DLVSP is in close proximity to this corridor; therefore, the DLVSP is guided, in part, by the principles and objectives of the Palm Drive Corridor Master Plan.

Although the proposed project requires extension of wastewater and water utilities to the project site, the City has planned for development in this area to provide visible development near the freeway that would entice travelers along the freeway to visit the City. Likewise, Mission Springs Water District also has long term plans for development of this area of Desert Hot Springs and is in the process of extending its water and sewer facilities in anticipation of future growth, unrelated to the Desert Land Ventures Specific Plan project. The project

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site is in an area the City and Mission Springs Water District have been planning for over the past decade; and the DLVSP has been designed to be consistent with the City's vision, both aesthetically and developmentally.

Comment 5-5 The comment states that it is unclear how the City arrived at the determination that Alternative 3, the Reduced Intensity Alternative, was the environmentally superior alternative. Whereas Alternative 3 will still have significant and unavoidable impacts to air quality, cultural resources, and greenhouse gas emissions. By comparison, the City has determined the No Project Alternative will have no impact on the environment. Provide evidence to support Alternative 3 as the Environmentally Superior Alternative.

Response 5-5 As required by CEQA Guidelines Section 15126.6, if the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. Although the "no project" alternative would result in no impact on the environment, it is the City's intent to see the development of its I-10 corridor area with a mix of industrial and commercial uses. Alternative 3 provides a similar mix of land uses as the DLVSP in order to meet the City's intent while reducing the intensity of the impacts found to be significant and unavoidable under the DLVSP. Alternative 3 represents a project that is approximately 60 percent the size and intensity of the DLVSP with a commensurate reduction in the amount of air emissions associated with the proposed project. Although emissions would still be significant, the alternative meets the definition of an environmentally superior alternative as it would result in the reduction in the severity of the project's impacts associated with Air Quality and Greenhouse gasses, by reducing the size of the project from approximately 1,897,799 square feet to 1,089,000 square feet, a reduction of approximately 807,000 square feet, or 43 percent.

Comment 5-6 The comment states that an analysis of mobile sources, area sources and energy usage has been provided but the Draft EIR does not provide an analysis of other stationary sources of emissions such as cooking, and any emissions created through cultivation of cannabis.

Response 5-6 The Air Quality Analysis was conducted in support of the Draft EIR evaluated the project as light industrial and regional shopping center land uses. Cannabis cultivation falls under the light industrial land use and restaurant type uses are analyzed under the regional shopping center use. Per SCAQMD requirements, the Air Quality Analysis used CalEEMod 2016.3.2 in order to calculate the proposed project's air quality emissions. According to the latest CalEEMod Users Guide (November 2017) "a shopping center is an integrated group of commercial

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establishments that is planned, developed, owned and managed as a unit. A shopping center's composition is related to its market area in terms of size, location and type of store." Any cooking within the project site would occur within kitchens, which have HVAC and air ventilation/filtration systems; no cooking will be performed out in the open. The largest contributor of emissions from a restaurant would be from under-fired char broilers, which are regulated via the permitting process through SCAQMD Rule 1138₂, Control of Emissions from Restaurant Operations. Therefore, through the restaurants' use of onsite HVAC systems and compliance with SCAQMD Rule 1138 (as applicable), emissions from cooking are considered to be a negligible source of stationary emissions.

Cannabis is a plant, and like any other plant, provides oxygen in exchange for light energy, carbon dioxide and water. Oxygen is not a criteria pollutant nor is it regulated by SCAQMD. Cannabis cultivation does produce an odor, generated by the plant's level of terpenes and terpenoids; the strength of which is strain dependent and is at its strongest during flowering. Terpenes are not exclusive to cannabis, but are responsible for the fragrance of nearly all flowering plants. Per the City of Desert Hot Springs's Municipal Code Chapters 5.50 and 17.180, the cultivation of cannabis is permitted only within enclosed facilities. Furthermore, botanical cultivation facilities are required to provide necessary odor control, ventilation, and filtration systems such that odors are not detectable outside of the cultivation facilities, or within the common use and office areas of the facilities. Consistent with City requirements, all refuse generated on the project site would be stored in covered containers and removed at regular intervals in compliance with solid waste regulations. Although these are odor control regulations, the project's required use of heavy ventilation and filtration systems would further assist in the air quality emissions related to the cultivation of cannabis.

No additional analysis is required and there is no change to the emissions or significance of those emissions as reported in the air quality and greenhouse gas section of the Draft EIR.

Comment 5-7 The comment states that the City concluded that the project conflicts with the goals and policies of the regional Air Quality Management Plan but it does not conflict with Criterion two of the AQMP because the City's General Plan amendment would ensure project "consistency with the land use designation in the City's General Plan." The comment states that Criterion 2 requires more thorough analysis with the policies of the AQMP. Please provide further

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information, including mitigation and alternatives, if any, that could cause the project to comply with federal, State, and regional air quality laws and limitations.

Response 5-7 Pages 83 and 84 in Section IX. Air Quality Compliance, of the Air Quality and Global Climate Change Impact Analysis Report (pages 4.3-20 and 4.3-21 of the Draft EIR) address the project's consistency with the AQMP. Page 84 of the Report conducted in support of the Draft EIR states the following:

The SCAQMD CEQA Handbook states that "New or amended General Plan Elements (including land use zoning and density amendments), Specific Plans, and significant projects must be analyzed for consistency with the AQMP". Strict consistency with all aspects of the plan is usually not required. A proposed project should be considered to be consistent with the AQMP if it furthers one or more policies and does not obstruct other policies. The SCAQMD CEQA Handbook identifies two key indicators of consistency:

(1) Whether the project will result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQMP.

(2) Whether the project will exceed the assumptions in the AQMP in 2016 (the currently approved AQMP) or increments based on the year of project buildout and phase.

For the first criterion list above (1) it states that "even with mitigation, the short-term construction impacts will result in significant impacts based on the SCAQMD regional thresholds of significance. In addition, with mitigation, long-term operations impacts will also result in significant impacts based on the SCAQMD regional thresholds of significance." Therefore, the quantitative significance thresholds are used for criterion 1 only. As shown above, per SCAQMD, General Plan Elements must be analyzed for consistency with the AQMP. If the General Plan Elements are consistent, then a project's consistency with the General Plan land use element would by default be consistent with the AQMP.

The assumptions of the AQMP are based on the projected growth and development within the area. The City's General Plan Land Use identifies this growth, and therefore, the consistency with the City's land use designations would in turn mean consistency with the assumptions of the AQMP.

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Mitigation has already been provided on page 85 of the Report; however, as stated in the Draft EIR and the Air Quality and Global Climate Change Impact Analysis Report, "even with incorporation of mitigation measures, project operational-source emissions exceed regional operational thresholds and would conflict with the Basin Air Quality Management Plan (AQMP)." No additional analysis is required.

Comment 5-8 The comment states that the City did not provide an adequate discussion of cumulative air quality impacts. The City's cumulative impacts analysis fails to satisfy the purpose of disclosing the project's impacts in relation to other nearby development. The analysis fails to adequately quantify or otherwise explain the project's contribution to cumulative air quality impacts. Also, the comment states that the Draft EIR concludes the project will not have cumulative impacts during the construction phase because this phase will be conducted in accordance with SCAQMD methodology.

Response 5-8 As identified in the Air Quality and Global Climate Change Impact Analysis Report and the Draft EIR, the proposed project's regional construction and operational related emissions and local operational emissions exceed SCAQMD thresholds even after mitigation for both construction and operational emissions.

The inclusion of the short-term construction emissions was inadvertently left out of the final sentence under the Cumulative Impacts discussion, although this issue is thoroughly evaluated in the Air Quality section of the Draft EIR. Page 4.3-38 of the Draft EIR has been revised to clarify that project emissions would remain significant even after the implementation of mitigation measures and therefore, the project would contribute to a cumulatively significant impact. Deleted text is ~~stricken~~ and new text is underlined.

The region is out of attainment for ozone and in 2014 was out of attainment for PM10. Construction and operation of cumulative projects will further degrade the local air quality, as well as the air quality of the Salton Sea Air Basin. The greatest cumulative impact on the quality of the regional air cell will be the incremental addition of pollutants mainly from increased traffic from residential, commercial, and industrial development and the use of heavy equipment and trucks associated with the construction of projects. Air quality will be temporarily degraded during construction activities that occur separately or simultaneously. ~~However,~~In accordance with the SCAQMD methodology, projects that do not exceed the SCAQMD criteria or can be mitigated to less than criteria levels are not significant, and do not add to the overall cumulative impact.

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However, with respect to short-term construction and long-term operational emissions, even with incorporation of mitigation, this project would create a potentially significant cumulative impact.

Comment 5-9 The City's evaluation of biological resources fails to provide adequate species baseline, and it fails to supply adequate mitigation for the project.

Response 5-9 The project site and alternatives were thoroughly evaluated in two different biological resources assessments that were included in the Appendix C of the Draft EIR:

- *General Biological Resources Assessment, Jurisdictional Delineation and Land Use Consistency Review for the Vesting Tentative Tract Map No. 37185 and Specific Plan Applications Desert Land Ventures III LLC*, prepared by Jericho Systems, Inc., July 2017
- *General Biological Assessment, Jurisdictional Determination and Land Use Consistency Review for the Desert Land Ventures III Off-site Sewer Alignment*, prepared by Jericho Systems, Inc., December 2017.

The methodology utilized in both studies included both a literature review of the California Natural Diversity Database (CNDDB) species occurrence overlay, the U.S. Fish and Wildlife Service (USFWS) species occurrence overlay, and Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) species and conservation areas overlays within a 5-mile radius, as well as a field survey that provided 100 percent coverage of the project and its elements. Further, even though the project is situated in the southeastern portion of the Desert Hot Springs USGS quadrangle, the biological resources assessment literature review included the adjacent USGS quadrangles: Seven Palms Valley, Palm Springs and Cathedral City.

The field survey report relayed that it took into account all of the sensitive species that were documented on the various parcels and why they were not found on the project site and/or if suitable habitat for these species existed. The report concluded that neither suitable habitat for sensitive species nor sensitive species existed within the project site.

Comment 5-10 The comment states that the City does not discuss the potential for occurrence of several species the USFWS has identified as being potentially present on the site, including the southwestern willow flycatcher burrowing owl and various migratory birds or otherwise address the potential for several other migratory birds to use the project site as nesting and feeding habitat.

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Response 5-10 Regarding the Southwestern willow flycatcher (SWFL), the commenter provided Attachment 2 which is a list of species under the USFWS jurisdiction. The nearest documented occurrence for southwestern willow flycatcher (*Empidonax traillii extimus* [SWFL]) was documented in 2002 and is approximately 12 miles east/southeast of the project site, within suitable riparian habitat near the Coachella Valley Preserve. This species is characterized as a riparian obligate in that it only nests and forages within riparian habitat. There is no suitable riparian habitat for SWFL within the project site or surrounding area. Therefore, it was not necessary to address SWFL in the biological assessment. No further discussion in the Draft EIR is necessary.

Regarding the comment that the Draft EIR fails to mention the potential for several other migratory birds to use the site for nesting and feeding habitat, it should be noted that the Migratory Bird Treaty Act (MBTA) does not require an assessment of foraging habitat – except for State and federally listed species. For non-protected species, the MBTA prohibits: "*pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird.*" (16 U.S.C. 703).

Additionally, the CEQA criterion regarding general nesting birds refers specifically to "native wildlife nursery sites" (*Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites*). The field survey conducted for the project did not find evidence of any native wildlife nursery sites.

Mitigation Measures BIO-2 through BIO-4 clearly address measures to avoid impacts to nesting birds during their nesting season so the applicant would be in compliance with the MBTA. Therefore, nesting birds have been adequately addressed in the Draft EIR and no further discussion is necessary.

Comment 5-11 The comment states that the Draft EIR does not mention the need for the project applicant to obtain an Incidental Take Statement or Incidental Take Permit prior to commencing development activities on the project site. If development were to occur prior to obtaining federal and State approval, this would likely result in

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the unauthorized take of species protected under the State and federal Endangered Species Act.

Response 5-11 No Incidental Take Statements or Incidental Take Permits are required for this project because the project site falls within the boundaries of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). In general, the USFWS and CDFW (referred to herein as “Wildlife Agencies”) directly regulate the Take of Federal and State Threatened, Endangered, and rare Species for projects not located in areas that are addressed in an approved MSHCP Plan Area.

However, in the case of an approved MSHCP, the USFWS and the CDFW have an agreement with the “Permittee” (in this case the City of Desert Hot Springs) that establishes long-term Take Authorizations and other assurances that will allow the taking of Covered Species incidental to lawful uses authorized by the Permittees. Essentially, the approved MSHCP for the Coachella Valley pre-authorizes “Take” of State and Federally listed species for otherwise lawful actions – such as public and private development that may incidentally Take or harm individual species or their Habitat outside of the MSHCP Conservation Area – in exchange for the assembly and management of a coordinated MSHCP Conservation Area.

Per the CVMSHCP *Section 1.2 – Purpose*:

“The purpose of the MSHCP is to obtain Take Authorization (Take Permits) pursuant to FESA and the NCCP Act for Covered Activities in the Coachella Valley while balancing environmental protection with regional economic objectives and simplifying compliance with the State and Federal Endangered Species Acts and other applicable laws and regulations. The term “Permits” refers, collectively, to the Section 10(a)(1)(B) Permit and NCCP Permit issued by USFWS and CDFG, collectively (Wildlife Agencies) to Permittees for Take of Covered Species pursuant to FESA and the NCCP Act and in conformance with the MSHCP and the Implementing Agreement (IA), a contractual obligation between the individual Permittees and the Wildlife Agencies.”

With respect to the on-site biological resources, the biological resources assessment report prepared in July 2017 for the project identifies the following:

Although the northern portion of the project site is partially within the Willow Hole Conservation area, this portion of the project will be dedicated for open space conservation as part of the CVMSHCP’s Willow Hole Conservation Area. This area will remain unimpacted except for some

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potential permitted sustainable energy facilities that would likely be situated in the southeastern portion of the proposed open space area, adjacent the north side of Varner Road. All other project development is restricted to outside the Willow Hole Conservation Area. Therefore, the project would be consistent with the Conservation Goals and Objectives set forth in the CVMSHCP.

Therefore, because the portion of the project that is partially within the Willow Hole Conservation area of the CVMSHCP, that portion will be dedicated for open space conservation. Mitigation Measure BIO-5 also identifies measures to ensure consistency with the *CVMSHCP Land Use Adjacency* Guidelines requirements and restrictions as well as identifies the requirements that must be met for developing near a criteria cell.

With respect to any other State-and federally-protected species, the literature reviews and field surveys prepared for the project identified that there is no suitable habitat that exists for State- and/or federally-protected species, nor were there any signs that the project sites were occupied by State- and/or federally-protected species. Therefore, because the project occurs within the boundaries of an area covered by the CVMSHCP, and there are no sensitive species that exist on site, take permits are not required for this project. Therefore, no further action by the applicant is required with respect to CVMSHCP compliance and threatened and endangered species.

Comment 5-12 The comment states that the Draft EIR states that the project applicant must undergo Joint Project Review to ensure MSHCP implementation. After the applicant submits its application to relevant agencies, “impacts to covered species within the conservation area would be discussed.” First, it is unclear why the City considers simply discussing impacts to be sufficient mitigation. Second, the City appears to propose deferred mitigation regarding impacts to species protected under the CVMSHCP. The City must provide detailed and binding mitigation for any potential environmental impact.

Response 5-12 As discussed above in Response to Comment 5-11 and in the Draft EIR, a portion of the project site that is partially within the Willow Hole Conservation area will be dedicated for open space conservation. Mitigation Measure BIO-5 also identifies measures to ensure consistency with the *CVMSHCP Land Use Adjacency* Guidelines requirements and restrictions as well as identifies the requirements that must be met for developing near a criteria cell. This is appropriate mitigation given that the specific design elements (such as lighting, landscaping, drainage patterns) of the project have not yet been fully developed. Mitigation

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Measure BIO-5 ensures that the applicant will work with the appropriate authorities during design so that the Project design specifics will be compatible with the intent of the CVMSHCP. Therefore, no further action by the applicant is required with respect to CVMSHCP compliance.

Comment 5-13 The comment states that the City has not provided Section 4.7 in the copy of the Draft EIR circulated to the public online. Appendix B contains a cursory analysis of greenhouse gas impacts, but does not provide an analysis or full discussion of the impacts. The City should recirculate the Draft EIR with Section 4.7 contained therein and provide members of the public additional time to review and comment on this section.

Response 5-13 The absence of Section 4.7, *Greenhouse Gas Emissions*, was a technical error when preparing the electronic copy of the EIR for public review, however this section is based on the *Air Quality and Global Climate Change Impact Analysis*, prepared by Kunzman Associates that is included in Appendix B of the Draft EIR. The findings of Section 4.7 and related mitigation measures and level of significance after mitigation were also included in Table 1-3, *Summary of Environmental Impacts, Regulatory Requirements and Mitigation Measures*, beginning on page 1-16. Section 4.7 has been added to the Final EIR. Additionally, a summary of potential impacts associated with Greenhouse Gas Emissions was included in Section 5.2, *Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented* (page 5-3 of the Draft EIR) and Section 6.3, *Impacts of the Proposed Project* (page 6-6 and 6-7 of the Draft EIR).

The City has reviewed Section 4.7 and concluded that there is no additional applicable greenhouse gas analysis that is not included elsewhere in the EIR and Appendix B. Therefore, no substantial information was added to the Revised Draft EIR that would require recirculation of the document.

Comment 5-14 The comment states that the limited information contained in Appendix B is troubling and goes on to state that the project will generate 29,954 tons of CO₂e annually. The City's Greenhouse Gas Plan requires the City to reduce its greenhouse gas emissions by roughly 51,000 MTCO₂e each year, but the project proposes adding approximately 30,000 tons of CO₂ emissions annually. The City must provide additional evidence that the project would not have a cumulative effect on greenhouse gas emissions.

Despite the project's negation of 60 percent of the City's Greenhouse Gas Plan reductions, Appendix B determines the project is consistent with this plan, based

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on analysis of eleven of the Plan Policies. Appendix B fails to address the project's consistency with several other applicable policies.

Additionally, Appendix B does not discuss potential for the project to be subject to energy audits, the summer discount program, or residential reduction goals. The City must provide additional analysis of projected emissions and assess whether the project could be consistent with the City's Climate Action Plan goals.

Response 5-14 The greenhouse gas analysis was included as part of the *Air Quality and Global Climate Change Impact Analysis* in support of the Draft EIR. The conclusion of the analysis was that after mitigation, the proposed project will generate emissions of 29,954.52 metric tons of CO₂-equivalent per year. These emissions, even with the incorporation of mitigation, would exceed the SCAQMD GHG emissions threshold of 3,000 MTCO₂e per year for all land use types. Therefore, the proposed project does not meet the threshold for compliance with Executive Order S-3-05 and the project's emissions would not comply with the goals of AB 32 and SB 32. Furthermore, as the proposed project would conflict with the goals of SB-32, the project conflicts with an applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases, and impacts are considered to be significant and unavoidable.

With the above stated information, it was identified that the proposed project's GHG emissions exceeded the goals and policies within identified applicable plans; and, were therefore, identified as being cumulatively considerable and, as can be seen in the GHG section of the DEIR, the DEIR has been prepared based on this information.

Comment 5-15 The comment states that regardless of the project's negation of 60 percent of the City's Greenhouse Gas Plan reduction, the *Air Quality and Global Climate Change Impact Analysis* (Draft EIR Appendix B) determines the project is consistent with this plan, based on analysis of eleven of the Plan Policies. In reaching this conclusion, Appendix B fails to address the project's consistency with several other applicable policies. For instance, although the City states a large part of the project's emissions will be created through transportation, Appendix B does not assess the project's consistency with any of the City's transportation policies. Additionally, Appendix B does not discuss the potential for the Project to be subject to energy audits, the summer discount program, or residential or hotel reduction goals. The City must provide additional analysis of projected emissions, and assess whether the Project could, under any circumstances, be consistent with the City's Climate Action Plan goals. See *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204,217.

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Response 5-15 As stated in Response to Comment 5-14, the proposed project's mitigated emissions are 29,954.52 metric tons of CO₂-equivalent per year, which will in fact add to the City's emissions rather than reduce the City's emissions as per the reduction target identified in the City's CAP. However, as discussed in the Draft EIR, the proposed project requires design features that follow many of the City's GHG emissions reduction measures. Implementing these GHG reduction measures is how the City plans to achieve their reduction goal of roughly 51,000 metric tons of CO₂-equivalent each year. Therefore, although the proposed project does indeed add a significant amount of GHG emissions to the area, it is following the City's guidelines in reducing GHG emissions.

Eleven of the reduction measures were discussed, as these were the measures that most appropriately applied to the proposed project. The proposed project's GHG emissions are mainly derived from mobile sources; however, project mitigation requires that employee vanpool/ride share programs be provided for at least 80 percent of on-site employees. The potential transportation related measures in the City's CAP that could be applicable to the proposed project include the following:

- Car-pooling and mass transit: Promote "shared vehicle at work" programs to increase carpooling and mass transit by 20% with a "guaranteed ride home."
- Telecommuting: Promote telecommuting and flex-time for local businesses to achieve and track 100 teleworkers in Desert Hot Springs.
- Van Pools: Partner and recognize all DHS major employers with over 50 employees for van pools.
- Anti-idling: Pass ordinance that restricts idling of greater than 5 minutes for all commercial vehicles in specific zones. In accordance with CARB rules regarding idling of commercial vehicles.

Therefore, although the City's transportation-related measures were not discussed as a separate item in the analysis for the proposed project, the mitigation listed for the project has similar requirements to the City's measures and would result in similar emissions reductions. In addition, the anti-idling measure is a CARB enforced rule; therefore, all vehicles that access the site would be required to abide by this rule.

Furthermore, these are the City's identified measures that can be used in order to reach their overall reduction goal; it does not state within the City's CAP that a project or business has to incorporate all eighty measures to be considered on track to help the City reach their goal.

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Additionally, the proposed project includes only industrial and commercial uses and; therefore, would not be subject to any of the residential reduction goals. In regards to the summer discount program and energy audits a discussion regarding these was in fact included within the discussion of the project's consistency with the eleven CAP measures. As stated in Table 4.7-4 of the Draft EIR, the Energy Efficiency and Demand Response (such as the Summer Discount Program), "temperature club," and SCE's Energy Management Solutions' energy efficient lighting are City-based measures and if the project is mandated to be one of the businesses to enroll in one of these programs then the project must comply as needed. No further analysis is required.

Comment 5-16 The comment states that the City's proposed mitigation in the Hazards and Hazardous Materials section that unacceptably defers the formulation of much of its mitigation to a later date. It must address potential impacts associated with the improvements contemplated by the project, even if the exact alignment of the trails or location of dog facilities are unknown.

Response 5-16 First it should be noted that this comment appears to be a remnant from a comment letter on another project for a park master plan that included trails and a dog park. The proposed project is a specific plan that focuses on the future use of the site for industrial and commercial projects.

The Draft EIR was prepared as a program EIR that identified potential future projects but because there are not actual development projects associated with the DLVSP at this time, project specific mitigation measures could not be identified. As a program EIR for a specific plan, the intent of the document is to provide the environmental framework for the evaluation of development projects within the specific plan project boundary that will be proposed at a later date. As set forth in CEQA Guidelines Section 15168, future projects must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. If a later activity is found to have the potential to result in impacts that were not evaluated in the program EIR, then a new Initial Study would be prepared leading to the preparation of either a Subsequent EIR or a Mitigated Negative Declaration. As new projects are proposed, the City would undertake this exercise as set forth in the CEQA Guidelines.

As described in the Draft Program EIR, it is likely that the industrial portion of the project would be developed with cannabis uses, and there are two measures specific to that activity included in the *Hazards and Hazardous Material* section specifically related to how water and wastewater will be controlled. There are

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also four regulatory requirements that would also apply to future projects, including the requirement to prepare and implement a Hazardous Materials Business and Emergency Plan (HMBEP) and a Spill Prevention Countermeasures Contingency Plan (SPCCP). Therefore, the *Hazards and Hazardous Material* section of the Draft EIR provides the necessary evaluation of the proposed DLVSP for the City Council to make an informed decision about the specific plan at this time.

Also see response to comment 5-17 below.

Comment 5-17 The comment states that while the City states that hazardous waste management may be required, the City defers the formulation of this waste management mitigation to a later date. This is true for any proposal to recycle onsite water, to dispose of toxic cannabis production byproducts, for the creation of a Storm Water Pollution Prevention Plan, the Hazardous Materials Business Emergency Plan, and the Spill Prevention Countermeasure Contingency Plan. The City knows what uses are proposed and which toxic materials the project may produce. The City must disclose these potential hazards and set binding mitigation to address the impacts now.

Response 5-17 Due to the variety of the types of development that are permitted within the DLVSP, not all mitigation will apply to every land use. Both Mitigation Measures in Section 4.8, *Hazards and Hazardous Materials* (DEIR Page 4.8-15) apply to cannabis cultivation development within the project site. It is common practice with large-scale indoor cannabis cultivation to recycle cultivation water through reverse osmosis to remove all total dissolved solids and reuse the water for cultivation or utilize a hydroponic growing system. Each method has potential to produce hazardous wastewater. Mitigation Measures HAZ-1 and HAZ-2 would ensure that applicants utilizing these technologies would be required to disclose their methods of properly treating and/or disposing of the potentially hazardous wastewater.

Mitigation Measure HAZ-1 requires an applicant to provide the City with proof of contract with a licensed hazardous waste hauler that will be responsible for removing reverse osmosis byproducts and any cultivation wastewater from the project site during project operation. The applicants will be required to supply the City with the information prior to issuance of a certificate of occupancy so the City can ensure that potentially hazardous waste a wastewater as a byproduct from cannabis cultivation will be properly disposed of.

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Mitigation Measure HAZ-2 requires an applicant to provide the City and the Riverside County Department of Environmental Health with a detailed description of the project's proposed treatment for wastewater discharge associated with cultivation via hydroponic growing system prior to the issuance of building permits so the agencies can ensure that applicant are properly treating and disposing of potentially hazardous wastewater.

All the Regulatory Requirements for Section 4.8 (Page 4.8-16) are separated from the mitigation measures because they are required by public agencies during the permitting process of a project. Each potential applicant proposing to develop within the DLVSP would be required to comply with Regulatory Requirement RR-6 through RR-9 during the permit process; therefore these requirements are not considered mitigation. Nonetheless, since the DEIR is a program EIR, each applicant proposing development within the DLVSP would comply with the Regulatory Requirements during the development permit process, so these actions were analyzed in the EIR as actions that would result in a reduction of potential impacts regarding hazards and hazardous waste.

Due to the variety of land uses permitted within the DLVSP, future applicants may propose land uses that have potential to transport, dispose, or accidentally release hazardous materials into the environment. Consistent with 14 CCR 15168(c), subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be made. If a specific project within the DLVSP has potential to create additional environmental impacts, a supplemental CEQA document will be required. Therefore, the mitigation proposed within Section 4.8 of the DEIR is sufficient for the Program EIR and additional CEQA documentation would be required for future projects within the project site that are not consistent with the DEIR.

Comment 5-18 The comment states that the Draft EIR provides two options for the provisions of water to the project but has failed to analyze which option the project will be permitted under.

Response 5-18 The evaluation of multiple options for water and wastewater supply was done because the applicant was coordinating with both CVWD and MSWD at the time the EIR was being prepared. Thus, in addition to the evaluation of more than one supplier of water and wastewater service, the EIR includes two Water Supply Assessments. Prior to circulation of the EIR for public review, MSWD agreed to supply water and wastewater to the project site, which is ultimately more desirable to the project proponent because MSWD has existing water

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infrastructure closer to the project site than CVWD. Therefore, MSWD service options are included in the Draft EIR as Option 1. Option 1 also includes an Option A and Option B, which are two potential alignments for water and sewer infrastructure to supply the project site. The EIR analyzes both alignments for potential environmental impacts. As discussed on page 4.9-10 of the Draft EIR, Option 2 would involve development of and onsite private groundwater well, wastewater treatment storage, and associated infrastructure. Option 2 would likely be utilized as an interim improvement to provide water supply to the site until the MSWD water infrastructure is completed. All improvements would be made within the project site.

Although the Draft EIR addresses multiple water supply options, all potential environmental impacts for each option were analyzed throughout the EIR. Therefore, the Draft EIR contained all the information that reviewers needed to understand potential impacts for each water supply option.

Comment 5-19 The Draft EIR does not provide an adequate discussion of cumulative impacts. The City summarily states “the project would contribute to a cumulative increase in groundwater demand that could result in overdraft if no countermeasures are enforced. The analysis does not identify, quantitatively or qualitatively, the extent of potential for these cumulative impacts.

Response 5-19 The Countermeasures that are referred to in the cumulative analysis are from MSWD’s Urban Water Management Plan and included in Section 3.6, *Water Management and Conservation Programs*, of the Water Supply Assessment (WSA) prepared for the proposed project (Appendix F.7). The water conservation measures and ordinances implemented by MSWD has resulted in a 44.1 percent reduction in water use between 2005 and 2015, which exceeds the 20 percent reduction for 2020 required by SBx7-7. The water management and conservation programs include the following:

- Demand Management Measures
- Water Shortage Contingency Plan
- Water Conservation Master Plan
- Water Efficient Landscape Guidelines

Additional information on these programs can be found in Section 3.6 of the WSA (Appendix F.7). The estimated MSWD water demands included in the 2015 UWMP take into account anticipated development and population growth within the service area. Additionally, the estimated MSWD water demand includes implementation of the aforementioned water management and conservation

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programs. The MSWD WSA prepared for the project concluded that the proposed project's estimated annual water demand falls within the available and projected water supplies for normal, single-dry, and multiple-dry years for a 20-year period, and MSWD has the capacity to serve the proposed Project over the long-term. Therefore, since MSWD is capable of supplying the proposed project in the long term, including potential development and population growth within the City, the proposed project will not have a cumulative impact on groundwater supplies.

Comment 5-20 The City assumes that 30 percent of the water the project will use for cannabis cultivation would be recycled as a standard practice in medical marijuana cultivation. However the City does not require recycling as a mitigation measure so it cannot be relied upon for water savings.

Response 5-20 The WSA accounted for a 30 percent return for cannabis cultivation land uses based on the fact that it is common practice in the industry. The City anticipates that recycling of cultivation water would be included in the project design of any cannabis cultivation development proposed within the DLVSP. Since the Draft EIR is a Program EIR (previously discussed in comment 5-16), the City will review each proposed project within the project site to ensure it is consistent with the analysis in the DEIR and doesn't pose additional environmental impacts. If a potential applicant proposes a cannabis cultivation development without inclusion of water recycling technology, the applicant will be required to prepare supplemental CEQA documentation to address the potential environmental impacts to groundwater and water supply that were not analyzed in the program EIR.

Comment 5-21 The City determined that the project will not contribute significantly to population and housing impacts without mitigation. The project is projected to increase this population by almost 7,000, which would account for a 25 percent increase from the City's baseline population. The analysis is fundamentally lacking because it fails to assess cumulative impacts from other present and reasonably foreseeable development projects in the City. The City has provided no evidence to suggest the project, in conjunction with other permitted and future cannabis projects, would have no cumulatively significant impact on population and housing in the City. The City's statement that there are no cumulative growth-inducing impacts from development of cannabis-related businesses cannot be supported by substantial evidence, as all evidence suggests the opposite.

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Response 5-21 The City of Desert Hot Springs provides affordable housing and quality of life amenities but has continued to lack an employment base of adequate size or diversity (General Plan, 2000). Economic expansion would help to balance the City's jobs-to-housing ratio that is currently skewed to the housing side. As discussed in Section 4.13 of the Draft EIR, this is apparent in the City because the current unemployment rate in Desert Hot Springs is 6.7 percent, which translates to approximately 1,950 residents. The City's unemployment rate is 1.1 percent higher than the Riverside County rate and 1.8 percent higher than the national rate.

In addition, employees in southern California tend to be mobile and often do not live in the same city where they work. This is evident by the peak hour trips experienced on any freeway during peak hours.

Finally, the City of Desert Hot Springs is in a unique position to have an abundance of vacant land designated for both residential and non-residential uses. As discussed in Draft EIR Section 5.4, *Growth Inducing Impacts*, the City of Desert Hot Springs is encouraging growth in the area as described in Chapter 3, *Project Description*, with the adoption of the I-10 Community Annexation. Specifically, the City annexed approximately 4,000 acres (including the project site) of unincorporated County of Riverside territory lying between the southern boundary of the City and the I-10 freeway. The economic development principles and objectives established by the City for this 4,000-acre area state that the annexation was undertaken in order to take advantage of additional economic opportunities that can occur due to direct visibility from and convenient access to the I-10 freeway, a major regional transportation corridor in the Coachella Valley. The 4,000-acre area provides expanded opportunity for the City to increase its sales-tax base and reduce sales-tax leakage through development of additional retail uses, and to expand its job base through additional commercial and industrial development. Such economic expansion would also help to balance the City's jobs-to-housing ratio that is currently skewed to the housing side. As new jobs are created in the I-10 Community Annexation area and other areas where industrial and commercial land uses are allowed, there will be pressure for residential development to start up again creating new opportunities for employees to live and work in the City of Desert Hot Springs. Therefore, the growth-inducing aspects of the DLVSP project are considered by the City to be a beneficial/positive impact and would result in the creation of new residential development opportunities.

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- Comment 5-22 This comment states that the Public Services Section concludes that there would be no impact on public services because it would not substantially impact population growth in the City because there is no residential development proposed within the DLVSP. The project does proposed residential development and is permitted to construct dwelling units. The fact that the project does not propose housing to accommodate the approximately 7,000 residents speaks volumes to the impacts to utilities and public services the project will place on the City.
- Response 5-22 See Response to Comment 5-1 for a discussion on land uses permitted on the project site and Comment 5-21 for a discussion of population growth. Although residential development is currently permitted in the Rural Desert land use designation on the project site, upon approval of the DLVSP residential development will no longer be permitted on the project site, as shown in Table 2-3. Therefore the commenter is incorrect in the assumption that the proposed project will permit residential development.
- Comment 5-23 The project is noteworthy for its relative distance from public services. Police and fire stations are miles away from the project site, yet the project would add approximately 2,212 workers onsite, not counting cannabis tourism. The Draft EIR fails to provide City and regional labor statistics, but the project operation could represent over seven percent of the entire population of the City.
- Response 5-23 The applicant worked closely with the City and service providers to ensure that the proposed project would not have an adverse effect on the provision of public services. Payment of Development Impact Fees to the City of Desert Hot Springs, County of Riverside, and the Palm Springs Unified School District would occur at the time development projects are proposed. In addition, the Draft EIR was prepared as a program EIR that identified potential future projects but because there are not actual development projects associated with the DLVSP at this time, project specific mitigation measures could not be identified. As a program EIR for a specific plan, the intent of the document is to provide the environmental framework for the evaluation of development projects within the specific plan project boundary that will be proposed at a later date. As set forth in CEQA Guidelines Section 15168, future projects must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. If a later activity is found to have the potential to result in impacts that were not evaluated in the program EIR, then a new Initial Study would be prepared leading to the preparation of either a Subsequent EIR or a Mitigated Negative Declaration. As new projects are proposed, the City would

F.2 COMMENTS AND RESPONSES

undertake this exercise as set forth in the CEQA Guidelines. Each future project would be subject to review by public service providers as part of the entitlement process for individual projects within the DLVSP project site.

Comment 5-24 Because the project would provide a hub for marijuana purchase and consumption, the project has the potential to require higher than normal public service use.

Response 5-24 Section 4.14 of the Draft EIR describes the anticipated increased demand for public services with development of proposed project land uses, including potential for cannabis land uses. The Draft EIR includes seven regulatory requirements in Section 4.14. The City believes that the regulatory requirements for public services are sufficient to reduce potential impacts, specifically on fire and police protection, and no mitigation is required.

Regulatory Requirements RR-17 and RR-20 require the project applicant(s) to pay development impact fees to compensate for the cost necessary to maintain an acceptable level of fire and police service to the project site. Regulatory Requirement RR-18, RR-19 and RR-23 require continued coordination and review by the City, Riverside County Fire Department and Police Department to ensure that the City can provide adequate fire and police protection. Regulatory Requirement RR-21 requires the project applicant(s) to undergo police department review to ensure the department can provide adequate police protection. Regulatory Requirement RR-22 requires project applicant(s) to implement around the clock security, including video cameras and security personnel, consistent with the City's municipal code. Compliance with all regulatory requirements discussed in Section 4.14 of the DEIR will ensure that proper review and action are taken to provide adequate public services to the proposed land uses in the DLVSP.