

CONCEPTUAL VIEW FROM STREET
(LOOKING SOUTHERLY FROM ATLANTA AVENUE)

ATTACHMENT NO. 3.41

UNDERGROUND SERVICE ALERT
 Call: TOLL FREE 1-800-422-4133
 PRO WORKING DAYS BEFORE YOU DIG

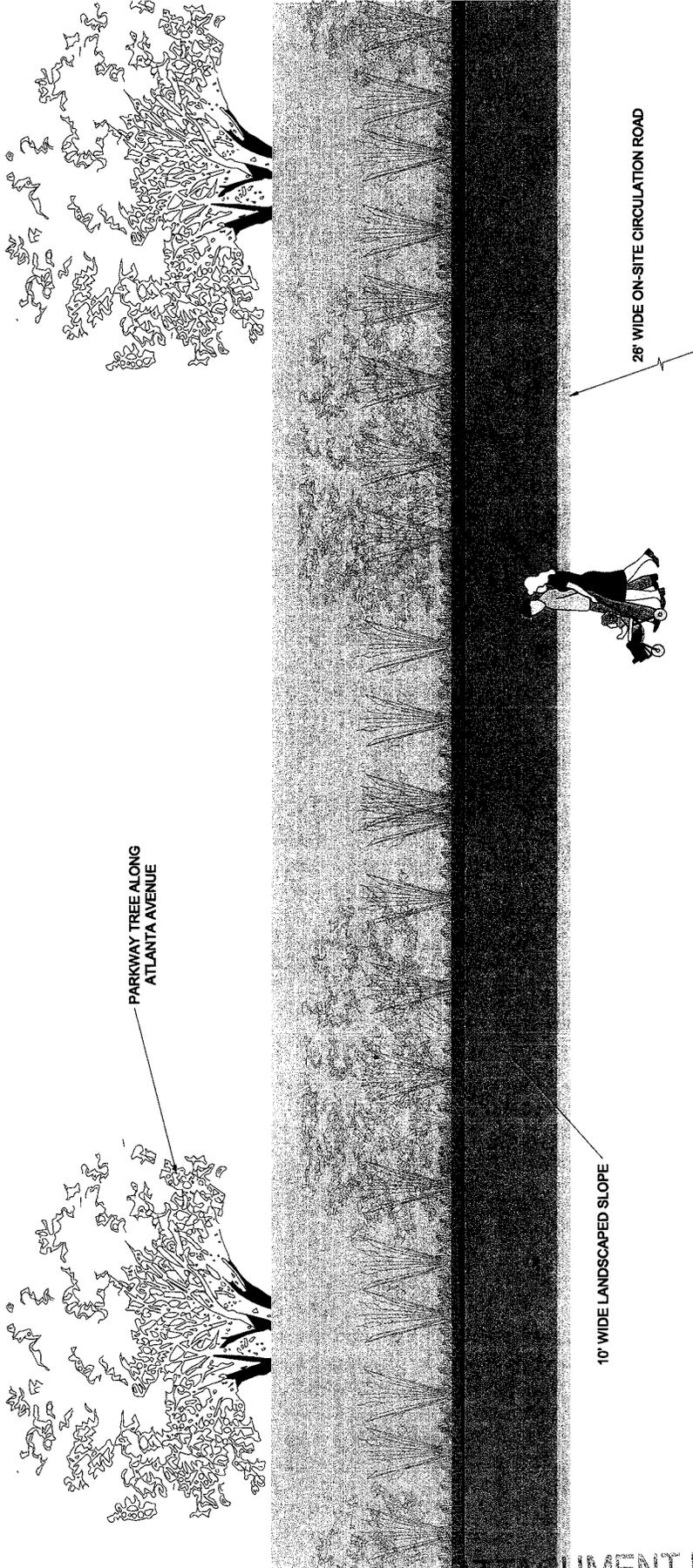
REV. NO.	DATE	BY	DESCRIPTION

DATE	BY	DATE	BY

PREPARED UNDER THE SUPERVISION OF:
 STATEMENT OF PUBLIC WORKS
 C.C. NO. _____ DATE: _____
 APPROVED BY: _____
 CITY ENGINEER, WINDING GAMES, P.E.
 P.O. BOX 28828

CONCEPTUAL ELEVATION VIEW
 ATLANTA AVENUE WIDENING
 (HUNTINGTON ST. - DELAWARE ST.)

CITY OF HUNTINGTON BEACH
 DEPARTMENT OF PUBLIC WORKS



CONCEPTUAL VIEW FROM PACIFIC MOBILEHOME PARK
(LOOKING NORTHERLY TOWARDS ATLANTA AVENUE)

ATTACHMENT NO. 3.42

CONCEPTUAL ELEVATION VIEW
ATLANTA AVENUE WIDENING
(HUNTINGTON ST. - DELAWARE ST.)



PREPARED UNDER THE SUPERVISION OF:
EXPERIMENT NO. _____ DATE: _____
APPROVED BY: _____
CITY ENGINEER: ARTHUR GUMS, PE
S.C.E. NO. 38888 DATE: _____

DATE	APPROVED BY	DATE

NO. OF SHEETS	DATE	DESCRIPTION

REV. NO.	DATE	BY	DESCRIPTION

REV. NO.	DATE	BY	DESCRIPTION

REV. NO.	DATE	BY	DESCRIPTION

Underground Service Alert
Call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

Project Narrative

Project: **Atlanta Avenue Widening, CC-1319**
Application: EA/CDP/CUP
Applicant: City of Huntington Beach Public Works Department
Contact: Jonathan Claudio, Senior Civil Engineer
Phone #: (714) 374-5380
Date: July 24, 2009

The City proposes to widen the south side of Atlanta Avenue, between Huntington Street and Delaware Street, to comply with the primary arterial street classification in the General Plan Circulation Element. The project site is bounded by single-family residential, apartment and condominium uses to the north and the east, by the Waterfront Hilton Hotel property to the south, and the Pacific City mixed-use development (currently under construction) to the west. As the proposed street widening project will provide the build-out traffic capacity forecasted and bring this segment of Atlanta Avenue into compliance with the County's Master Plan of Arterial Highways, the Orange County Transportation Authority has approved grant funding to the City for the engineering, right-of-way, and construction phases of this street widening project. The current budget constraints, however, have limited the City's ability to provide the local matching funds required to receive the grant funding. Consequently, the right-of-way and construction phases of this project may be delayed until the 2010/11 fiscal year.

The General Plan Circulation Element designates Atlanta Avenue as a primary arterial street, both in the current and in the 2010 Circulation Plan of Arterial Highways. As defined in the General Plan, the primary arterial street classification provides sidewalk, curb, gutter, a bike lane, and 2 through lanes in each direction of travel, separated by a striped median. Currently, this segment of Atlanta Avenue provides one lane in each direction, a striped median, and on-street parking along a portion of the north side of the street. The proposed street improvements will provide an additional through lane and bike lane in each direction of travel.

The project's scope of work primarily includes clearing and grubbing, the construction of asphalt concrete roadway, striping, curb, gutter, sidewalk, an 8 feet tall screen wall atop a variable height (7 ft. max.) retaining wall, landscaping, reconstruction of a 26 ft. wide on-site circulation road, utility adjustment and relocation. Since this street widening project proposes to remove and reconstruct the south curb line of Atlanta Avenue an additional 27 ft. (approx.) to the south, it will be necessary to relocate the 5 utility poles and overhead lines currently located within the existing southerly parkway area. The undergrounding of the existing overhead utility lines, however, is not included within the scope of this project. In accordance with the City's franchise agreements, the utility companies will be responsible for the relocation and/or adjustment of their facilities which may be in conflict with the proposed City street improvements.

The mixed-use Pacific City development located immediately west of the project site has recently widened Atlanta Avenue between 1st Street and Huntington Street to its ultimate location. This has resulted in the segment of Atlanta Avenue between Huntington Street and Delaware Street as the lone remaining "choke point" on Atlanta Avenue between 1st Street and Beach Boulevard. The existing choke point creates a 26 ft. (approx.) offset in the south curb alignment at the intersection of Atlanta Avenue and Huntington Street. Since the narrowing roadway requires motorists traveling eastbound on Atlanta Avenue to make additional motorist decisions, there is a greater potential for merging accidents and motorists inadvertently driving vehicles off of the street. The proposed street widening would help to minimize this accident potential and provide for improved traffic safety.

Furthermore, this segment of Atlanta Avenue is an existing transit route with a proposed Class II bicycle trail. The current transit activity turning from Huntington Street and stopping on Atlanta Avenue is constrained due to the substandard width of the existing roadway, the tight turning radius at the southeast corner of Atlanta Avenue and Huntington Street, and the presence of cyclists who share the roadway on this segment of Atlanta Avenue. Widening the roadway to provide 2 eastbound travel lanes and a designated bike lane will help to reduce the impacts of the existing bus stop (located approx. 100 ft. east of Huntington Street) and improve the ability of the roadway to accommodate bus turns. Consequently, the overall traffic operations in the area will be enhanced with the proposed street widening by minimizing delays and the associated impacts.

The existing public street right-of-way along this segment of Atlanta Avenue varies from 60 ft. wide (30 ft. north and 30 ft. south of street centerline) at Huntington Street to 85 ft. wide (55 ft. north and 30 ft. south of street centerline) at Delaware Street. Construction of the proposed street improvements will require the acquisition of an additional 25 feet of public street right-of-way south of the centerline of Atlanta Avenue (i.e., the public street right-of-way is proposed at 55 ft. south of street centerline). Along with the acquisition of this 25 feet wide by 630 feet long (approx.) strip of land from the Pacific Manufactured Home Park located at 80 Huntington Street (APN 024-291-16), the City anticipates that 8 manufactured homes (Unit Nos. 101, 102, 201, 301, 302, 401, 501, and 502) will also need to be relocated in order to construct the proposed street widening project. The ultimate location of these units is not known at this point, however, as real estate negotiations with the Park owner and the affected residents cannot commence until the City receives Federal authorization to proceed with the right-of-way phase. The foreseeable alternatives include on-site relocation to a comparable unit, off-site relocation to another park with a comparable unit, or a monetary offer for residents who no longer choose to own a manufactured home. The City's real estate consultant will ensure that all relocation work for this project shall comply with the applicable City, State, and Federal laws.

Although the City has received authorization to proceed with the engineering phase, the construction of this project is contingent upon a number of factors including: 1) the City's ability to obtain the Federal, State, and local approvals required to proceed with the right-of-way and construction phases; 2) negotiating the successful land acquisition and subsequent relocation of the Pacific Manufactured Home Park residents directly affected by the construction of the proposed street widening project; and 3) the availability of Federal grant and local matching funds. As previously stated, the right-of-way and subsequent construction phase of this project may be delayed until the 2010/11 fiscal year. Based upon the current scope of work, the construction phase is estimated to last for approximately 6 months from the date the contractor is given the notice to proceed by the City.

Jonathan Claudio, Project Engineer

Date

Attachment No. 4

Summary of Mitigation Measures

<u>Description of Impact</u>	<u>Mitigation Measure</u>
<ul style="list-style-type: none"> • Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere • Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere 	<p>POP-1: <i>Upon Federal authorization to proceed with right-of-way acquisition, the City shall commence with acquisition and relocation in accordance with the provisions of the Federal Uniform Act. Notification to and discussions with the impacted residents shall occur as soon as feasibly possible pursuant to the Federal Uniform Act. The City shall ensure that a relocation plan is prepared prior to final project plans and relocation is implemented in accordance with the Federal Uniform Act.</i></p>
<ul style="list-style-type: none"> • Violate any air quality standard or contribute substantially to an existing or projected air quality violation • Expose sensitive receptors to substantial pollutant concentrations 	<p>AQ-1: <i>The City shall require, by contract specifications, implementation of the following measures:</i></p> <ul style="list-style-type: none"> ○ <i>All work shall be done in accordance with the "GREENBOOK" Standard Specifications for Public Works Construction, 2009 Edition, as written and promulgated by Public Works Standards, Inc.</i> ○ <i>The construction contractor shall not discharge smoke, dust, equipment exhaust, or any other air contaminants into the atmosphere in such quantity as will violate any federal, State or local regulations. (Greenbook Section 7-8.2)</i> ○ <i>The contractor shall comply with Caltrans' Standard Specification Section 7-1.01F and Section 10 of Caltrans' Standard Specifications (1999).</i> ○ <i>The contractor shall apply water or dust palliative to the site and equipment as frequently as necessary to control fugitive dust emissions.</i> ○ <i>The contractor shall spread soil binder on any unpaved roads used for construction purposes and all project construction parking areas.</i> ○ <i>The contractor shall wash trucks as they leave the right-of-way as necessary to control fugitive dust.</i> ○ <i>The contractor shall properly tune and maintain construction equipment and vehicles and use low-sulfur fuel in all construction equipment as provided in the California Code of Regulations Title 17, Section 93114.</i> ○ <i>The contractor shall develop a dust control plan documenting sprinkling, temporary paving, speed limits, and expedited revegetation of disturbed slopes as needed to minimize construction impacts to adjacent uses and residents.</i> ○ <i>The contractor shall locate equipment and materials storage as far away from residential as practical.</i> ○ <i>The contractor shall establish environmentally sensitive areas for receptors within which construction activities involving extended idling of diesel equipment would be prohibited to the extent feasible.</i> ○ <i>The contractor shall use track out reduction measures such as gravel pads at project access points to minimize dust and mud deposits on roads affected by construction traffic.</i> ○ <i>The contractor shall require that all transported loads of soil and wet materials shall be covered prior to transport, or provide adequate freeboard to</i>

	<p><i>reduce PM₁₀ and deposition of particulate matter during transportation.</i></p> <ul style="list-style-type: none"> ○ <i>The contractor shall route and schedule construction traffic to avoid peak travel times as much as possible to reduce congestion and related air quality impacts caused by idling along local roads.</i> ○ <i>The contractor shall install landscaping as soon as practical after grading to reduce windblown particulate in the area.</i> ○ <i>The contractor shall implement a street sweeping program with Rule 1186-compliant PM₁₀-efficient vacuum units on at least a 14-day frequency.</i> ○ <i>The contractor shall abate dust nuisance by cleaning, sweeping and spraying with water, or other means as necessary. (Greenbook Section 7-8.1)</i> ○ <i>The contractor shall provide a self-loading motorized street sweeper equipped with a functional water spray system. The sweeper shall clean all paved areas within the work site and all pave haul routes at least once a day. (Greenbook Section 7-8.1)</i>
<ul style="list-style-type: none"> ● <i>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</i> 	<p>BIO-1: <i>Prior to the onset of ground disturbance activities, the project developer shall implement the following mitigation measure which entails nesting surveys and avoidance measures for sensitive nesting and MBTA species, and appropriate agency consultation.</i></p> <p><i>Nesting habitat for protected or sensitive species:</i></p> <ol style="list-style-type: none"> 1) <i>Vegetation removal and construction shall occur between September 1 and January 31 whenever feasible.</i> 2) <i>Prior to any construction or vegetation removal between February 15 and August 31, a nesting survey shall be conducted by a qualified biologist of all habitats within 500 feet of the construction area. Surveys shall be conducted no less than 14 days and no more than 30 days prior to commencement of construction activities and surveys will be conducted in accordance with California Department of Fish and Game (CDFG) protocol as applicable. If no active nests are identified on or within 500 feet of the construction site, no further mitigation is necessary. A copy of the pre-construction survey shall be submitted to the City of Huntington Beach. If an active nest of a MBTA protected species is identified onsite (per established thresholds), a 250-foot no-work buffer shall be maintained between the nest and construction activity. This buffer can be reduced in consultation with CDFG and/or U.S. Fish and Wildlife Service.</i> 3) <i>Completion of the nesting cycle shall be determined by a qualified ornithologist or biologist.</i>
<ul style="list-style-type: none"> ● <i>A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project</i> 	<p>NOISE-1: <i>The City shall require by contract specifications the following measures:</i></p> <ul style="list-style-type: none"> ○ <i>Ensure that all construction equipment has sound-control devices.</i> ○ <i>Prohibit equipment with un-muffled exhaust.</i> ○ <i>Site staging of equipment as far away from sensitive receptors as possible.</i> ○ <i>Limit idling of equipment whenever possible.</i> ○ <i>Notify adjacent residents in advance of construction work.</i> ○ <i>Educate contractors and employees to be sensitive to noise impact issues and noise control methods.</i> ○ <i>Install temporary acoustic barriers between the mobile home removal and construction activities and the row of mobile homes to remain closest to Atlanta Avenue. Acoustical barriers should provide a Sound Transmission</i>

	<p><i>Class Rating of 25 and should be situated in a manner to provide an uninterrupted continuous barrier between all mobile home removal and road construction activities. During the mobile home removal activities, the barriers should stretch from the east edge of the property to the west and zig-zag between homes where necessary. After removal of the mobile homes and prior to construction of the drive aisle within the mobile home property, the barrier can be straightened to stretch more directly from the east property line to the west property line.</i></p>
<ul style="list-style-type: none"> • Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 • Disturb any human remains, including those interred outside of formal cemeteries 	<p>CULT-1: <i>If cultural resources are encountered during construction-related ground-disturbing activities, all construction personnel shall be informed of the need to stop work on the project site in the event of a potential find, until a qualified archaeologist has been provided the opportunity to assess the significance of the find and implement appropriate measures to protect or scientifically remove the find. Construction personnel shall also be informed that unauthorized collection of cultural resources is prohibited. If archaeological resources are discovered during ground-disturbing activities, all construction activities within 50 feet of the find shall cease until the archaeologist evaluates the significance of the resource. In the absence of a determination, all archaeological resources shall be considered significant. If the resource is determined to be significant, the archaeologist shall prepare a research design and recovery plan for the resources.</i></p> <p>CULT-2: <i>If human remains are discovered during construction or any earth-moving activities, the County Coroner must be notified of the find immediately. No further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. If the human remains are determined to be prehistoric, the Coroner must notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendent (MLD). The designated MLD may make recommendations to the City for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods.</i></p>

RESPONSE TO COMMENTS FOR DRAFT
MITIGATED NEGATIVE DECLARATION NO. 09-001

- I. This document serves as the Response to Comments on Draft Mitigated Negative Declaration No. 09-001. This document contains all information available in the public record related to the Atlanta Avenue Widening Project as of September 3, 2010 and responds to comments in accordance with Section 15088 of the California Environmental Quality Act (CEQA) Guidelines.

This document contains six sections. In addition to this Introduction, these sections are Public Participation and Review, Comments, Responses to Comments, Errata to Draft Mitigated Negative Declaration No. 09-001, and Appendix.

The Public Participation section outlines the methods the City of Huntington Beach has used to provide public review and solicit input on Draft Mitigated Negative Declaration No. 09-001. The Comments section contains those written comments received from agencies, groups, organizations, and individuals as of September 3, 2010. The Response to Comments section contains individual responses to each comment. The Errata to Draft Mitigated Negative Declaration No. 09-001 is provided to show clarifications and corrections of errors and inconsistencies in the Draft Mitigated Negative Declaration.

It is the intent of the City of Huntington Beach to include this document in the official public record related to Draft Mitigated Negative Declaration (MND) No. 09-001. Based on the information contained in the public record, the decision-makers will be provided with an accurate and complete record of all information related to the environmental consequences of the project.

II. PUBLIC PARTICIPATION AND REVIEW

The draft MND was made available for public review from August 5, 2010 to September 3, 2010. The City of Huntington Beach notified all responsible and interested agencies and interested groups, organizations, and individuals that Draft Mitigated Negative Declaration No. 09-001 had been prepared for the proposed project. The City also used several methods to solicit input during the review period for the preparation of Draft Mitigated Negative Declaration No. 09-001. The following is a list of actions taken during the preparation, distribution, and review of Draft Mitigated Negative Declaration No. 09-001.

A Notice of Completion and copies of Draft Mitigated Negative Declaration No. 09-001 were filed with the State Clearinghouse on August 5, 2010. The State Clearinghouse assigned Clearinghouse Number 2010081014 to the proposed project. A copy of the Notice of Completion and the State Clearinghouse distribution list is available for review and inspection at the City of Huntington Beach, Planning and Building Department, 2000 Main Street, Huntington Beach, California 92648.

An official 30-day public review period for Draft Mitigated Negative Declaration No. 09-001 was established by the State Clearinghouse. It began on August 5, 2010 and ended on September 3, 2010. Public comment letters were received by the City of Huntington Beach through September 3, 2010.

Notice of Draft Mitigated Negative Declaration No. 09-001 was published in the Huntington Beach Independent on August 5, 2010 as well as advertised on the City's website. Notices were also sent to property owners and tenants within a 500' radius of the project site.

Copies of the document were made available to agencies, groups, organizations, and individuals at the following locations:

City Hall – City Clerk's Office
City Hall – Planning & Zoning Counter
Central Library
On the City's website

III. COMMENTS

Copies of all written comments received as of September 3, 2010 are contained in Appendix A of this document. All comments have been numbered and are listed on the following pages. All comments are referenced by number with the responses directly adjacent to the reference number for clarity. Responses to Comments for each comment that was submitted on draft Mitigated Negative Declaration No. 09-001 that raised an environmental issue are contained in this document.

IV. RESPONSE TO COMMENTS

Draft Mitigated Negative Declaration No. 09-001 was distributed to responsible agencies, interested groups, organizations, and individuals. The report was made available for public review and comment for a period of 30 days. The public review period for Draft Mitigated Negative Declaration No. 09-016 was established by the State Clearinghouse on August 5, 2010 and expired on September 3, 2010. The City of Huntington Beach received comment letters through September 3, 2010.

Copies of all documents received as of September 3, 2010 are contained in Appendix A of this report. Comments have been numbered with responses correspondingly numbered. Responses are presented for each comment that raised a significant environmental issue.

Several comments do not address the completeness or adequacy of Draft Mitigated Negative Declaration No. 09-001, do not raise significant environmental issues, or request additional information. A substantive response to such comments is not appropriate within the context of the California Environmental Quality Act (CEQA). Such comments are responded to with a "comment acknowledged" or similar reference. This indicates that the comment will be forwarded to all appropriate decision makers for their review and consideration.

**RESPONSE TO COMMENTS – DRAFT MITIGATED NEGATIVE DECLARATION
(MND NO. 09-001)**

State Departments

Department of Transportation

DOT-1: The comment states that the DOT has no comment at this time. Comment acknowledged.

Native American Heritage Commission

NAHC-1: This comment states that the NAHC is a trustee agency pursuant to the Public Resources Code and states that the City, as the lead agency, must assess the project's potential to have significant adverse impacts on cultural resources pursuant to CEQA. The area of potential effect (APE) has been determined and the project has been analyzed for potential impacts on cultural resources within the APE. The analysis of impacts and proposed mitigation measures can be found on pages 31 – 33 of the draft MND. Comment acknowledged.

NAHC-2: The comment states that the NAHC performed a Sacred Lands File search and Native American Cultural Resources were not identified within one-half mile of the APE. The comment also suggests early consultation with Native American tribes during the process. The technical studies performed for the analysis incorporated in the draft MND include consultation with the NAHC and Native American tribes. The conclusions and recommended mitigation measures in the draft MND are based, in part, on the information obtained from the NAHC and discussion with Native American tribes.

NAHC-3: The comment states that the City should contact the Office of Historic Preservation (OHP). The City has received a letter from the OHP stating that the mobile home park property is not eligible for listing on the National Register of Historic Places.

NAHC-4: The comment cites existing codes and laws requiring Native American consultation. The tribes listed on the NAHC tribal contact list were consulted during preparation of the technical study and the draft MND. Comment acknowledged.

NAHC-5: The comment states that lead agencies should consider avoidance when significant cultural resources could be affected by a project and outline provisions in the event of discovery of resources during construction. The proposed mitigation measures include language that would require all construction activity to cease in the event that resources are discovered during construction. The mitigation measures also require that a qualified archeologist assess the find and provide for the protection or scientific removal of the resources.

NAHC-6: The comment states that the results of the Sacred Lands File search are confidential and exempt from the California Public Records Act. However, the Native Americans on the contact list are not prohibited from disclosing the nature of the cultural

resources. The comment also cites several codes that protect confidentiality of cultural resources. Comment acknowledged.

NAHC-7: The comment states that lead agencies are required to work with Native American tribes identified by the NAHC if the initial study identifies the presence or likely presence of Native American human remains within the APE. It should be noted that the initial study did not indicate that Native American human remains are within the APE nor is it likely that human remains would be present. The comment points out that CEQA guidelines provide for the dignified treatment of Native American human remains and associated grave liens. This is acknowledged and the recommended mitigation measures in the draft MND include language requiring dignified treatment of Native American human remains should they be discovered during construction. The comment also cites several codes and laws regarding requirements for Native American consultation and procedures for the accidental discovery of human remains during construction. These procedures are included in the proposed mitigation measures. Finally the comment states that disturbance of Native American cemeteries is a felony. Comment acknowledged.

NAHC-8: The comment reiterates that lead agencies should consider avoidance when significant cultural resources are discovered during project planning. As previously indicated, the proposed mitigation measures include provisions for the protection or scientific removal of resources as recommended by a qualified archeologist in the event they are discovered during construction.

Local/Regional Agencies

Huntington Beach Environmental Board

- EB-1: The project is seeking a Section 6005 Categorical Exclusion pursuant to the National Environmental Policy Act (NEPA). Caltrans is the lead agency for environmental review under NEPA. The applicable provisions of the Federal Uniform Act for the relocation will be evaluated by the City with assistance from the City's Real Estate/Relocation Consultant and detailed in the required Relocation Plan.
- EB-2: A Mitigation Monitoring and Reporting Plan (MMRP) will be adopted for the project. The MMRP will ensure compliance with all required mitigation measures, including AQ-1.
- EB-3: Mitigation measure AQ-1 is required to be included in any contracts and plans for the project. Compliance with the measure cited in the comment will be verified through the provisions of applicable regulations of agencies such as SCAQMD and CARB, among others. Compliance with the regulations of these agencies include verifiable measures such as limitations on vehicle idling and soil and equipment haul times, fuel type and construction equipment specifications, watering of the construction site, street sweeping and other similar measures, which would ensure that no air contaminant is discharged in a quantity that would violate the applicable regulations of these agencies.

- EB-4: Comment acknowledged. Undergrounding existing overhead utilities will be considered. However, it should be noted that the ultimate relocation of the utilities will be determined by Southern California Edison.
- EB-5: The comment states that relocation of displaced dwellings/residents to an existing area in the mobile home park along the eastern boundary should be considered. Although a relocation site is not reasonably foreseeable at this time, the draft MND project description does identify this area as a potential relocation site and, as such, the site will be evaluated further as an option in the event of relocation. Comment acknowledged.
- EB-6: The comment states that relocation of displaced dwellings/residents to an existing area along Delaware Street and the eastern boundary of the mobile home park should be considered. Although the relocation site is not reasonably foreseeable at this time, the draft MND project description does identify this area as a potential relocation site and as such, the site will be evaluated further as an option in the event of relocation. Comment acknowledged.
- EB-7: Comment acknowledged. The comment will be forwarded to the Public Works Department for consideration.

Organizations/Individuals

Roger Savoie, Jr.

SAVO-1: The comment letter summarizes the commenter's opposition to the project and will be forwarded to the Zoning Administrator and Planning Commission for consideration. Comment acknowledged. The comment also states that while the draft MND states that the number of residents to be relocated is 14, the actual number is 16 since the commenter, a resident of the mobile home park, has two sons living in his dwelling with him. This will be corrected in the Errata (see Section V). It should also be noted that this does not change the significance of the impacts identified on page 8 of the draft MND.

Hart, King & Coldren

HKC-1: The comment consists of a cover letter and states that the purpose of the comment letter is to "preserve the rights of the Park property owner to challenge the project..." and indicates that it is the desire of the property owner to "work out a mutually favorable result with the City." Comment acknowledged.

HKC-2: The comment states that because the statute of limitations is short for challenge under CEQA, the commenter may be forced to file a lawsuit to preserve the rights of the property owner. Comment acknowledged. The comment suggests that the City place the project and MND "on hold until there is funding for the Project acquisition and relocation." Although this comment does not relate to the environmental analysis in the draft MND, it should be noted that the associated coastal development permit and conditional use permit that would constitute action for carrying out the project have not been scheduled for action at this time. In addition, the project is funded through

the Regional Surface Transportation Program (RSTP), but must complete environmental review prior to receiving right-of-way funds.

- HKC-3: The comment summarizes the commenter's position that an EIR is required for the project and contends that there is no substantial evidence of public necessity for the project. The points of this comment are further detailed in the body of the letter and are responded to accordingly in the following responses (HKC-4 through HKC-19).
- HKC-4: The comment states that the MND does not provide a public necessity for the project and purports that this is required for projects involving the taking of a private property. The comment cites the California Code of Civil Procedures Section 1240.030, which provides that public necessity be established for a project in order to exercise eminent domain to acquire property. Comment acknowledged. The draft MND discloses environmental impacts of the project to the public and decision-makers. The draft MND, in accordance with CEQA, is not required to weigh the necessity or adequacy of benefits of the project to the public, nor does it make recommendations as to whether the project should be approved or denied. The comment states that the MND "admits that there is no current funding source that would allow the Project to be built within the near future." However, the MND states that the City anticipates receiving federal funds to construct the project, but cannot receive the funding until federal authorization to proceed is granted after environmental review is completed.

The comment states that the "MND alleges that the Project is made necessary by the previous approval of the mixed use Pacific City development...." The draft MND states that the project would bring the subject segment of Atlanta Avenue into compliance with the primary arterial designation specified in the General Plan. Atlanta Avenue was designated as a primary arterial prior to consideration of the Pacific City project. The Pacific City project has already widened Atlanta Avenue to its ultimate configuration, which leaves a "chokepoint" on the subject segment of Atlanta Avenue. While the project would alleviate the "chokepoint" and improve traffic safety in the project area, this is not the primary purpose of the project.

The comment states that the traffic study fails to assess whether a signal light at the intersection of Atlanta Avenue and Huntington Street without the project would relieve any existing traffic obstruction and states that it is clear that the project, without a traffic signal light, will not relieve traffic congestion. As stated in the draft MND, the above-mentioned intersection is currently being signalized as part of the Pacific City project. The traffic study for the project compares existing and future traffic conditions with and without the project. Since the traffic signal is not part of the project and would be operating prior to implementation of the project, there is no requirement for the project traffic study to evaluate the project's traffic conditions without the signalization of the Atlanta Avenue/Huntington Street intersection. Additionally, as the traffic signal is not part of the proposed project, there is no requirement to analyze the installation of the traffic signal with or without the project.

The comment further summarizes the traffic discussion in the draft MND and cites excerpts from the traffic analysis that states that there is a greater potential for accidents due to the "chokepoint" that occurs within the subject segment of Atlanta

Avenue as well as the existing transit stop and lack of bicycle and pedestrian facilities. The comment states that the MND does not provide evidence of a greater number of accidents at the intersection of Atlanta Avenue and Huntington Street and therefore, the conclusions in the draft MND are not supported. The comment also states that some of the “most heavily traveled roads, highways and Interstates in Southern California have well marked lane reductions without any significant reductions in safety.” Finally, the comment states that the traffic study “provides substantial evidence to the contrary of the MND justification for the project.” The comments related to the traffic study and proposed improvements to traffic circulation and safety are, in the context of the comment, made to point out that the draft MND does not provide a justification of public necessity for the project. As mentioned previously in this response, the role of the draft MND is to assess and disclose the project’s potential impacts, including beneficial impacts, on the environment and is not required to provide a justification for the project. However, it should be noted that the draft MND states that the project would help to minimize accident potential and vehicular conflicts and provide for improved traffic safety and does not assert that the project will result in a decrease of accidents in the project area, although that could be the case. The information in the analysis comes from a Traffic Study prepared for the project by a qualified professional as well as from the City’s Transportation Division. In addition, the comment provides information regarding roads and highways in Southern California without any evidence to support the claim. Furthermore, although the comment does not state that the traffic analysis is inadequate in assessing the project’s impacts on traffic and transportation, the analysis and conclusions in the draft MND are supported by substantial evidence that the project will not result in significant traffic impacts.

HKC-5: The comment cites CEQA and case law to make the point that CEQA requires an EIR when there is a fair argument that the project will have significant environmental impacts. The comment also points out that CEQA requires that “environmental considerations not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have a significant impact.” Comment acknowledged.

HKC-6: The comment summarizes the project description of the draft MND and indicates that while the draft MND discloses that the project requires a conditional use permit and a coastal development permit it does not describe the potential conditions of approval for the conditional use permit and coastal development permit. The draft MND analyzes the aspects of the project that necessitate the above-mentioned discretionary permits, but does not make findings for approval of the discretionary permits. CEQA does not mandate that the draft MND make recommendations for or identify conditions of approval on the discretionary permits unless they would reduce an environmental impact or result in environmental impacts. All aspects of the project including those that trigger the discretionary permits have been analyzed in the draft MND.

The comment states that the MND should analyze the relocation of the residents and states that the MND reasons that the relocation cannot be analyzed “because the City has not yet obtained funding for the project.” See Responses HKC-4 and HKC-12.

The comment also states that the lack of funding “does not prevent the City from performing an analysis of whether there is sufficient room for relocation within the Park for those mobile homes.” The comment concludes that the project description is inadequate. The project description of the draft MND mentions potential alternatives for relocation of the residents, including on-site relocation. Because the exact relocation site is speculative at this point, the actual relocation is not further described in the project description.

The comment states that the City is “deliberately trying to avoid preparing an EIR by segmenting the Project so that it does not include relocation of Park residents.” CEQA requires environmental review of all direct impacts and reasonably foreseeable indirect impacts of a project. The draft MND indicates that relocation of residents is necessary for the acquisition of right-of-way required to construct the project. As such, the draft MND identifies the displacement of the residents as a result of the right-of-way acquisition as a potentially significant impact and provides mitigation to ensure that the impact (displacement of the residents) would be reduced to a less than significant level. The actual relocation site of the residents is speculative and therefore, not reasonably foreseeable. Thus, the impacts of the physical relocation would be analyzed as a separate project in accordance with CEQA. The comment further states that the project will “displace several families and result in the loss of the residential community characteristic of the area will clearly cause substantial adverse effects on human beings.” The comment cites CEQA case law to illustrate the point. See Response HKC-12. In addition, the draft MND acknowledges that the displacement of people/housing is a potentially significant impact and proposes mitigation to ensure that impacts would be reduced to a less than significant level. The residential community characteristic of the area will not be lost. Unlike the project cited in the CEQA case, no new commercial or industrial uses are proposed and the project does not propose to convert any existing uses to another use nor does it propose a change in the zoning or land use designation of the area. Once the project is complete, the existing uses of the project area as a road and mobile home park would be the same.

HKC-7: The comment states that there is a fair argument of significant project impacts on the environment and states that the MND contains several factually unsupported findings regarding significant environmental impacts. Comment acknowledged. The specific details of the purported “factually unsupported findings” regarding impacts and the commenter’s proposed fair argument are detailed in subsequent comments.

HKC-8: The comment states that the MND incorrectly finds that the project will not conflict with any applicable land use regulation of an agency over the mobile home park. The comment states that the project requires a conditional use permit for the block wall, which is not currently permitted, and would “impose additional burdens and conditions on the Park owner.” This is incorrect. The Huntington Beach Zoning and Subdivision Ordinance (HBZSO) permits the proposed block wall subject to a conditional use permit. Any conditions of approval adopted for the conditional use permit would be the responsibility of the City as the project applicant. The proposed block wall would not impact any scenic coastal views since it would be replacing an existing wood fence, and more importantly, there are no scenic coastal views in the project area. In addition, the removal of trees is addressed in the draft MND in both

the Biological Resources and Aesthetics section. The removal of trees would be subject to replacement at a two to one ratio. See pages 30 and 31 of the draft MND for the analysis on the project's impacts on aesthetics. See also Response HKC-16.

HKC-9: The comment states that the MND fails to discuss whether the project complies with the requirements for a coastal development permit. The project's potential impacts on coastal resources and access are analyzed in the Land Use and Planning section of the draft MND. The draft MND concludes that the project will not have adverse impacts on coastal resources and does not conflict with the California Coastal Act. The comment also states that the MND fails to analyze potential impacts of the project's displacement under the Ellis Act. However, the City Attorney's office has reviewed the Ellis Act and indicated that it would not apply to the project as proposed. If there are aspects of the project that are determined to be subject to the provisions of the Ellis Act as the project progresses, the project would be required to comply with any applicable requirements of the statute. The comment states that an EIR is required to analyze the scope of the conditional use permit and coastal development permit and impacts from any conditions associated with the permits. A conditional use permit and coastal development permit are required based on aspects of the proposed project (the proposed block retaining wall and development in the coastal zone, respectively), the scope of which has been adequately described in the project description and analyzed, in whole, throughout the draft MND. Project approval would be subject to standard conditions and code requirements. No conditions with the potential to cause significant environmental impacts are recommended or foreseeable at this time. Any conditions of approval with the potential to have significant adverse environmental impacts that are recommended or adopted during consideration of the project's discretionary permits, would need to be analyzed and likely recirculated for public review and comment.

HKC-10: The comment states that the MND "wrongfully claims that the Project will not divide an established community" and states that an EIR is required to analyze the impacts to the mobile home park. As stated in the comment, the project would remove eight mobile homes, reconstruct an existing access road/Fire lane and construct a block retaining wall along the project's property line. However, in relation to the existing configuration of the mobile home park, the access road/Fire lane will be reconstructed so that the park configuration will be the same as it currently exists. The block wall will result in a grade separation similar to the grade separation that currently exists. In addition, the comment states that the proposed block wall will impede open access to the street. However, no access points to the mobile home park property will be permanently removed and the block wall will replace an existing wood fence. The project does not propose to physically divide the mobile home park from any current access, infrastructure or services that are currently provided.

HKC-11: The comment states that the project would result in significant growth inducing impacts and that preparation of an EIR is required. The comment also states, and cites CEQA case law, that a project's conformity with the General Plan "does not insulate a project from the EIR requirement, where it may be fairly argued that the project will generate significant environmental effects." The draft MND analyzes the project's potential impacts regarding population growth both directly and indirectly. The

project does not propose new uses or development (i.e. – a new residential subdivision or a new commercial shopping center) that would result in direct growth-inducing impacts nor does it result in significant indirect growth-inducing impacts (i.e. – a new road, improvements to or installation of new utilities). Although the project provides for increased capacity on the subject segment of Atlanta Avenue, it would not induce substantial population growth in the area; particularly since the area surrounding the project site is largely built out or entitled for development. In addition, the project would bring the subject segment into compliance with its General Plan classification, which would accommodate population growth already assumed by the General Plan and improve the level of service on Atlanta Avenue compared to existing conditions. The applicability of the cited case law to the proposed project is inconsequential. The project cited involved construction of sewer lines and a new road in an undeveloped area, which would be a catalyst for development in the area. The court determined that the impacts of development that would likely occur as a result of the project were potentially significant and needed to be evaluated in an EIR. The proposed widening of Atlanta Avenue between Huntington Street and Delaware Street would not spur development in the area that would result in substantial population growth. In addition, the case law is cited to point out that a project's conformity with the General Plan does not exempt it from having to prepare an EIR when there is a fair argument that the project would result in significant impacts. In the context of impacts on population growth, for which the case is cited, evidence has not been presented that the project would result in significant growth-inducing impacts such that a fair argument exists to require an EIR.

HKC-12: The comment states that the “MND erroneously claims that it cannot make decisions about replacement housing until it receives Federal highway funds, and thus wrongfully puts off for later mitigation in the form of a relocation plan.” The comment also asserts that the use of a future study cannot substitute as mitigation for a significant environmental effect in the MND and concludes that an EIR is required. The draft MND identifies the displacement of people/housing as a potentially significant impact. The impact (i.e. – displacement of people/housing) can be mitigated by requiring relocation of those displaced in accordance with the Federal Uniform Act. The proposed mitigation measure would ensure that all displaced people would be relocated pursuant to applicable laws, which would be defined and implemented through the required relocation plan. The relocation plan would not defer mitigation rather it would ensure that mitigation of the potentially significant impacts is implemented, thus reducing the impact to a less than significant level.

The draft MND provides several relocation alternatives, but since the City cannot negotiate with the mobile home park property owner and affected residents prior to receiving authorization for funding, the actual relocation site is purely speculative at this point. Consequently, the relocation site(s) is not reasonably foreseeable and would be analyzed for potential environmental impacts as a separate project pursuant to CEQA.

HKC-13: As discussed in the Hydrology and Water Quality section of the draft MND, the project would not alter the existing drainage pattern such that significant impacts would result from an increased rate or volume of runoff causing erosion and/or

flooding. Although the project does include grading and relocation of an existing fire access lane and drainage catch basin, the mobile home park site would maintain the same drainage pattern that presently exists. In addition, the project will require an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) to ensure that the project will not cause significant impacts to water quality from runoff during construction. Since the project is not proposing new uses or development that would increase impervious area within the project area or result in additional runoff volumes, post construction drainage would not impair the capability of the existing drainage system of the mobile home park to “adequately contain drainage flows.”

HKC-14: The comment states that an EIR is required “to study whether the mitigation measures will reduce particulate matter to a less than significant level.” The comment misinterprets the draft MND in the percent reduction attainable for PM₁₀ emissions from construction mitigation. The comment states that the “MND leaps to an unsupported conclusion that a 50% reduction will somehow get rid of all of the 40% excess of particulate matter, not just 50% thereof.” The draft MND concludes that the localized significance threshold (LST) will be exceeded for PM₁₀. The LST for PM₁₀ in Huntington Beach is 14 pounds per day. The project, without mitigation, would result in emissions of 21.8 pounds per day. Although the model cannot quantify the amount of PM₁₀ emissions with mitigation, it is reasonable to assume that a reduction of 50 percent of the total emissions can be achieved with mitigation. A 50 percent reduction in emissions from implementation of mitigation measure AQ-1 would result in 10.9 pounds per day. This would result in emissions below the established threshold and therefore, the impact would be mitigated to a less than significant level. It should be noted that the conclusions regarding air quality impacts in the draft MND are based on an air quality report prepared for the project by a qualified professional. In addition, a 50 percent reduction is documented in air quality data for other projects in the City and in some instances, reductions of greater than 50 percent have been achieved with similar mitigation and compliance with SCAQMD Rule 403.

HKC-15: The comment states that the MND “erroneously fails to consider the cumulative impact of potential increased traffic on long term emissions resulting from the project.” The comment also asserts that an EIR is required to study the project’s impacts of increased emissions from “additional traffic enabled by the Project.” While the project would provide for additional capacity on the subject segment of Atlanta Avenue, it would not generate additional traffic volumes such that “long term emissions” would be cumulatively significant. Compared to existing conditions, the project may reduce vehicle emissions that would result from traffic congestion and vehicle idling. This reduction may be even greater in the long-term since congestion in the project area would likely worsen as the City approaches buildout. The comment asserts that widening the road will lead to increased traffic on the subject segment of Atlanta Avenue and that the increase in traffic will result in a cumulatively significant impact on air quality. However, no data are provided to support this claim. It is important to clarify that the proposed road widening project would not result in direct increases in traffic that are typically associated with new uses or development that would generate vehicle trips. In addition, the project does not indirectly result in significant traffic impacts since it would not induce growth (Refer to Response HKC-11). After project completion, there may be more vehicles utilizing the subject

segment of Atlanta Avenue; however, this would represent a shift in vehicles that are likely already driving in the area and not an increase in new vehicle trips. Therefore, an increase in cumulatively considerable vehicle emissions is not anticipated and impacts, as concluded in the draft MND, would be less than significant.

HKC-16: The comment states that the MND “fails to contain a tree replacement plan that would allow for replacement of the mature trees in the Park that will be eliminated.” The draft MND discloses that the project includes the removal of 25 trees within the existing mobile home park property and identifies the City’s standard policy to replace the trees at a two to one ratio. The draft MND also includes a mitigation measure that would protect nesting bird species and ensure compliance with the Migratory Bird Treaty Act (MBTA) during project construction. A plan for replacement of the trees would be included as part of the project’s landscaping plan that would be required for the project subject to review and approval by the City. The MND correctly identifies the removal of trees as a potential impact and includes the City’s standard condition for tree replacement, which would sufficiently mitigate the impact. Because the replacement of trees is a standard City policy, it does not need to be identified as a mitigation measure. Additionally, specific details of the replacement trees in the draft MND are not necessary to provide an adequate analysis of the project’s impacts.

HKC-17: The comment states that the MND “wrongfully fails to admit that construction noise is a significant impact of the Project, despite its acknowledgement that construction noise levels will increase the ambient noise levels for residents located within 50 feet more than 25 dBA up to 98 dBA....” The comment states that since the impact is concluded to be less than significant, the proposed mitigation measure is not evaluated as to whether it will reduce noise levels to a less than significant level and asserts that an EIR is required to make the determination. Although the project will result in construction noise levels exceeding daytime noise levels established in the City’s Noise Ordinance, the Noise Ordinance exempts construction noise and therefore, the impact as to whether the project will result in noise levels exceeding established standards is correctly identified as less than significant. In addition, due to the short duration of project construction, the proposed daily construction hours (limited to 7:00 AM to 4:00 PM Monday through Friday) and the intermittent nature of construction noise during various stages of project construction, the project’s temporary increase in noise beyond existing levels would be considered less than significant. It should be noted that the conclusions in the draft MND are based on a technical study, prepared by a qualified professional, of the project’s noise impacts. Therefore, the draft MND sufficiently and accurately assesses the project’s potential noise impacts pursuant to CEQA. Even though no mitigation is required to reduce impacts to a less than significant level, a mitigation measure is proposed to reduce the annoyance of construction noise on residents within the project area.

HKC-18: The comment states that the MND “insists, without any substantive discussion, that the minor mitigation measures proposed will suffice.” The analysis in the draft MND is substantially supported by factual evidence and expert opinion documented in technical reports, existing regulations and applicable codes and weighed against established thresholds of significance. Mitigation measures are recommended for those impacts that were determined to be potentially significant based on the

substantive analysis. The recommended mitigation measures are both feasible and adequate to reduce potential impacts to a less than significant level. The comment states that the MND also fails to “admit” significant effects in the areas of land use, housing, population, traffic, drainage and noise impacts. Each of the areas cited have been adequately analyzed and determined to be less than significant or less than significant with mitigation. The comment then cites CEQA case law to provide an example of a project that adopted a negative declaration wherein the court found that there was substantial evidence that the project would result in significant environmental effects. However, there is no substantial evidence, in light of the whole record (including the comment letter) that provides substantial evidence that the project would result in significant environmental impacts. In addition, the draft MND includes analysis that provides substantial evidence that the project, with mitigation, would result in less than significant environmental impacts.

HKC-19: The comment states that the MND “fails to recognize” significant environmental impacts from relocation of residents, road widening, alteration of drainage and noise and fails to sufficiently mitigate impacts such that an EIR is required. The responses to HKC-3 through HKC-18 address all of the comments related to the potential impacts described. The draft MND has adequately analyzed the project as a whole and all potential environmental impacts have been determined to be less than significant or can be mitigated to a less than significant level. None of the comments in the letter presents substantial evidence such that a fair argument can be made to require an EIR for the project. The comment also states that the MND “demonstrates that the Project is not necessary or viable at this time.” As mentioned in Response HKC-4, the role of the draft MND is not to provide justification for the project. In addition, the project has been proposed by the City’s Department of Public Works and is programmed and funded as a RSTP project. Therefore, the project would be considered a viable project and, as such, all direct impacts and reasonably foreseeable indirect impacts have been analyzed pursuant to CEQA.

V. ERRATA TO RECIRCULATED DRAFT MITIGATED NEGATIVE
DECLARATION NO. 09-001

The following changes to Draft Mitigated Negative Declaration No. 09-001 and Initial Study Checklist are as noted below. The changes to the Draft Mitigated Negative Declaration as they relate to issues contained within this errata sheet do not affect the overall conclusions of the environmental document. Revisions are below as excerpts from the Initial Study text, with a ~~line through~~ deleted text and **bold and double-underlined** font beneath inserted text. In order to indicate the location in the Initial Study where text has been changed, the reader is referred to the page number of the Initial Study.

Population and Housing – page 7

Along with the acquisition of this 25 feet wide by 630 feet long (approx.) strip of land from the mobile home park immediately south of Atlanta Avenue, eight homes (Unit Nos. 101, 102, 201, 301, 302, 401, 501, and 502) consisting of ~~14~~ **16** residents will also need to be removed in order to construct the proposed street widening project. The removal of the homes and displacement of the ~~14~~ **16** impacted residents is subject to the relocation requirements under the Federal Uniform Act. The Federal Uniform Act, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property or displace persons from their homes, businesses, or farms.

Population and Housing – page 8

While eight homes with ~~14~~ **16** residents would not necessarily be considered a substantial relocation, in order to ensure that impacts to the ~~14~~ **16** residents that would require relocation is less than significant, the following mitigation measure is recommended:

Mandatory Findings of Significance – page 36

Mitigation for impacts identified in the area of population and housing are due to relocation of ~~14~~ **16** residents that would occur as a result of acquisition of additional right-of-way for the project and not due to substantial increases in population or indirect growth that would result in cumulatively considerable impacts.

APPENDIX A

Comments on Draft MND No. 09-001
(Comment Period 8/5/10 – 9/3/10)

DEPARTMENT OF TRANSPORTATION

District 12
 3347 Michelson Drive, Suite 100
 Irvine, CA 92612-8894
 Tel: (949) 724-2267
 Fax: (949) 724-2592

RECEIVED



Flex your power!
 Be energy efficient!

September 2, 2010

Ms. Jennifer Villasenor
 City of Huntington Beach
 2000 Main Street
 Huntington Beach, CA 92648

File: IGR/CEQA
 SCH #: 2010081014
 Log #: 2568
 SR-39

Subject: Atlanta Avenue Widening Project

Dear Ms. Villasenor:

Thank you for the opportunity to review and comment on the **Mitigated Negative Declaration for the Atlanta Avenue Widening Project**. The project proposes to widen the south side of Atlanta Avenue, between Huntington Street and Delaware Street, to comply with the primary arterial street classification in the General Plan Circulation Element and the Orange County Transportation Authority's Master Plan of Arterial Highways (MPAH). The project site is located within the City of Huntington Beach.

The California Department of Transportation, District 12 is a commenting agency on this project, and has no comment at this time.

Please continue to keep us informed of this project and any future developments which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Zhongping (John) Xu at (949) 724-2338.

Sincerely,

CHRISTOPHER HERRE
 Branch Chief, Local Development/Intergovernmental Review

c: Terry Roberts, Office of Planning and Research

NATIVE AMERICAN HERITAGE COMMISSION

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SACRAMENTO, CA 95814
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RECEIVED
AUG 23 2010
Dept. of Planning
& Building

August 18, 2010

Ms. Jennifer Villasenor, Acting Senior Planner

CITY OF HUNTINGTON BEACH

2000 Main Street
Huntington Beach, CA 92648

Re: SCH#2010081014; Notice of Completion: proposed Mitigated Negative Declaration for the Atlanta Avenue Widening Project (CDP No. 2009-001; CUP No. 2009-019) located in the City of Huntington Beach; Orange County, California.

Dear Ms. Villsenor:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

NAHC-1

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were not identified within one-half mile of the APE identified for the project. However, there are Native American cultural resources in close proximity to the APE. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

NAHC-2

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP)

NAHC-3

ATTACHMENT NO. 4.17

Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 10.

NAHC-3
continued

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f]) *et seq.*, 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

NAHC-4

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

NAHC-5

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

NAHC-6

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

NAHC-7

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

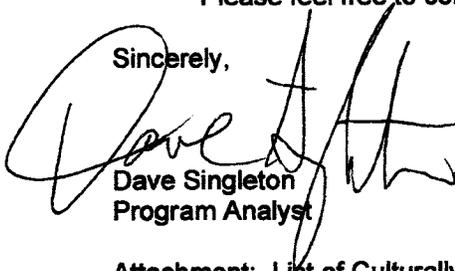
NAHC-7
continued

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

NAHC-8

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse

ATTACHMENT NO. 4.19³

Native American Contacts
Orangge County
August 18, 2010

Ti'At Society
Cindi Alvitre
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Gabrielino Tongva Nation
Sam Dunlap, Chairperson
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Juaneno Band of Mission Indians Acjachemen Nation
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(949) 293-8522
(949) 493-4933 - Home

Juaneno Band of Mission Indians Acjachemen Nation
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(530) 354-5876 - cell

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Gabrielino Tongva
tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva Indians of California Tribal Council
Robert F. Doramae, Tribal Chair/Cultural
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714-998-0721
714-998-0721 - FAX
714-321-1944 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2010081014; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Atlanta Avenue Widening Project (CDP No. 2009-001, CUP No. 2009-019); located in the City of Huntington Beach; Orange County, California.

ATTACHMENT NO. 4.20

Native American Contacts
Orangge County
August 18, 2010

Juaneno Band of Mission Indians
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Juaneno Band of Mission Indians
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United Coalition to Protect Panhe (UCPP)
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Juaneno Band of Mission Indians Acjachemen Nation
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(310) 587-2281

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2010081014; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Atlanta Avenue Widening Project (CDP No. 2009-001, CUP No. 2009-019); located in the City of Huntington Beach; Orange County, California.

ATTACHMENT NO. 4.21



CITY OF HUNTINGTON BEACH

ENVIRONMENTAL BOARD

September 2nd, 2010

Jennifer Villasenor
City of Huntington Beach
Department of Planning and Building
2000 Main St
Huntington Beach, CA 92648

Subject: Atlanta Avenue Widening CC-1389

Dear Ms. Villasenor,

At the September 2, 2010 Environmental Board meeting, the members reviewed the draft mitigated negative declaration No. 09-001. The Board offers the following comments for your consideration.

Land Use / Planning:

1. What type of environmental document pursuant to the National Environmental Policy Act will be required to obtain federal authorization? This document should be reviewed concurrently with the MND. It would be helpful to know what the Federal Uniform Act provisions are for properties affected by this project.] EB-1

Air Quality:

1. The project will result in localized significance thresholds for PM10 to be exceeded. Will a mitigation monitoring and reporting plan (MMRP) be prepared for proposed measures AQ-1? Should this plan be part of the MND?] EB-2
2. How will the monitoring plan evaluate compliance with "The construction contractor shall not discharge smoke, dust, equipment exhaust, or any other air contaminant to the atmosphere in such quantity as will violate any federal, state or local regulation"?] EB-3

Utilities / Service Systems:

1. Relocating utility poles provides an opportunity for possible undergrounding which provides for improved vistas and public safety. Evaluate placing relocated utilities underground.] EB-4

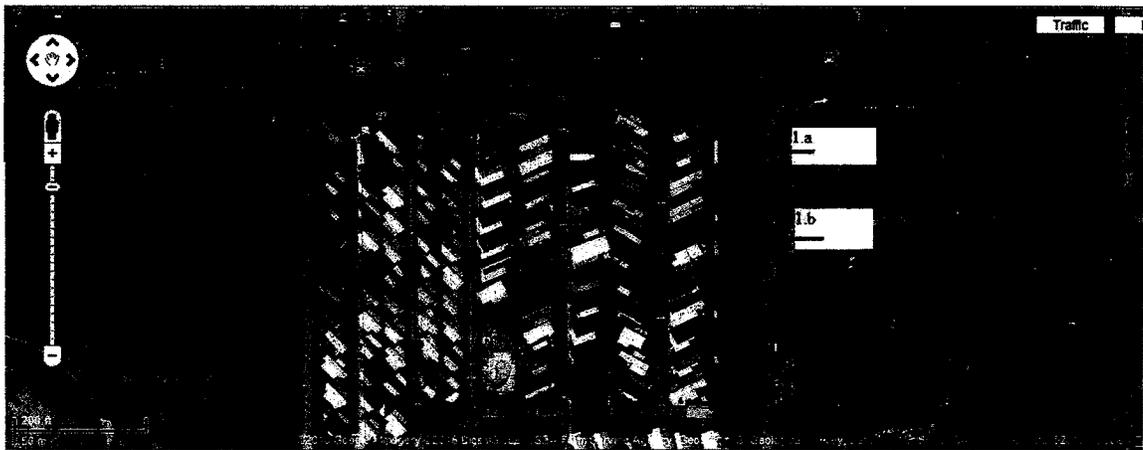
ATTACHMENT NO. 4.22

Population / Housing:

1. The Board recognizes the significant impact the project will have on a number of inconvenienced mobile homeowners. Use of area on eastern edge of mobile home park presently used for RV and boat storage could be considered for relocation of displaced mobile homes. (See 1.a below)
2. Use of area east of block wall on eastern side of mobile home park (vacant property between block wall and Delaware St.) in conjunction with property above for relocation of displaced mobile homes, and new landscaping. (Not sure of property ownership) (See 1.b)

} EB-5

} EB-6



Hydrology / Water Quality

1. The Board recognizes innovative and environmentally friendly products exist for new street paving, such as permeable / pervious pavement which benefit storm water management, and reduce effects of Urban Heat Island (UHI). The Board recommends exploring such materials.

} EB-7

We appreciate the opportunity of reviewing this project. Please contact us with any questions or concerns.

Sincerely,

Robert Schaaf
Chairman, Huntington Beach Environmental Board

1. <http://www.builditgreen.org/attachments/wysiwyg/22/CD-Waste-Diversion.pdf>

RECEIVED

SEP 03 2010

August 31, 2010

Hello Jennifer,

Dept. of Planning
& Building

I live in Space 502 and this is my comment about Atlanta Avenue Widening Project. What a waste of taxpayers' money! I've lived by Atlanta for 5 years now. There are about 2 days out of the year where widening Atlanta would be beneficial. The rest of the year, it's not necessary. However, being a Federal government civil servant for over 30 years, I am well aware of how the government loves to waste money. Working for the government for so long has made me also aware that fighting city hall would be a waste of my time. My only hope is that funding doesn't happen and that this ridiculous project doesn't happen.

One error that I see in the Environmental Report is the amount of residents that are impacted. You should add at least two more residents to the impacted 14 residents. My home has three residents in it, my two sons and myself. I am a FAA Electrical Engineer, on the verge of retiring, who in 2005 moved into his dream retirement home. This is the home you plan on taking from me soon. Also living on Space 502 is a senior at Cal State Fullerton and my other son who has a severe mental illness (paranoid Schizophrenic). I believe you have calculated only one resident in my home because I have not gotten around to officially notifying management that my two sons moved in with me. One moved in with me in 2007 and the other in 2008.

My final comment is, "May your plans fall apart and the widening of Atlanta never happen!"

Respectfully,



Roger Savoie Jr.
80 Huntington St. #502
Huntington Beach, CA 92648

SAVO-1

ATTACHMENT NO. 4.24

HK&C
HART, KING & COLDREN

RECEIVED

SEP 03 2010

Dept. of Planning
& Building

Robert S. Coldren
rcoldren@hkclaw.com

August 31, 2010

Our File Number: 36608.005/4819-6055-9111v.1

VIA FACSIMILE AND U.S. MAIL
(714) 374-1540

Jennifer Villasenor
Acting Senior Planner
Planning and Building Department
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Re: **Atlanta Avenue Widening Project ("Project")**
Cover Letter re Comments on Mitigated Negative Declaration ("MND")

Dear Ms. Villasenor:

I am writing this cover letter to accompany the enclosed comment letter on the MND for the Project. We have previously expressed the desire to work together with the City to achieve a mutually favorable result with respect to the taking of portions of the Pacific Mobilehome Park and other changes to the Park resulting from the Project.

We are submitting the enclosed comment letter to preserve the rights of the Park property owner to challenge the Project in the event we are not able to timely achieve a mutually favorable resolution. However, we do not want the comment letter to be misconstrued as a change in our desire to work out a mutually favorable result or as a current desire to litigate this matter.

Given that the short time frame available for challenge under CEQA might force us to file litigation to further preserve the rights of the property owner, it is incumbent that we redouble our efforts to achieve a mutually favorable resolution within the next couple of months. Alternatively, it might make sense for the City to place the Project and MND on hold until there is funding for the Project acquisition and relocation.

HKC-1

HKC-2

A Professional Law Corporation
200 Sandpointe, Fourth Floor, Santa Ana, California 92707
Ph 714.432.8700 | www.hkclaw.com | Fx 714.546.7457

ATTACHMENT NO. 4.25

HK&C

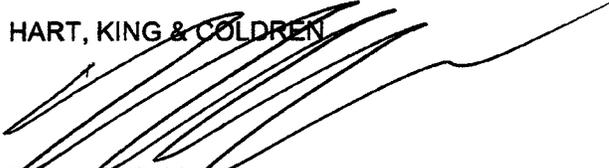
HART, KING & COLDREN

City of Huntington Beach
Re: Atlanta Avenue Widening Project
August 31, 2010
Page 2

We would be glad to meet with you to set up a framework and timetable for resolution of matters pertaining to the Project. Please contact me to set up a meeting.

Sincerely,

HART, KING & COLDREN



Robert S. Coldren

BLH/dr

Enclosure: Comment Letter on MND for Project

cc: Mark Hodgson

ATTACHMENT NO. 4.26

HK&C

HART, KING & COLDREN

Robert S. Coldren
rcoldren@hkclaw.com

August 31, 2010

Our File Number: 36608.005/4847-3600-0519v.1

VIA FACSIMILE AND U.S. MAIL
(714) 374-1540

Jennifer Villasenor
Acting Senior Planner
Planning and Building Department
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Re: Atlanta Avenue Widening Project ("Project")
Comments on Mitigated Negative Declaration ("MND")

Dear Ms. Villasenor:

We represent the owner of the Pacific Mobilehome Park, whose property would need to be taken for the proposed Project. This letter constitutes the Park Owner's comments on the City's MND for the Project. The City should not approve the Project or the MND for the following reasons:

1. There is no substantial evidence of public necessity for the Project which involves the taking of private Park property on which resident mobile homes are located.
2. An Environmental Impact Report ("EIR") should have been prepared because the MND wrongfully fails to consider that part of the Project which involves relocation of Park residents, which relocation, if considered, would require preparation of an EIR.
3. An EIR should have been prepared because there is a fair argument that the Project, as mitigated, may have significant impacts on the environment, particularly regarding land use, housing, growth, air quality, drainage, noise and biological resources impacts.

HKC-3

THE MND CONTAINS NO SUBSTANTIAL EVIDENCE OF PROJECT PUBLIC NECESSITY

In order for the Project which encompasses the taking of private Park property to be lawful, the City must establish the public necessity for the Project. (See Code Civ. Proc., 1240.030) The MND does not point to any anticipated Park change in use that will justify building out the adjacent street to the maximum general plan width. In addition, the MND candidly admits that there is no current funding source that would allow the Project to be built within the near future.

HKC-4

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ATTACHMENT NO. 4.27



HART, KING & GOLDREN

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The MND alleges that the Project is made necessary by the previous approval of the mixed use Pacific City Development just west of the Project, which Development widened Atlanta Avenue to its ultimate location, leaving an alleged "choke point" along Atlanta Avenue where the Park is located.

According to the MND, the existing 26 foot offset in the south curb alignment at the intersection of Atlanta Avenue and Huntington Street "requires additional motorist decisions" and creates "a greater potential for merging accidents and motorists inadvertently driving vehicles off of the street."

Neither the MND nor the traffic study attached thereto provide evidence to support this conclusion regarding the alleged safety issues pertaining to the existing south curb offset. The MND provides no evidence of a greater number of accidents at the intersection of Atlanta Avenue and Huntington Street, no evidence of a greater number of vehicles running off the street, and no evidence of traffic backups resulting from the south curb offset. Indeed, some of the most heavily traveled roads, highways and interstates in Southern California have well marked lane reductions without any significant reductions in safety.

HKC-4
continued

The traffic study attached to the MND provides substantial evidence to the contrary of the MND justification for the Project. The traffic study demonstrates that regardless of the Project there will be significant traffic obstruction at the intersection of Atlanta Avenue and Huntington Street unless there is a traffic signal light placed at that intersection. With a traffic signal light, traffic obstruction at the intersection is avoided. The traffic study glaringly fails to study whether a signal light without the Project would relieve any existing traffic obstruction, although it is clear from the traffic study that the Project without a traffic signal light will not.

Therefore, the MND does not provide evidence of the public necessity for the proposed Project and its relocation of Park resident mobile homes. Instead it provides evidence that the Project is both not needed and not presently viable.

THE MND CONTAINS AN INADEQUATE PIECEMEAL PROJECT DESCRIPTION

The California Environmental Quality Act ("CEQA," Pub. Res. Code 21000 et seq.) is a comprehensive scheme designed to provide long-term protection to the environment. CEQA is to be interpreted to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (See *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112)

An EIR is the heart of CEQA. Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment but also informed self-government. (See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn 2)

HKC-5

A negative declaration is proper only if the public agency determines based on an initial study



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that there is no substantial evidence that the project may have a significant effect on the environment. (Pub. Res. Code, § 21080 (c) (1) & (d); 14 Cal. Code Regs., §§ 15063 (b) (2), 15070 (a)) An EIR must be prepared whenever there is a fair argument on the basis of substantial evidence that the project will have significant environmental impact. (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75)

A proper initial study requires that "all phases of project planning, implementation and operation ... be considered." (14 Cal. Code Regs., § 15063 (a) (1)). Indeed, an accurate, stable and finite project description is the sine qua non of informative and legally adequate environmental review. (See *Burbank-Glendale-Pasadena Airport v. Hensler* (1991) 233 Cal.App.3d 577, 592)

An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity. A narrow view of a project could result in the fallacy of division, that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole. (See *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1143)

For these reasons, CEQA mandates that environmental considerations not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have a significant impact. (See *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1452) CEQA defines the term "project" broadly to include the whole of an action, direct and indirect impacts on the environmental, and any subsequent discretionary actions of the government agencies. (See *McQueen v. Board of Directors, supra*, 202 Cal.App.3d at 1143)

The MND describes the Project as the widening of the south side of Atlanta Avenue between Huntington Street and Delaware Street to comply with the primary arterial street classification in the City's General Plan Element. Currently there is one lane of traffic on the south side. The Project will add an additional lane, a bike lane and a sidewalk along the south side of Atlanta Avenue.

The MND lists the scope of the Project to encompass condemnation of Park land, removal and relocation of eight mobile homes, clearing and grubbing of the land, construction of an asphalt concrete roadway, striping, curb, gutter, sidewalk, an 8-foot tall concrete block wall atop a retaining wall possibly 7-feet in height, landscaping that includes the removal of 25 mature trees, reconstruction of a circulation road within the Park, construction of two emergency access gates within the Park, utility and fire hydrant relocation, relocation of a drainage catch basin, relocation of utility poles and overhead lines.

The MND states that the Project will require approval of a conditional use permit for the block wall and a coastal development permit. However, the MND makes no attempt to describe any potential conditions for approval of a conditional use permit or coastal development permit.

Despite its acknowledgement that the Project will require relocation of eight mobile homes, the MND inappropriately claims that the City cannot conduct environmental review for the relocation

HKC-5
continued

HKE-6

City of Huntington Beach
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impacts because the City cannot yet determine whether relocation from the Park will be required because the City has not yet obtained funding for the Project.

The City's reasoning here is faulty. The lack of current funding for the Project, while relevant to whether there is public necessity for the Project, does not prevent the City from performing an analysis of whether there is sufficient room for relocation within the Park for those mobile homes that will be moved. Therefore the MND description of the Project is inadequate and incomplete.

It appears that the City is deliberately trying to avoid preparing an EIR by segmenting the Project so that it does not include relocation of Park residents. Under CEQA, there is a mandatory finding of significance if the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly. (14 Cal. Code Regs., § 15065)

A road widening project that will displace several families and result in the loss of the residential community characteristic of the area will clearly cause substantial adverse effects on human beings. (See *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1003) Therefore, by improperly segmenting or piece-mealing the Project, the City violates CEQA. An EIR rather than the MND should have been prepared.

THERE IS FAIR ARGUMENT OF SIGNIFICANT PROJECT IMPACTS ON THE ENVIRONMENT

A mitigated negative declaration is appropriate only if project revisions avoid or mitigate the potentially significant effects that are identified or that should have been identified in the initial study to the point where no significant effect on the environment would occur. (See Pub. Res. Code § 21064)

Under CEQA a significant effect on the environment means a substantial or potentially substantial adverse change in the environment. (Pub. Res. Code, § 21068) Appendix G of the CEQA Guidelines provides a checklist of significant environmental impacts that an agency should evaluate for a project in its initial study. The initial study checklist is included in the MND. The MND initial study checklist contains several erroneous and/or factually unsupported findings regarding significant environmental impacts and/or mitigation thereof:

1. Land Use and Planning.

a. Conflict with Existing Land Use Regulation. The MND incorrectly finds that the Project will not conflict with any applicable land use regulation of an agency over the Park.

The MND expressly states that the City will need to issue a new conditional use permit for the large (possibly as high as 15 feet) block wall that will be part of the Project. Such a wall is not currently permitted under the Park conditional use permit and would impose additional burdens and conditions on the Park Owner. However, the MND fails to discuss what conditions

HKC-6
continued

HKC-7

HKC-8



HART, KING & GOLDREN

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might be involuntarily imposed on the Park Owner and the impacts of those conditions on the existing conditional use permit. The MND also fails to address any impacts of a 15 foot wall ore removal of existing mature trees on the scenic coastal views of nearby residents.

HKC-8
continued

The MND also reveals that it will need an additional coastal development permit but fails to discuss whether the Project complies under the requirements for such a permit and fails to address the potential impact of Project's displacement of housing under the Ellis Act. Thus, an EIR is needed to analyze the scope of the new conditional use permit and coastal development permit required for the Project, including the impact of any conditions that would be associated with such permits.

HKC-9

c. Divide an Established Community. The MND also wrongfully claims that the Project will not divide an established community. The MND clearly will remove 8 mobile homes from the Park and thus divide them from the Park community, reconfigure an access road within the Park, and impose a block wall that will result in grade separation and impede open access to the street. These are definite physical changes to the environment that will divide and segment the established Park community. Therefore, an EIR is needed to analyze the Project impacts to the Park community.

HKC-10

2. Population and Housing.

a. Induce Substantial Population Growth. The MND erroneously claims that the City need not study the growth inducing impact of the street widening because it is within growth projected by the City's General Plan. The growth inducing impacts of a street widening project must be studied and discussed in an EIR regardless of whether they are anticipated by the City's General Plan. (See *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1332 ["conformity with the general plan for the area ... does not insulate a project from the EIR requirement, where it may be fairly argued that the project will generate significant environmental effects"]) Therefore, an EIR is required to evaluate the Project's growth inducing impacts.

HKC-11

b/c. Need for Replacement Housing. The MND erroneously claims that it cannot make decisions about replacement housing until it receives Federal highway funds, and thus wrongfully puts off for later mitigation in the form of a relocation plan. There is nothing in the lack of present funding that prevents the City from determining the potential place and type of relocation housing at the current time. The use of a future study or plan cannot substitute as mitigation for a significant environmental effect in the MND. (See *Sunstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307) Thus, an EIR is required that includes a relocation plan.

HKC-12

4. Hydrology and Water Quality.

c. Alter Drainage Pattern. The MND erroneously claims that the Project will not substantially alter the existing drainage pattern of the area despite its admission in section

HKC-13