

II. Responses to Comments

II. Responses to Comments

A. Introduction

Sections 21091(d) and 21092.5 of the Public Resources Code (PRC) and CEQA Guidelines Section 15088 govern the lead agency's responses to comments on a Draft EIR. CEQA Guidelines Section 15088(a) states that "[T]he lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments that were received during the notice comment period and any extensions and may respond to late comments." In accordance with these requirements, this section of the Final EIR provides the responses prepared by the City of Los Angeles Department of City Planning (City) to each of the written comments received regarding the Draft EIR.

Section II.B, Matrix of Comments Received on the Draft EIR, includes a table that summarizes the environmental issues raised by each commenter regarding the Draft EIR. Section II.C, Responses to Comments, provides the City's responses to each of the written comments raised in the comment letters received on the Draft EIR. Copies of the original comment letters are provided in Appendix FEIR-1 of this Final EIR.

II. Responses to Comments

B. Matrix of Comments Received on the Draft EIR

Table II-1
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support				
STATE AND REGIONAL																																						
1	Frances Duong Acting LDR/CEQA Branch Chief Caltrans District 7 100 S. Main St. (1-1-C) Los Angeles, CA 90012-3721																						X															
2	Rowena Lau Division Manager Wastewater Engineering Services Division LA Sanitation and Environment 2714 Media Center Dr. Los Angeles, CA 90065-1733																									X												
ORGANIZATIONS																																						
3	Aidan P. Marshall Adams Broadwell Joseph & Cardozo obo CREED LA 601 Gateway Blvd., Ste. 1000 South San Francisco, CA 94080-7037 James J.J. Clark Clark & Associates 12405 Venice Blvd., PMB 331 Los Angeles, CA 90066-3803					X					X	X				X								X										X				
4	Richard Drury Lozeau Drury obo SAFER 1939 Harrison St., Ste. 150 Oakland, CA 94612-3507																																		X			

Table II-1 (Continued)
Matrix of Comments Received on the Draft EIR

Letter No.	Commenter	Executive Summary	Project Description	Environmental Setting	Aesthetics	Air Quality	Biological Resources	Cultural Resources	Energy	Geology and Soils (including Paleontological Resources)	Greenhouse Gas Emissions	Hazards and Hazardous Materials	Hydrology and Water Quality—Hydrology	Hydrology and Water Quality—Water Quality	Land Use	Noise	Population and Housing	Public Services—Fire Protection	Public Services—Police Protection	Public Services—Schools	Public Services—Parks and Recreation	Public Services—Libraries	Transportation	Tribal Cultural Resources	Utilities and Service Systems—Water Supply and Infrastructure	Utilities and Service Systems—Wastewater	Utilities and Service Systems—Solid Waste	Utilities and Service Systems—Energy Infrastructure	Cumulative Impact	Alternatives	General/Other	CEQA	Mitigation Measures	Support
INDIVIDUALS																																		
5	Carole & Paul Suzuki 12462 Beatrice St. Los Angeles, CA 90066-6904																						X											

II. Responses to Comments

C. Comment Letters

Comment Letter No. 1

Frances Duong
Acting LDR/CEQA Branch Chief
Caltrans District 7
100 S. Main St. (1-1-C)
Los Angeles, CA 90012-3721

Comment No. 1-1

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced environmental document. The Project proposes the demolition of an existing 23,072-square-foot office building and two accessory buildings, totaling 7,188 square feet, and the retention of an 87,881 square-foot office building. Additionally, the Project proposes the construction of a new, eight-story office building with up to 196,100 square feet of office space, and 3,400 square feet of ground-floor commercial space.

Response to Comment No. 1-1

This introductory comment summarizing the Project is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. Specific comments raised by the commenter regarding the Draft Environmental Impact Report (EIR) are provided and responded to below.

Comment No. 1-2

Pedestrian, Bicycle, and Transit Access

It is determined the Project does not include any features that would permanently remove, adversely modify, or degrade pedestrian, bicycle, and transit facilities in the Project vicinity. As noted herein, it is determined that it is possible that the Project may intensify the use of pedestrian, bicycle, and transit facilities in the Project vicinity, however, such use is not expected to result in a deficient condition caused by the Project.

Response to Comment No. 1-2

This comment summarizes the Project's less-than-significant impacts to pedestrian, bicycle, and transit facilities. This comment does not raise any issues with respect to the adequacy of the Draft EIR. The comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment No. 1-3**VMT**

The Project site is located in the West Los Angeles Area Planning Commission area and is subject to the following LADOT threshold for determining VMT impacts: Daily Work VMT per Employee of 11.1. The Project is estimated to result in a total of 2,964 daily vehicle trips, resulting in a daily work VMT per employee of 12.4, which would exceed the daily work VMT per employee of 11.1. As such, the Project would result in a potentially significant impact with regard to conflict with CEQA Guidelines Section 15064.3(b), and mitigation is required.

Mitigation Measure-TDM

The following mitigation measure has been identified to reduce the potentially significant impact of the Project:

Mitigation Measure TR-MM-1: The Project should prepare a TDM Plan. The following TDM elements should be included in the Project:

- Price Workplace Parking
- Voluntary Travel Behavior Change Program
- Short-term and Long Ter-term [sic] Bike Parking per LAMC
- Secure Bike Parking
- Pedestrian Network Improvements
- Transit Subsidies

With the implementation of Mitigation Measure TR-MM-1, the daily work VMT per employee would be reduced to 10.3, and the impact level would become less than significant with mitigation.

Response to Comment No. 1-3

This comment accurately summarizes the Project's VMT analysis provided in Section IV.K, Transportation, of the Draft EIR. This comment does not raise any issues with respect to the adequacy of the Draft EIR. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment No. 1-4**Others**

We encourage the Lead Agency to evaluate the potential Intelligent Transportation System (ITS) applications in order to better manage the transportation network, as well as transit service and bicycle or pedestrian connectivity improvements. For additional TDM options, please refer to the Federal Highway Administration's Integrating Demand Management into the Transportation Planning Process: A Desk Reference (Chapter 8). This reference is available online at:

<http://ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>

Response to Comment No. 1-4

This comment includes a general recommendation from Caltrans to the City of Los Angeles to evaluate the Intelligent Transportation System application to assist in management of the City's transportation network, generally. Intelligent Transportation Systems (ITS) address transportation safety and mobility through the integration of advanced communications technologies into the transportation infrastructure and in vehicles. ITS encompass a broad range of wireless and wire line communications-based information and electronics technologies. This recommendation relates to Citywide infrastructure and is not Project-specific.

Regarding the reference to additional TDM options, Section IV.K, Transportation, of the Draft EIR analyzes the Project's potential VMT impacts, and incorporates feasible mitigation measures that reduce impacts to less than significant, including the implementation of a TDM plan. Specifically, Mitigation Measure TR-MM-1 requires that a TDM plan be prepared and reviewed by LADOT prior to issuance of the certificate of occupancy for the Project. As part of Mitigation Measure TR-MM-1, the following TDM elements would be included as part of the Project:

- Price Workplace Parking—implement workplace parking pricing for employees as specified in the Transportation Assessment.

- Voluntary Travel Behavior Change Program—assign a staff person who will serve as the transportation management coordinator for purposes of developing a transportation program and informing Project employees of available travel options.
- Bike parking per LAMC, including short-term and long-term parking facilities, to support safe and comfortable bicycle travel.
- Include secure bike parking, with its own access point, and bike facilities, such as showers and a repair station, to support safe and comfortable bicycle travel by providing end-of-trip amenities.
- Pedestrian Network Improvements—provide pedestrian access points directly to sidewalks on the adjacent streets, including Jandy Place and Beatrice Street.
- Transit Subsidies—provide a daily transit subsidy as specified in the Transportation Assessment for every employee who requests the transit subsidy, presents evidence of use of transit, and does not request on-site parking

Mitigation Measure TR-MM-1 reduces the Project's estimated daily work VMT per employee of 12.4, which would exceed the daily work VMT per employee of 11.1, to 10.3, and the impact level would become less than significant with mitigation. With implementation of Mitigation Measure TR-MM-1, the Project's potential VMT impact would be reduced to less than significant, and as such no additional mitigation or TDM strategies are required as part of the Project. Given the Project does not result in significant impacts with incorporation of a TDM program, additional measures are not required.

The suggestions in this comment to evaluate the potential ITS applications as well as to consider additional TDM options are noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 1-5

For future projects any transportation of heavy construction equipment and/or materials that require the use of oversized transport vehicles on State highways will need a Caltrans transportation permit. Any large-size truck trips be limited to off-peak commute periods.

Response to Comment No. 1-5

The Project will comply with all local and State requirements regarding the use of oversized vehicles, including obtaining required permits. As discussed in Section IV.K, Transportation, of the Draft EIR, a Construction Traffic Management Plan would be prepared prior to the start of construction as part of Project Design Feature TR-PDF-1, which would include scheduling of construction-related deliveries outside of the commuter peak hours.

Comment No. 1-6

If you have any questions, please feel free to contact Mr. Alan Lin the project coordinator at (213) 269-1124 and refer to GTS # GTS-2020-04419-DEIR.

Response to Comment No. 1-6

This concluding comment, which identifies the project coordinator, is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. This concluding comment does not raise any issues with respect to the adequacy of the Draft EIR, and no further response is necessary.

Comment Letter No. 2

Rowena Lau
Division Manager
Wastewater Engineering Services Division
LA Sanitation and Environment
2714 Media Center Dr.
Los Angeles, CA 90065-1733

Comment No. 2-1

This is in response to your January 4, 2024 Notice of Completion and Availability of Draft Environmental Impact Report for the proposed mixed-use project located at 12531–12553 W. Beatrice Street, 12565–12575 W. Beatrice Street, and 5410–5454 S. Jandy Place, Los Angeles, CA 90066. LA Sanitation, Wastewater Engineering Services Division has received and logged the notification. Upon review it has been determined that the project is in the final stages of the California Environmental Quality Act review process and requires no additional hydraulic analysis. Please notify our office in the instance that additional environmental review is necessary for this project.

If you have any questions, please call Than Win at (323) 342-6268 or email at than.win@lacity.org.

Response to Comment No. 2-1

This comment acknowledges receipt of the Notice of Completion and Availability of the Draft EIR by the City of Los Angeles Bureau of Sanitation (LASAN) Wastewater Engineering Services Division and indicates that no additional analysis is required. This comment does not raise any issues with respect to the adequacy of the Draft EIR. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment Letter No. 3

Aidan P. Marshall
Adams Broadwell Joseph & Cardozo obo CREED LA
601 Gateway Blvd., Ste. 1000
South San Francisco, CA 94080-7037

James J.J. Clark
Clark & Associates
12405 Venice Blvd., PMB 331
Los Angeles, CA 90066-3803

Comment No. 3-1

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to provide comments on the Draft Environmental Impact Report (“DEIR”) prepared by the City of Los Angeles (“City”) for the New Beatrice West Project (ENV-2020-3533-EIR; SCH No. 2020120119) (“Project”), proposed by NSB Associates (“Applicant”).

The Project proposes the demolition of an existing 23,072-square-foot office building and two accessory buildings, totaling 7,188 square feet (“SF”), the retention of an 87,881 SF office building, and the construction of a new, eight-story office building with up to 196,100 SF of office space, and 3,400 SF of ground floor commercial space. The Project would total 199,500 SF of floor area, for a Floor Area Ratio of 1.46:1 and a maximum building height of 135 feet to the top of the parapet. The Project site is located at 12531–12553 West Beatrice Street, 12565–12575 West Beatrice Street, and 5410–5454 South Jandy Place, Los Angeles, CA 90066.

Response to Comment No. 3-1

This introductory comment introduces the commenter and summarizes the Project. This comment does not raise any issues with respect to the adequacy of the Draft EIR. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment No. 3-2

We reviewed the DEIR and its technical appendices with the assistance of air quality and public health expert James Clark, Ph.D.¹ The City must separately respond to these technical comments.

¹ Dr. Clark's technical comments and curricula vitae are attached hereto as Exhibit A ("Clark Comments").

Response to Comment No. 3-2

The comments within Exhibit A that include the comments of James Clark from Clark and Associates are fully addressed below in Responses to Comment Nos. 3-20 through 3-24.

Comment No. 3-3

Based upon our review of the DEIR and supporting documentation, we conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA").²

² PRC § 21100 et seq.

Response to Comment No. 3-3

The Draft EIR has been completed in full compliance with CEQA and the CEQA Guidelines and fulfills CEQA's informational purpose by disclosing all of the elements of the Project required by CEQA. The Draft EIR provides thorough and comprehensive analyses of all required CEQA impact areas based on appropriate methodologies and, where appropriate, supported by expert technical analyses as well as input from numerous other agencies. For each of the issue areas where significant impacts have been identified, mitigation measures have been proposed to reduce such impacts where feasible.

Additionally, as demonstrated in this Final EIR, upon review of all of the comments received and analyzed, there are no new significant information or substantial evidence of any new significant environmental impacts from the Project or from a mitigation measure that was identified subsequent to circulation of the Draft EIR. In addition, upon review of all comments received and analyzed, there are no substantial increases in the severity of any of the significant environmental impacts identified in the Draft EIR. Rather, the Draft EIR is comprehensive and has been prepared in accordance with CEQA.

Comment No. 3-4

As explained more fully below, the DEIR fails to disclose significant health risk impacts to sensitive receptors from exposure to toxic air contaminants which exceed applicable significance thresholds. No mitigation is currently identified to reduce this significant impact to less than significant levels. The DEIR also underestimates air quality, health risk, noise, and transportation impacts by failing to include the Project's water infrastructure improvements in its analyses.

Response to Comment No. 3-4

This introductory comment asserts that the Draft EIR fails to disclose significant health risk impacts to sensitive receptors from exposure to toxic air contaminants and that the Draft EIR underestimates air quality, health risk, noise, and transportation impacts associated with potential water infrastructure improvements. The specific comments raised by the commenter regarding health risk impacts to sensitive receptors from exposure to toxic air contaminants are addressed in Response to Comment 3-9 and potential impacts related to the Project's water infrastructure improvements are addressed in Response to Comment Nos. 3-13 through 3-16.

Comment No. 3-5

The DEIR also improperly defers analysis and mitigation of potentially present hazardous materials such as asbestos-containing materials, lead-based paint, polychlorinated biphenyls, and other substances.

Response to Comment No. 3-5

As discussed in Section IV.G, Hazards and Hazardous Materials, of the Draft EIR, in the event that asbestos-containing materials (ACMs) are found within areas proposed for demolition, suspect materials would be removed by a certified asbestos abatement contractor in accordance with applicable regulations. Similarly, in the event that lead-based paint (LBP) is found within areas proposed for demolition, suspect materials would be removed in accordance with applicable procedural requirements and regulations for the proper removal and disposal of LBP prior to demolition activities. Additionally, in the event that polychlorinated biphenyls (PCBs) are found within areas proposed for demolition, suspect materials would be removed in accordance with all applicable federal, State, and local regulations. As abatement/removal of such materials would be entirely pursuant to applicable regulatory requirements, such actions would not be considered mitigation measures unique to the Project. Overall, as concluded in the Draft EIR, with compliance with applicable regulations and requirements, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving ACMs, PCBs, or LBPs. Therefore, impacts related to the potential discovery of ACMs, PCBs, or LBPs during demolition would be less than significant, and no mitigation is required.

Comment No. 3-6

As a result of its shortcomings, the DEIR lacks substantial evidence to support its conclusions and fails to properly mitigate the Project's significant environmental impacts.

CREED LA urges the City to remedy the deficiencies in the DEIR by preparing a legally adequate revised DEIR and recirculating it for public review and comment.³

³ We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); Public Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Response to Comment No. 3-6

The Draft EIR has been completed in full compliance with CEQA and the CEQA Guidelines and fulfills CEQA's informational purpose by disclosing all of the elements of the Project required by CEQA. The Draft EIR provides thorough and comprehensive analyses of all required CEQA impact areas based on appropriate methodologies and, where appropriate, supported by expert technical analyses as well as input from numerous other agencies. For each of the issue areas where significant impacts have been identified, mitigation measures have been proposed to reduce such impacts where feasible.

As demonstrated in this Final EIR, no new significant information that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new significant information or substantial evidence of any new significant environmental impacts from the Project or from a mitigation measure that was identified subsequent to circulation of the Draft EIR. In addition, upon review of all comments received and analyzed, there are no substantial increases in the severity of any of the significant environmental impacts identified in the Draft EIR, nor is there a feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it. Rather, the Draft EIR is comprehensive and has been prepared in accordance with CEQA.

Comment No. 3-7

I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations formed to ensure that the construction of major urban projects in the Los Angeles region proceeds in a manner that minimizes public and worker health and safety risks, avoids or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the City of Los Angeles.

Individual members of CREED LA live in the City of Los Angeles, and work, recreate, and raise their families in the City and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health, and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on site.

CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

CREED LA supports the development of commercial, mixed use, and medical office projects where properly analyzed and carefully planned to minimize impacts on public health, climate change, and the environment. These projects should avoid adverse impacts to air quality, public health, climate change, noise, and traffic, and must incorporate all feasible mitigation to ensure that any remaining adverse impacts are reduced to the maximum extent feasible. Only by maintaining the highest standards can commercial development truly be sustainable.

Response to Comment No. 3-7

The description of CREED and its purpose is noted for the administrative record and will be forwarded to the decision-makers for review and consideration. The comment that construction workers will be impacted by the Project's environmental and health and safety impacts is unsupported by substantial evidence. As demonstrated by the response to comments below, the Draft EIR is comprehensive and has been completed in full compliance with CEQA. As evaluated in Sections IV.B, Air Quality, and IV.K, Transportation, of the Draft EIR, the Project will not result in significant impacts related to air quality or traffic. Furthermore, as discussed in Section IV.I, Noise, of the Draft EIR, noise impacts associated with the Project would be limited to peak construction activities. This comment is nevertheless noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 3-8

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.⁴ "The foremost principle under CEQA is that the Legislature

intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”⁵

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.⁶ “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.’”⁷ The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”⁸ As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”⁹

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.¹⁰ The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.”¹¹ If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment” to the greatest extent feasible and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”¹²

While courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.’”¹³ As the courts have explained, a prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”¹⁴ “The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail ‘to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’”¹⁵

III. THE DEIR FAILS TO DISCLOSE, ANALYZE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS

An EIR must fully disclose all potentially significant impacts of a Project and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency’s significance determination with regard to each impact must be supported by accurate scientific and factual data.¹⁶ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.¹⁷

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.¹⁸ Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.¹⁹ In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."²⁰

Additionally, CEQA requires agencies to commit to all feasible mitigation measures to reduce significant environmental impacts.²¹ In particular, the lead agency may not make required CEQA findings, including finding that a project impact is significant and unavoidable, unless the administrative record demonstrates that it has adopted all feasible mitigation to reduce significant environmental impacts to the greatest extent feasible.²²

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.'²³

⁴ PRC § 21100.

⁵ *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal* ("Laurel Heights I") (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

⁶ Pub. Resources Code § 21061; CEQA Guidelines §§ 15002(a)(1); 15003(b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").

⁷ *Citizens of Goleta Valley*, 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).

⁸ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; see also *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*") (purpose of EIR is to inform the public and officials of environmental consequences of their decisions before they are made).

⁹ CEQA Guidelines § 15003(b).

¹⁰ CEQA Guidelines § 15002(a)(2), (3); see also *Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.

¹¹ CEQA Guidelines § 15002(a)(2).

¹² PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

¹³ *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).

¹⁴ *Berkeley Jets*, 91 Cal.App.4th at p. 1355; see also *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117 (decision to approve a project is a nullity

if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

¹⁵ *Sierra Club*, 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).

¹⁶ CEQA Guidelines § 15064(b).

¹⁷ *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

¹⁸ *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.

¹⁹ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

²⁰ *Id.*, *Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.

²¹ CEQA Guidelines § 15002(a)(2).

²² PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090, 15091; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

²³ *Berkeley Jets*, 91 Cal.App.4th at 1355.

Response to Comment No. 3-8

This comment provides legal background and does not raise any CEQA issues with respect to the Draft EIR or any of the impact analyses therein. This comment is nevertheless noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment No. 3-9

A. The DEIR Fails to Disclose and Mitigate Potentially Significant Air Quality and Health Risk Impacts

1. The DEIR Fails to Disclose Potentially Significant Health Risks from Exposure to Project Emissions

The DEIR acknowledges that the Project's construction activities would generate Toxic Air Contaminant ("TAC") emissions.²⁴ Specifically, the Project's construction and operation would generate diesel particulate matter ("DPM"), a type of TAC.²⁵ DPM would be emitted during construction by heavy equipment and diesel trucks, and during operations by the Project's backup generator.²⁶ DPM has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.²⁷ The Project's emissions of DPM would impact numerous sensitive receptors, including multi-family residences directly across from the Project site at 12598–12554 Beatrice Street.²⁸ But the DEIR fails to adequately analyze and mitigate this potentially significant health risk, in violation of CEQA.

CEQA requires analysis of human health impacts. CEQA Guidelines Section 15065(a)(4) provides that the City is required to find a project will have a significant impact on the

environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings.²⁹ The Supreme Court has explained that CEQA requires the lead agency to disclose the health consequences that result from exposure to a project's air emissions.³⁰ Courts have also held that an environmental review document must disclose a project's potential health risks to a degree of specificity that would allow the public to make the correlation between the project's impacts and adverse effects to human health.³¹

In *Bakersfield Citizens for Local Control v. City of Bakersfield*, the court found that the EIRs' description of health risks were insufficient and that after reading them, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."³² Likewise, in *Sierra Club*, the California Supreme Court held that the EIR's discussion of health impacts associated with exposure to the named pollutants was too general and the failure of the EIR to indicate the concentrations at which each pollutant would trigger the identified symptoms rendered the report inadequate.³³ Some connection between air quality impacts and their direct, adverse effects on human health must be made. As the Court explained, "a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact."³⁴ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³⁵

For development projects like this one, the Office of Environmental Health Hazard Assessment's ("OEHHA") risk assessment guidelines also recommend a formal health risk analysis ("HRA") for short-term construction exposures to TACs lasting longer than 2 months and exposures from projects lasting more than 6 months should be evaluated for the duration of the project.³⁶ In an HRA, lead agencies must first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern.³⁷ Following that analysis, then the City can make a determination of the relative significance of the emissions. The significance threshold for this Project is that a significant health risk impact occurs if the Project would expose sensitive receptors to air contaminants that exceed the maximum incremental cancer risk of 10 in one million.³⁸

The City failed to conduct this analysis. Despite acknowledging that exposure is the primary factor used to determine health risk, the DEIR does not quantify sensitive receptors' exposure to DPM emitted during Project construction and operation. Regarding construction emissions of DEIR, the DEIR's qualitative analysis instead offers that the health risk would be less than significant because construction would last 18 months, and not constitute a long-term (70-year) source of TAC emissions.³⁹ This reasoning is incorrect, as it assumes that exposure to TACs over a term shorter than 70 years cannot result in significant health effects. Rather, the Project's 18-month construction schedule exceeds the two-month threshold recommended by OEHHA. The City also reasons that a health risk analysis is not required

for this Project because the South Coast Air Quality Management District (“SCAQMD”) has not adopted a rule requiring health risk assessments for short-term construction emissions.⁴⁰ This reasoning ignores that SCAQMD has adopted significance thresholds for evaluating the health risk from exposure to project-related TAC emissions:

South Coast AQMD Air Quality Significance Thresholds⁴¹

TACs (including carcinogens and non-carcinogens)	Maximum Incremental Cancer Risk \geq 10 in 1 million Cancer Burden $>$ 0.5 excess cancer cases (in areas \geq 1 in 1 million) Chronic & Acute Hazard Index \geq 1.0 (project increment)
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The DEIR’s reasoning also ignores that that the City must comply with CEQA’s analytical requirements even if the air district has not established a blanket requirement for quantitative analysis.

²⁴ DEIR, pg. IV.B-65.

²⁵ DEIR, pg. IV.B-10.

²⁶ SCAQMD, Fact Sheet on Emergency Backup Generators, <http://www.aqmd.gov/home/permits/emergency-generators> (“Most of the existing emergency backup generators use diesel as fuel”).

²⁷ Clark Comments, pg. 4-5.

²⁸ Clark Comments, pg. 6.

²⁹ CEQA Guidelines § 15065(a)(4).

³⁰ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516, 523.

³¹ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

³² *Id.* at 1220.

³³ *Sierra Club*, at 521.

³⁴ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

³⁵ *Sierra Club*, 6 Cal.5th at 518–522.

³⁶ Office of Environmental Health Hazard Assessment (OEHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; <https://oehha.ca.gov/air/crn/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0>.

³⁷ *Id.*

³⁸ DEIR, pg. IV.B-39.

³⁹ DEIR, pg. IV.B-66.

⁴⁰ *Id.*⁴¹ See South Coast AQMD Air Quality Significance Thresholds (March 2023), available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj5Mev_7qEAxVtFDQIHdCsAPcQFnoECBQQAQ&url=https%3A%2F%2Fwww.aqmd.gov%2Fdocs%2Fdefault-source%2Fceqa%2Fhandbook%2Fsouth-coast-aqmd-air-quality-significance-thresholds.pdf%3Fsfvrsn%3D25&usq=AOvVaw07n1OZu8Nvvtfq0AnstLLMG&opi=89978449 (last visited 2/20/24).

Response to Comment No. 3-9

The City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of toxic air contaminants (TACs) is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

From a construction standpoint, health risks from TACs were comprehensively evaluated in Section IV.B, Air Quality, of the Draft EIR. As discussed on pages IV.A-65 to IV.A-66 of the Draft EIR, the greatest potential for TAC emissions during construction would be from diesel particulate emissions associated with heavy equipment operations. The commenter's claim that a HRA was required here by any applicable regulation is incorrect. The Department of City Planning relies on methodologies established by the regional expert air quality agency, the South Coast Air Quality Management District (SCAQMD) for preparation of CEQA air quality analyses. SCAQMD published the CEQA Air Quality Handbook to assist lead agencies, as well as consultants, project proponents, and other interested parties, in evaluating potential air quality impacts of projects proposed in the region. The SCAQMD CEQA Handbook does not recommend a HRA for short-term construction activities. According to SCAQMD methodology, the health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. Given the short-term construction schedule of approximately 18 months (1.5 years), the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Air Quality Handbook does not provide guidance requiring an HRA for short-term construction emissions. This comment does not provide guidance from the City or SCAQMD recommending a quantitative health risk assessment for short-term construction activities. In addition, there would be no residual emissions or corresponding individual cancer risk after construction. This supporting information is consistent with L.A. City CEQA Thresholds Guide in making a case-by-case basis determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and consequently not result in a potential health risk impact.

From an operational health risk standpoint, CARB's Air Quality and Land Use Handbook: A Community Health Perspective (CARB's Handbook) can be used for both determining the impact of emissions of the Project Site on nearby sensitive receptors as well as siting of new sensitive land uses near known emission sources. SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plan and Local Planning (Guidance

Document) provides the following information regarding the siting of new facilities on page 2-3.

The potential impacts of new facilities on sensitive sites will depend on a variety of factors including the amount and toxicity of pollutants emitted, the type of air pollution control equipment at the facility, design features of the facility, the distance from the source of emissions to the sensitive receptor, and local meteorology. All these factors should be carefully evaluated when siting a source of air pollution. Typically, the siting process followed by land use agencies to avoid the location of sensitive sites (e.g., residences, health clinics, etc.) near sources of air pollution does not involve the AQMD. The potential for public health impacts remains unchanged when siting sensitive receptors near a pollution source or a pollution source near a sensitive receptor.

Page 1-6 of the SCAQMD's Guidance Document provides, on page 1-6, CARB recommended minimum separation distances between new sensitive land uses and eight categories of existing sources (Table 1-1 in CARB's Handbook) which include: (1) high-traffic freeways and roads; (2) distribution centers; (3) rail yards; (4) ports; (5) refineries; (6) chrome plating facilities; (7) perchloroethylene dry cleaners; and (8) large gasoline stations. The Project would not include any of these substantial TAC sources. As discussed on page IV.A-68 in Section IV.B, Air Quality, of the Draft EIR, the primary sources of potential TACs associated with Project operations include DPM from delivery trucks (e.g., truck traffic on local streets and idling on adjacent streets). As discussed on page IV.B-68 Section IV.B, Air Quality, of the Draft EIR, the Project primarily includes office and retail uses, which would not be expected to generate a large number of heavy duty truck trips. The Project total truck deliveries including both diesel and non-diesel would be approximately eight daily truck deliveries (5 truck deliveries daily under existing condition and approximately 13 truck deliveries daily under buildout).

Based on SCAQMD and CARB guidance, an operational quantitative analysis was not required for future cancer risk in the vicinity of the Project site as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units (SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*). It should be noted that emergency generators are not included in the SCAQMD and CARB guidance as they are not considered substantial sources of TAC emissions.

The comment identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (new Guidance Manual) in March of 2015.¹ The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics “Hot Spots” Program (Health and Safety Code Section 44360 et seq.). The Air Toxics “Hot Spots” Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics “Hot Spots” Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, “The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation.” Short-term projects that would require a permitting decision by SCAQMD typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment). This comment misrepresents OEHHA’s guidance in Section 8.2.10 (page 8-18) that “the OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.” As discussed above, this guidance is not applicable to the Project.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Notwithstanding the above, in response to this comment, a combined construction and operational HRA has been prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects to demonstrate, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is included as Appendix FEIR-2 of this Final EIR and evaluates TACs from heavy-duty trucks and heavy-duty construction equipment used during construction and heavy-duty trucks accessing the Project Site (occasional moving trucks, trash trucks and delivery trucks) and an emergency generator during operation. As discussed on page 1 of Appendix FEIR-2, the HRA demonstrates that

¹ See OEHHA, *Notice of Adoption of Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015*, www.oehha.ca.gov/air/hot_spots/hotspots2015.html.

health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million for residences (Avalon Playa Vista Apartment Complex) located south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 3-10

The DEIR next claims that, because the Project's emissions would not exceed Localized Significance Thresholds ("LSTs"), the Project's localized air quality impacts would not expose sensitive receptors to substantial air pollutant concentrations.⁴²

LSTs are based on the number of pounds of emissions per day that can be generated by a project that would cause or contribute to adverse localized air quality impacts.⁴³ But LSTs only apply to four criteria pollutants: NO_x, CO, PM₁₀, and PM_{2.5}. LSTs do not apply to DPM and other TACs, which contain carcinogenic compounds not found in criteria pollutants, and thus do not disclose the magnitude of the Project's health impacts from exposure to the Project's air emissions. Thus, the DEIR's analysis of LSTs does not answer the question required by CEQA Appendix G as to whether the Project would "expose sensitive receptors to substantial pollutant concentrations"⁴⁴ and is no substitute for the DEIR's failure to analyze health risk impacts from exposure to TACs.

The DEIR therefore fails to comply with CEQA by failing to provide the necessary information to evaluate the health risk impacts of the Project. Due to the proximity of the nearest sensitive receptors to construction and operational sources of DPM, there is no dispute that the Project may result in potentially significant health risk impacts. The City must prepare a health risk analysis to evaluate the magnitude of the Project's health risk impacts in accordance with CEQA.

⁴² DEIR, pg. IV.B-66.

⁴³ DEIR, pg. IV.B-44.

⁴⁴ CEQA Appendix G, III(d).

Response to Comment No. 3-10

The localized effects from the on-site criteria pollutants were analyzed in the Draft EIR consistent with SCAQMD's LST methodology, which uses on-site mass emissions rate look-up tables and Project-specific modeling, where appropriate, to assess whether the Project's local emissions would exceed SCAQMD's significance thresholds.² SCAQMD provides

² SCAQMD, *LST Methodology Appendix C-Mass Rate LST Look-Up Table*, October 2009.

LSTs applicable to the following criteria pollutants: NO_x; CO; PM₁₀; and PM_{2.5}.³ The Draft EIR did not use LSTs in an attempt to address DPM as suggested in this comment as no LST has been set for DPM. However, a qualitative analysis of TACs and DPM was provided for construction and operations on page IV.B-65 and IV.B-69 of the Draft EIR, respectively.

Further, as discussed above in Response to Comment No. 3-9, the City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts, including potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of TACs is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

No guidance for requiring HRAs for construction has been adopted by CARB, SCAQMD, or the City. Nonetheless, as previously noted in Response to Comment No. 3-9, a combined construction and operational HRA was prepared pursuant to CAPCOA Guidance Document for Health Risk Assessments for Proposed Land Use Projects to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million for residences located approximately 25 meters south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 3-11

2. Health Risks from Exposure to Construction Emissions Would Be Significant

Substantial evidence shows that health risks from exposure to construction emissions would be significant.

Dr. Clark prepared a health risk analysis using AERMOD, the US EPA's preferred air dispersion model, in accordance with OEHHA's Toxic Hot Spot Emissions Guidance.⁴⁵ This quantitative analysis relied on data from the DEIR's own air quality analysis.⁴⁶ The results of Dr. Clark's air model and the health risk analysis are attached as an appendix to this letter. Dr. Clark found that the cancer risk to the most sensitive population, infants less than 3 years old, would be 210 in 1,000,000.⁴⁷ This health risk exceeds SCAQMD's 10 in 1,000,000

³ SCAQMD, *LST Methodology*, p. 1-4.

cancer risk threshold, resulting in a significant impact. The City must revise the EIR to include analysis and mitigation of the Project's significant health risk impacts.

⁴⁵ Clark Comments, pg. 6-7.

⁴⁶ Clark Comments, pg. 6.

⁴⁷ Clark Comments, pg. 8.

Response to Comment No. 3-11

As discussed above in Response to Comment No. 3-9, a quantitative HRA to evaluate potential health risk impacts to nearby sensitive receptors is not required by SCAQMD or the City, and no guidance for HRAs for construction has been adopted by SCAQMD or the City.

Refer to Responses to Comments Nos. 3-20 through 3-24 below for a detailed discussion of Clark's analysis. As discussed therein, the HRA provided by Clark contains numerous errors (e.g., substantially overestimated emission rate, incorrect source type, and modeled construction activity occurring 24 hours per day instead of 8 hours per day). Health risk calculations provided by Clark are erroneous and should not be considered further.

Comment No. 3-12

3. The Project Conflicts with Applicable Policies Regarding Air Quality and Health Risk

The CEQA Guidelines provide that a significant air quality impact would occur when a project "[c]onflict[s] with or obstruct implementation of the applicable air quality plan."⁴⁸ Further, the Guidelines provide that a significant impact would occur if a project conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.⁴⁹

Policy 1.3.1 of the City of Los Angeles' General Plan Air Quality Element provides: "[m]inimize particulate emissions from construction sites." And Policy 5.3.1 of the Air Quality Element provides: "Support the development and use of equipment powered by electric or low-emitting fuels." Here, the Project does not attempt to minimize DPM emissions from the Project's construction, or even set minimum emissions standards for construction equipment. Use of construction equipment that meets CARB Tier 4 standards can result in significant DPM emissions reductions over Tier 2 and 3 equipment.⁵⁰ The Project does not provide evidence that such particulate emissions controls are infeasible or ineffective. Thus, the Project fails to "minimize" PM emissions within the meaning of Policy 1.3.1, and fails to analyze the feasibility of using low-emitting fuels. And because the failure to require emissions controls contributes to the Project's significant health risk impacts, the Project is inconsistent with these general plan policies.

The DEIR must be revised to require emissions controls as mitigation measures.

⁴⁸ CEQA Guidelines, Appendix G, subd. III.

⁴⁹ CEQA Guidelines, Appendix G, subd. X.

⁵⁰ San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects.” August 2015, available at: https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San_Francisco_Clean_Construction_Ordinance_2015.pdf, pg. 6.

Response to Comment No. 3-12

Policy 1.3.1 of the City of Los Angeles’ General Plan Air Quality Element provides: “[m]inimize particulate emissions from construction sites.” As discussed on page IV.B-56 of Section IV.B, Air Quality, of the Draft EIR, the Project would comply with SCAQMD Rule 403, which requires projects to prevent, reduce or mitigate fugitive dust (particulate) emissions from a site. Rule 403 restricts visible fugitive dust to the project property line, restricts the net PM₁₀ emissions to less than 50 micrograms per cubic meter (µg/m³) and restricts the tracking out of bulk materials onto public roads. Additionally, projects must utilize one or more of the best available control measures (identified in the tables within the rule). Compliance with SCAQMD Rule 403 would support Policy 1.3.1. Furthermore, the Project would result in less than significant regional and localized air quality impacts (including particulate emissions). SCAQMD’s localized significance thresholds represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or State ambient air quality standard. Consideration of mitigation (e.g., Tier 4 equipment) to further reduce an already less than significant air quality impact is not applicable under CEQA.

Policy 5.3.1 of the City of Los Angeles’ General Plan Air Quality Element provides: “Support the development and use of equipment powered by electric or low-emitting fuels”. The Project would implement Project Design Feature AIR-PDF-1, which requires the use of “electricity from power poles and/or solar powered generators rather than temporary diesel or gasoline generators” during construction where power poles are available. This measure would support Policy 5.3.1. As discussed above, the Project would result in less than significant regional and localized air quality impacts (including health risk impacts). No mitigation measures are warranted and are not considered further based on this comment.

Comment No. 3-13

B. The DEIR Fails to Analyze and Mitigate Potentially Significant Impacts Resulting from Construction of Water Infrastructure Improvements

Appendix G of the CEQA Guidelines, Section XIX(a) provides that a significant impact would occur if the Project would “[r]equire or result in the relocation or construction of new or expanded water ... facilities, the construction or relocation of which would cause significant

environmental effects.”⁵¹ The DEIR found that the Project’s impacts in this regard would be less than significant.⁵²

The DEIR identifies significant water infrastructure improvements necessary to provide the requisite fire flow for the Project. The DEIR identifies two potentially applicable fire flow requirements for the Project—9,000 gallons per minute (gpm) and 12,000 gpm.⁵³ To meet the demand for the 9,000 gpm fire flow, the Project would require installation of 550 linear feet of 16-inch diameter pipe, 325 linear feet of 12-inch pipe, and two new fire hydrants.⁵⁴ The DEIR explains that the 16-inch pipe would extend in Beatrice Street from Westlawn Avenue to Grosvenor Boulevard, and the 12-inch pipe would be constructed in Beatrice Street from Jandy Place to Westlawn Avenue.⁵⁵ To meet the demand for the 12,000 gpm fire flow, the Project would require installation of 865 feet of 16-inch pipe, 600 feet of 12-inch pipe, and four new hydrants.⁵⁶

These infrastructure improvements are included as project design feature WAT-PDF-1. However, the DEIR failed to analyze the impacts associated with construction, installation, and operation of these water infrastructure improvements. The water infrastructure upgrades necessary for operation of the Project would require street excavation and subsequent repair to access water mains.⁵⁷ Excavation would likely require demolition, disruption, and removal of portions of the street along the length of the water main upgrade. Subsequently, upsized piping would be installed, along with new trench backfill, soil, compaction, and new street asphalt work. These construction activities may result in potentially significant environmental impacts in several areas, including for example traffic, noise, vibration, air quality, and health risk. But the DEIR fails to analyze impacts resulting from these Project construction-related activities. Courts have explained that an EIR must “address not only the immediate environmental consequences of going forward with the project, but also all “*reasonably foreseeable* consequence[s] of the initial project.”⁵⁸ The DEIR must be revised and recirculated to disclose and mitigate the impacts of the Project’s water infrastructure upgrades.

⁵¹ DEIR, pg. IV.M.1-15.

⁵² DEIR, pg. IV.M.1-19.

⁵³ DEIR, Appendix M, pg. 5.

⁵⁴ DEIR, Appendix M, pg. 6.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ DEIR, Appendix M, pg. 6.

⁵⁸ *Laurel Heights I*, 47 Cal. 3d 376, 398 (emphasis added); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449–50.

Response to Comment No. 3-13

As analyzed in Section IV.M.1, Utilities and Service Systems—Water Infrastructure, of the Draft EIR, construction impacts associated with the installation of water distribution lines would primarily involve trenching in order to place the lines below surface. The installation of new water infrastructure would involve off-site work associated with upgrading the public main as described in Project Design Feature WAT-PDF-1 and installing connections from the Project site to the upgraded public main and on-site work associated with installing water distribution lines. The environmental effects associated with the off-site trenching/improvements would be temporary and would be anticipated to be less than significant both due to the limited scope of the primarily trenching activities and the location of these activities within already developed area. Potential impacts associated with the specific environmental topics (noise, air quality) raised by the commenter during installation of the Project's water infrastructure improvements are addressed further in Response to Comment Nos. 3-14 through 3-16 below.

In addition, prior to ground disturbance, Project contractors would coordinate with LADWP to identify the locations and depth of all lines, LADWP would be notified in advance of proposed ground disturbance activities, to avoid water lines and disruption of water service, and LADWP would review and approve all appropriate connection requirements, pipe depths, and connection location(s). Lastly, while trenching and installation activities could temporarily affect traffic flow and access on the adjacent streets and sidewalks, a Construction Traffic Management Plan (Project Design Feature TR-PDF-1 included in Section IV.K, Transportation, of the Draft EIR) would be implemented, which would ensure the safe and efficient flow of vehicular and pedestrian traffic, and that emergency access to the Project site and adjacent properties would be maintained during the construction period.

Overall, as demonstrated in this response as well as in Response to Comment Nos. 3-14 through 3-16 below, impacts associated with the potential water infrastructure improvements were analyzed in the Draft EIR. The Final EIR did not include any new significant impacts, any substantially more severe impacts, or include any significant new information that would trigger recirculation under CEQA Guidelines 15088.5.

Comment No. 3-14

The DEIR provides that a significant transportation impact would occur if the Project would result in inadequate emergency access.⁵⁹ Construction activities associated with the Project's water infrastructure improvements could impact the provision of emergency services due to lane closures on Beatrice Street, Westlawn Avenue, Grosvenor Boulevard, and Jandy Place by resulting in lane or sidewalk closures on these streets.⁶⁰ There is no indication that the Project's water infrastructure improvements were included in the transportation impacts analysis. Thus, the geographic scope and duration of reasonably

expected construction activities are greater than analyzed in the EIR's transportation impacts analysis.

Thus, the DEIR fails as an informational document, and fails to support its conclusions with substantial evidence.

⁵⁹ DEIR, pg. IV.K-38.

⁶⁰ DEIR, Appendix M, pg. 6.

Response to Comment No. 3-14

As analyzed in Section IV.K, Transportation, page IV.K-38, of the Draft EIR, construction activities associated with the Project could potentially impact the provision of emergency services provided by the LAFD and the LAPD in the vicinity of the Project site as a result of movement of construction equipment, hauling of soil and delivery of materials, and utility line connections. However, these activities would be temporary during the overall construction period and would cease once specific operations are complete (e.g., once the hauling of soil is completed, the utility improvements are completed, etc.). In addition, as is standard construction industry practice, the Project contractor would ensure that travel lanes would continue to be maintained in each direction throughout the construction period. Appropriate construction traffic control measures (e.g., detour signage, delineators, etc.) would also be implemented, as necessary, to ensure emergency access to the Project site and traffic flow is maintained on adjacent rights-of-way. In addition, a Construction Traffic Management Plan would be prepared and implemented pursuant to Project Design Feature TR-PDF-1, which would ensure that emergency access would not be impeded. Specifically, the Project's Construction Traffic Management Plan would require review and approval from LADOT prior to the start of construction to ensure that adequate and safe access would remain available within and near the Project site during construction activities. Therefore, as concluded in the Draft EIR, impacts to emergency access during construction of the Project would be less than significant.

Comment No. 3-15

The DEIR provides that a significant construction noise impact would occur if construction activities lasting more than 10 days would result in a 5 dBA increase at a noise-sensitive use.⁶¹ The DEIR's analysis of this impact is not supported by substantial evidence because noise generated by construction of water infrastructure upgrades was not included in the analysis. Construction of water infrastructure may occur closer to sensitive receptors than the constructive activities analyzed in the DEIR. The evidence available in the record demonstrates that construction of water infrastructure upgrades may result in exceedances of the 5 dBA noise threshold. For example, the Federal Transit Administration's Transit Noise and Vibration Impact Assessment Manual provides that the typical noise level of a

jackhammer at a 50 foot distance is 88 dBA.⁶² This noise level is in excess of the daytime ambient noise levels at the receptors analyzed in the EIR, which are as low as 52 dBA during the day and 51.8 at night.⁶³ Thus, construction of water infrastructure improvements would contribute to the significant construction noise impact identified in the EIR. For the same reason, construction of water infrastructure improvements would exacerbate the Project's vibration impacts.⁶⁴ The DEIR must be revised to identify mitigation measures to reduce these impacts to the greatest extent possible.

⁶¹ DEIR, pg. IV.I-27.

⁶² Federal Transit Administration, Transit Noise and Vibration Impact Assessment Manual (September 2018), pg. 176, Table 7-1: Construction Equipment Noise Emission Levels, available at https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf.

⁶³ DEIR, pg. IV.I-24.

⁶⁴ DEIR, pg. IV.E-21.

Response to Comment No. 3-15

As detailed in Section IV.M.1, Utilities and Service Systems—Water Supply and Infrastructure, of the Draft EIR, the Project would include improvements adjacent to the Project Site primarily within Beatrice Street and Jandy Place, which would involve replacing the existing 8-inch diameter water mains in Beatrice Street and Jandy Place, and installing additional fire hydrants to increase fire flow in accordance with the requirements set forth by the Los Angeles Fire Department. Improvements required for specified fire flows are presented in Project Design Feature WAT-PDF-1. Like all construction projects of this size a certain amount of construction work would be required adjacent to and near the Project Site, and the potential impacts of these construction activities are analyzed and disclosed in the Draft EIR. Construction activities associated with the installation of the water infrastructure improvements would involve a limited number of equipment of the same type that would already be utilized for the overall Project construction onsite and therefore have already been included in the analysis in the Draft EIR. The use of such equipment would occur for a short duration as needed for the specific work requirements of the water infrastructure improvements. Construction equipment used for these off-site improvements would comply with Project Design Feature NOI-PDF-1, which requires that all construction equipment be fitted with state-of-the-art noise shielding and muffling devices. In addition, where feasible, electric construction equipment (e.g., electric concrete saw) or other noise reducing techniques would be used for the off-site improvements, as a best practice to minimize noise levels in the vicinity of sensitive receptors. This is incorporated as part of Project Design Feature NOI-PDF-1 as follows:

Project Design Feature NOI-PDF-1: Power construction equipment (including combustion engines), fixed or mobile, will be equipped with state-of-the-art noise shielding and muffling devices (consistent with manufacturers'

standards). All equipment will be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated. Where feasible, electric construction equipment and/or other noise-reducing best practices will be utilized/implemented near sensitive receptors.

As provided in Appendix FEIR-2 of this Final EIR, noise levels associated with the potential water infrastructure improvements would range from 62.7 dBA (L_{eq}) at the residential receptor location R3 (located along Westlawn Avenue) to 79.6 dBA (L_{eq}) at the residential receptor location R1 (located along Beatrice Street) should the City determine that infrastructure improvements are needed near these locations based on the requisite fire flow. These estimated noise levels would be below the estimated peak construction noise levels of 85.3 dBA (L_{eq}) and 62.8 dBA (L_{eq}) at receptor locations R1 and R3, respectively, that were evaluated in the Draft EIR. In addition, the estimated noise levels at the residential uses on the east side of Grosvenor Boulevard (receptor location R2) would be approximately 68.6 dBA (L_{eq}) should the City determine that infrastructure improvements are needed near this location based on the requisite fire flow.⁴ Noise levels associated with the potential water infrastructure improvements at these locations would be equal to or less than the estimated noise levels from the on-site construction activities that would already be occurring and were addressed in the Draft EIR and, similarly, construction-related noise levels during Project construction would continue to exceed the 5-dBA significance threshold. Therefore, temporary noise barriers would continue to be installed, as specified in Mitigation Measure NOI-MM-1 included in the Draft EIR, and would be extended along the areas of the potential water infrastructure improvements, as follows:

Mitigation Measure NOI-MM-1: Temporary and impermeable sound barriers shall be erected at the locations listed below. At plan check, building plans shall include documentation prepared by a noise consultant verifying compliance with this measure.

- Along the southern property line of the Project site between the construction areas and receptor locations R1 and R3. The temporary sound barrier shall be designed to provide a minimum 15-dBA noise reduction at the ground level of receptor locations R1 and 5-dBA at receptor location R3.
- Along the western property line of the Project site between the construction areas and the receptor location R5. The temporary

⁴ As provided in Section IV.I, Noise, of the Draft EIR, studios, sound stages, and recording studio uses are not defined as noise sensitive receptors by the L.A. CEQA Thresholds Guide. As such, the studios located in the vicinity of the Project site, including 740 Sound (represented by receptor location R4) and the Vista Studio, Venn Studios, Digital Domain and ATN Stages (together represented by receptor location R5) were included in the noise analysis for informational purposes only and not for determining a CEQA impact.

sound barrier shall be designed to provide a minimum 15-dBA noise reduction at the ground level of receptor location R5.

- During the off-site improvements construction—Provide a temporary moveable noise barrier between the construction equipment and the residences along the south side of Beatrice Street (receptor locations R1 and R3) and along the east side of Grosvenor Boulevard (receptor location R2), where feasible. The temporary noise barrier shall be designed to provide a minimum 10-dBA at the ground level of receptor location R1, 8-dBA at receptor location R2, and 5-dBA at receptor location R3.

As set forth in the Draft EIR, implementation of Mitigation Measure NOI-MM-1 would reduce the Project's construction noise levels to the extent feasible. Noise impacts associated with the water infrastructure improvements would be reduced to a less than significant level at receptor locations R2 and R3 (consistent with the Draft EIR conclusion that impacts at these receptor locations would be less than significant). However, consistent with the Draft EIR conclusions, construction-related noise levels would still exceed the significance thresholds at receptor location R1 with the implementation of Mitigation Measure NOI-MM-1 as temporary moveable noise barriers are typically limited to a 10-dBA noise reduction (unlike fixed barrier which can achieve a noise reduction of up to 15-dBA). However, it is noted that the estimated noise levels from construction of the potential water infrastructure improvements at receptor location R1 would be less than the maximum on-site construction noise levels evaluated in the Draft EIR (refer to Table IV.I-11 in Section IV.I, Noise, of the Draft EIR). Therefore, noise levels associated with the water infrastructure improvements would be less than or consistent with the anticipated noise levels provided in the Draft EIR, and the impact determination would remain that the Project's on-site and off-site construction-related noise impacts would be significant and unavoidable.

Comment No. 3-16

Finally, the DEIR underestimates air quality impacts because there is no indication that the Project's water infrastructure improvements were included in the Project's analysis of construction emissions. As a result, the DEIR's analysis of the Project's criteria air pollutants is not supported by substantial evidence. Further, this omission of a major source of air pollutants results in an underestimation of the Project's health risks. The construction of water infrastructure improvements may require construction equipment that generates DPM emissions.⁶⁵ Because the EIR failed to analyze the full scope of the Project's construction activities, the EIR's health risk analysis underestimates the likely health risk impacts and thus lacks the support of substantial evidence.

The DEIR must be revised and recirculated to accurately evaluate the Project's impacts and mitigate them to a less-than-significant level.

⁶⁵ California Air Resources Board, Diesel Exhaust & Health, <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=5%2C%20DPM%20also%20contributes%20to,decreased%20lung%20function%20in%20children.>

Response to Comment No. 3-16

As discussed above in Response to Comment No. 3-15, water infrastructure improvements adjacent to the Project site could potentially be required to serve the Project, as determined necessary by LADWP. If required, these improvements would occur adjacent to the Project Site primarily within Beatrice Street and Jandy Place, which would involve replacing the existing 8-inch diameter water mains in Beatrice Street and Jandy Place, and installing additional fire hydrants to increase fire flow in accordance with the requirements set forth by the Los Angeles Fire Department. As with all construction projects of this size, a certain amount of work adjacent to the Project Site is assumed, and the impacts of these activities are analyzed in the Draft EIR.

The Draft EIR evaluated construction air quality impacts during each stage of Project construction (e.g., demolition, site preparation, grading/excavation, foundation, building construction, and paving/landscape) based on peak-daily construction activities (e.g., equipment usage and truck trips). During the vast majority of construction days, Project construction would operate at a reduced intensity. Construction activities associated with the installation of the water Infrastructure improvements would involve a limited number of equipment of the same type as the equipment that would already be utilized for the overall Project construction onsite, but for a shorter duration as needed for the specific work requirements of the water infrastructure improvements. Thus, pollutant emissions associated with the water infrastructure improvements were represented in the construction peak daily emissions provided in Table IV.B-6 (Estimate of Maximum Regional Project Daily Construction Emissions) on page IV.B-62 of the Draft EIR.

The Draft EIR evaluated construction localized impacts consistent with SCAQMD Localized Significance Threshold (LST) methodology. The analysis conservatively used a 2-acre LST mass rate look-up table for the Project for a receptor distance of 25 meters (distance to residences south of the Project site, across Beatrice Street). As shown in Table IV.B-8 on page IV.B-64 of the Draft EIR, the Project would not exceed any SCAQMD localized thresholds. It is acknowledged that the closest residences could be closer to the construction work anticipated in Beatrice Street. However, based on SCAQMD LST methodology, projects with boundaries located closer than 25 meters to the nearest receptor (such as the off-site water infrastructure) should use the LSTs for receptors located at 25 meters (SCAQMD, Final Localized Significance Threshold Methodology, revised July 2008). As Table IV.B-8 of the Draft EIR presents the maximum daily construction impacts at the closest receptor (i.e., 25 meters and less), impacts associated with off-site water infrastructure improvements would be within the envelope of localized impacts disclosed in the Draft EIR.

Finally, the comment regarding the potential impacts of diesel emissions and health risk is addressed in Response to Comment No. 3-4. As discussed therein, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million for residences (Avalon Playa Vista Apartment Complex) located south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 3-17

C. The EIR Fails to Analyze and Mitigate Potentially Significant Hazards Impacts

The DEIR finds that hazards and hazardous materials impacts are less than significant, and does not identify any necessary project design features or mitigation measures to reduce impacts.⁶⁶ However, the DEIR's conclusion is unsupported because the City failed to analyze the extent of hazardous materials present at the Project site.

The DEIR's impacts analysis states the Project's Phase I ESA did not identify underground storage tanks, asbestos-containing materials ("ACM"), lead-based paint, polychlorinated biphenyls, and methane gas.⁶⁷ No sampling was conducted for these and other hazardous materials.⁶⁸ The Phase I ESA explains that the absence of substances like ACM cannot be ascertained without sampling and laboratory testing.⁶⁹ The DEIR states that due to the age of existing building on the Project site, it is possible ACM and lead-based paint could be present. The DEIR does not disclose whether any further analysis of the aforementioned contaminants (with the exception of methane gas) would be conducted before the Project's construction.⁷⁰ The DEIR states generally that any hazardous materials identified would be managed using tools such as a Soil Management Plan in accordance with applicable local, state, and federal regulations.⁷¹

The DEIR's approach violates CEQA in several ways. First, the DEIR fails to conduct the requisite analysis of many contaminants potentially present on the Project site. In *Cal. Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* ("*CBIA v. BAAQMD*")⁷², the California Supreme Court held that the disturbance of contaminated soil is a potentially significant impact which requires disclosure and analysis of health and safety impacts in an EIR.⁷³ The Court explained that, "when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users."⁷⁴ Here, the DEIR fails to require sampling and testing of substances such as ACM and lead-based paint, despite acknowledging that (1) they may be present onsite, and (2) testing is necessary to ascertain the absence of such hazardous substances. The DEIR's general statement that any onsite hazardous substances would be addressed in accordance with applicable regulations does not identify what, if any, testing will be conducted for this Project. The City's approach does

not allow for adequate disclosure of conditions that may be hazardous to construction workers working on the Project. The DEIR fails as an informational document.

A related issue is that the DEIR improperly defers analysis of hazards potentially present on the Project site by deferring Phase II sampling and mitigation until after Project approval. CEQA requires that an EIR disclose the severity of a project's impacts and the probability of their occurrence *before* a project can be approved.⁷⁵ The EIR violates these basic disclosure requirements by improperly deferring its analysis of potentially significant soil contamination to a future, post-approval investigation that allows preparation of a Soil Management Plan as part of the Project's post-approval mitigation plans.

Moreover, deferring formulation of mitigation measures to post-approval studies is generally impermissible.⁷⁶ Mitigation measures adopted after Project approval deny the public the opportunity to comment on the Project as modified to mitigate impacts.⁷⁷ If identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals must be made contingent upon meeting these performance criteria.⁷⁸ Courts have held that simply requiring a project applicant to obtain a future report and then comply with the report's recommendations is insufficient to meet the standard for properly deferred mitigation.⁷⁹

Here, the DEIR defers both analysis and mitigation to future reports prepared in accordance with applicable local, state, and federal regulations.⁸⁰ This deferral is improper because the DEIR fails to identify the specific future studies and mitigation which may or may not be required by applicable regulations. By failing to disclose what specific analysis and mitigation will be required for each potentially-present hazardous material, the DEIR improperly defers mitigation. The vague allusions to future analysis and mitigation also violate CEQA's requirement that mitigation measures must be incorporated into the design of the Project or "fully enforceable through permit conditions, agreements, or other legally binding instruments."⁸¹

In sum, the DEIR must be revised to disclose the Project's potentially significant hazards impacts and identify binding mitigation.

⁶⁶ DEIR, pg. I-9.

⁶⁷ DEIR, Section IV.G.

⁶⁸ DEIR, Phase I ESA, pg. 3.

⁶⁹ DEIR, Phase I ESA, pg. 25.

⁷⁰ DEIR, pg. IV.F-32, 33.

⁷¹ DEIR, pg. IV.F-17.

⁷² (2015) 62 Cal.4th 369

⁷³ 62 Cal.4th at 388-90; 14 CCR § 15126.2(a).

⁷⁴ *Id.* at 377.

⁷⁵ 14 CCR §§ 15143, 15162.2(a); *Cal. Build. Indust. Ass'n v. BAAQMD* (2015) 62 Cal.4th 369, 388-90 (“*CBIA v. BAAQMD*”) (disturbance of toxic soil contamination at project site is potentially significant impact requiring CEQA review and mitigation); *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal. App. 4th 48, 82; *Berkeley Jets* (2001) 91 Cal.App.4th 1344, 1370-71; CEQA Guidelines, Appendix G.

⁷⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309; Pub. Resources Code, § 21061.

⁷⁷ *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1393; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th at pg. 1604, fn. 5.

⁷⁸ *Id.*

⁷⁹ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309; Pub. Resources Code, § 21061.

⁸⁰ DEIR, pg. IV.F-17.

⁸¹ CEQA Guidelines, § 15126.4, subd. (a)(2).

Response to Comment No. 3-17

The appropriate level of due diligence was conducted to evaluate the potential for contaminants at the Project site. The Phase I Environmental Site Assessment prepared for the Project site, included in Appendix G to the Draft EIR, was conducted in conformance with the scope and limitations of ASTM Practice E 1527-13. The Phase I Environmental Site Assessment revealed no evidence of Recognized Environmental Conditions (RECs) or Controlled Recognized Environmental Conditions (CRECs) in connection with the Project site. Therefore, the Phase I Environmental Site Assessment recommended no further investigation, including via the preparation of a Phase II Environmental Site Assessment. As such, based on the findings of the Phase I Environmental Site Assessment, including that the Project Site is not listed on any hazardous materials or wastes databases, a Phase II Environmental Site Assessment was not required or recommended. Accordingly, no further investigation of the Project site is warranted or necessary to address project impacts.

With regard to ACMs, as provided in the Phase I Environmental Site Assessment, friable asbestos, that which can be easily broken or crushed by hand pressure, such as sprayed-on soft acoustical ceiling finishes or blown-on fireproofing, were banned from manufacture and sale in the United States in 1978, and all material stock remaining for sale are presumed to have been used by 1980. Non-friable asbestos, generally used in manufactured products that bind the asbestos in an adhesive material, such as roofing felts, floor tile, transite pipe and mastics, were never banned from use, as the USEPA does not require the removal of asbestos-containing materials that, under normal circumstances, do not create a fiber release causing human exposure. However, flooring materials and mastics that had contained asbestos were used less frequently after 1978. By 1984, the use of these types of materials was virtually non-existent due to more extensive labeling requirements, and the potential liability to manufacturers, contractors and developers. Based on the extensive remodeling and renovation work completed on the Project site in 1987, it is unlikely that materials and components currently in place contain ACM. Therefore, as concluded in

the Phase I Environmental Site Assessment, it is believed that the existing structures do not contain ACM. Notwithstanding, the Project would comply with SCAQMD Rule 1403, which specifies work practice requirements to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of ACM. Under SCAQMD Rule 1403, the requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, and storage, disposal, and landfilling requirements for asbestos-containing waste materials. Accordingly, in compliance with existing regulatory requirements, the Project Applicant would be required to conduct a comprehensive asbestos survey prior to demolition, subject to approval by the City of Los Angeles Department of Building and Safety (LADBS). In the event that ACMs are found within areas proposed for demolition, suspect materials would be removed by a certified asbestos abatement contractor in accordance with applicable regulations. Therefore, as concluded in the Draft EIR, with compliance with applicable regulations and requirements, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving ACMs. Therefore, impacts related to the potential discovery of ACMs during demolition would be less than significant, and no mitigation is required.

With regard to LBP, as discussed in the Phase I Environmental Site Assessment, in 1978, the Consumer Product Safety Commission banned the use of lead as an additive in paint. Based on the extensive remodeling and renovation work that was completed in 1987, and numerous repainting over time, it is not expected that LBP is contained within the Project site. However, in the event that LBP is found within areas proposed for demolition after using an EPA-recognized lead test kit, suspect materials would be removed in accordance with procedural requirements and regulations for the proper removal and disposal of LBP prior to demolition activities. Example procedural requirements include the use of respiratory protection devices while handling lead-containing materials, containment of lead or materials containing lead on the Project site or at locations where construction activities are performed, and certification of all consultants and contractors conducting activities involving LBP or lead hazards. Example removal activities may involve a heat gun to remove the paint before scraping it or wet sanding it, complete demolition and replacement, or encapsulation which involves coating the surface with a specially-made sealant. As the Project would involve removal of existing structures, the Project would demolish and remove all existing structures, thereby removing the potential for lead-based paint at the Project site. Therefore, as concluded in the Draft EIR, with compliance with applicable regulations and requirements, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving LBPs. Therefore, impacts related to the potential discovery of LBPs during demolition would be less than significant, and no mitigation is required.

With regard to PCBs, as provided in the Phase I Environmental Site Assessment, during the site reconnaissance, one pad-mounted, utility company transformer was observed. The transformer appeared to be in satisfactory condition, with no evidence of leaks. Based on utility ownership as well as no observed leaks, no potential PCB-containing equipment was observed on the Project site. Notwithstanding, in the event that PCBs are found within areas proposed for demolition after conducting sampling such as testing indoor air or suspected materials, suspect materials would be removed in accordance with all applicable federal, State, and local regulations regarding PCB remediation waste as directed by the local EPA office and the regional EPA PCB coordinator. No further mitigation measures other than compliance with applicable regulations is required.

Overall, based on available evidence, it is unlikely that ACMs, LBP, or PCBs are present on the Project site. However, if such materials are encountered, the handling, removal, and disposal of such materials would occur in compliance with existing regulations. Therefore, as concluded in the Draft EIR, with compliance with applicable regulations and requirements, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving ACMs, PCBs, or LBPs, and impacts related to the potential discovery of ACMs, PCBs, or LBPs during demolition would be less than significant, and no mitigation is required.

Comment No. 3-18

D. The Statement of Overriding Consideration Must Consider Whether the Project Provides Employment Opportunities for Highly Trained Workers

The DEIR concludes that the Project will have significant and unavoidable environmental impacts related to noise and vibration.⁸² Therefore, in order to approve the Project, CEQA requires the City to adopt a statement of overriding considerations, providing that the Project's overriding benefits outweigh its environmental harm.⁸³ An agency's determination that a project's benefits outweigh its significant, unavoidable impacts "lies at the core of the lead agency's discretionary responsibility under CEQA."⁸⁴

In adopting a statement of overriding considerations, the City must set forth the reasons for its action, pointing to supporting substantial evidence in the administrative record.⁸⁵ This requirement reflects the policy that public agencies must weigh a project's benefits against its unavoidable environmental impacts, and may find the adverse impacts acceptable only if the benefits outweigh the impacts.⁸⁶ Importantly, a statement of overriding considerations is legally inadequate if it fails to accurately characterize the relative harms and benefits of a project.⁸⁷

In this case, in order to approve the Project, the City must find that the Project's significant, unavoidable impacts are outweighed by the Project's benefits to the community. CEQA

specifically references employment opportunities for highly trained workers as a factor to be considered in making the determination of overriding benefits.⁸⁸ Currently, there is not substantial evidence in the record showing that the Project's significant, unavoidable impacts are outweighed by benefits to the community. For example, the Applicant has not made any commitments to employ graduates of state approved apprenticeship programs or taken other steps to ensure employment of highly trained and skilled craft workers on Project construction. Therefore, the City would not fulfill its obligations under CEQA if it adopted a statement of overriding considerations and approved the Project.

⁸² DEIR, VI-1-3.

⁸³ CEQA Guidelines, § 15043.

⁸⁴ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.

⁸⁵ Pub. Resources Code, § 21081, subd. (b); CEQA Guidelines, § 15093, subds. (a) and (b); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 357.

⁸⁶ Pub. Resources Code, § 21081(b); CEQA Guidelines, § 15093, subds. (a) and (b)

⁸⁷ *Woodward Park Homeowners Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.

⁸⁸ Pub. Resources Code, § 21081, subds. (a)(3) and (b).

Response to Comment No. 3-18

This comment does not raise issues with respect to the Draft EIR or the impact analyses therein. The City has complied with and will continue to comply with Public Resources Code Section 21081 and all related provisions in connection with this Project. In addition, there is no requirement to use union labor in order to adopt a statement of overriding considerations. This comment is nevertheless noted for the administrative record and will be forwarded to the decision-makers for review and consideration. No further response is necessary.

Comment No. 3-19

IV. CONCLUSION

For the reasons discussed above, the DEIR for the Project remains wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Response to Comment No. 3-19

The Draft EIR has been completed in full compliance with CEQA and the CEQA Guidelines and fulfills CEQA's informational purpose by disclosing all of the elements of the Project required by CEQA. The Draft EIR provides thorough and comprehensive analyses of all required CEQA impact areas based on appropriate methodologies and, where appropriate, supported by expert technical analyses as well as input from numerous other agencies. For each of the issue areas where significant impacts have been identified, mitigation measures have been proposed to reduce such impacts where feasible.

As demonstrated in this Final EIR, no new significant information that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new significant information or substantial evidence of any new significant environmental impacts from the Project or from a mitigation measure that was identified subsequent to circulation of the Draft EIR. In addition, upon review of all comments received and analyzed, there are no substantial increases in the severity of any of the significant environmental impacts identified in the Draft EIR. Nor is there a feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it. Rather, the Draft EIR is comprehensive and has been prepared in accordance with CEQA.

This closing comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 3-20**EXHIBIT A—Clark & Associates, February 18, 2024, letter**

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the March 2024 City of Los Angeles (the City) DEIR of the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

Project Description:

According to the DEIR, The Project proposes the demolition of an existing 23,072-square-foot office building and two accessory buildings, totaling 7,188 square feet, and the retention of an 87,881 square-foot office building. Additionally, the Project proposes the construction

of a new, eight-story office building with up to 196,100 square feet of office space, and 3,400 square feet of ground floor commercial space. The Project would total 199,500 square feet of floor area, for a Floor Area Ratio (FAR) of 1.46:1 and a maximum building height of 135 feet to the top of the parapet. Vehicle parking would be provided within a five-level parking structure (including three above-grade and two subterranean levels) and a surface parking lot.

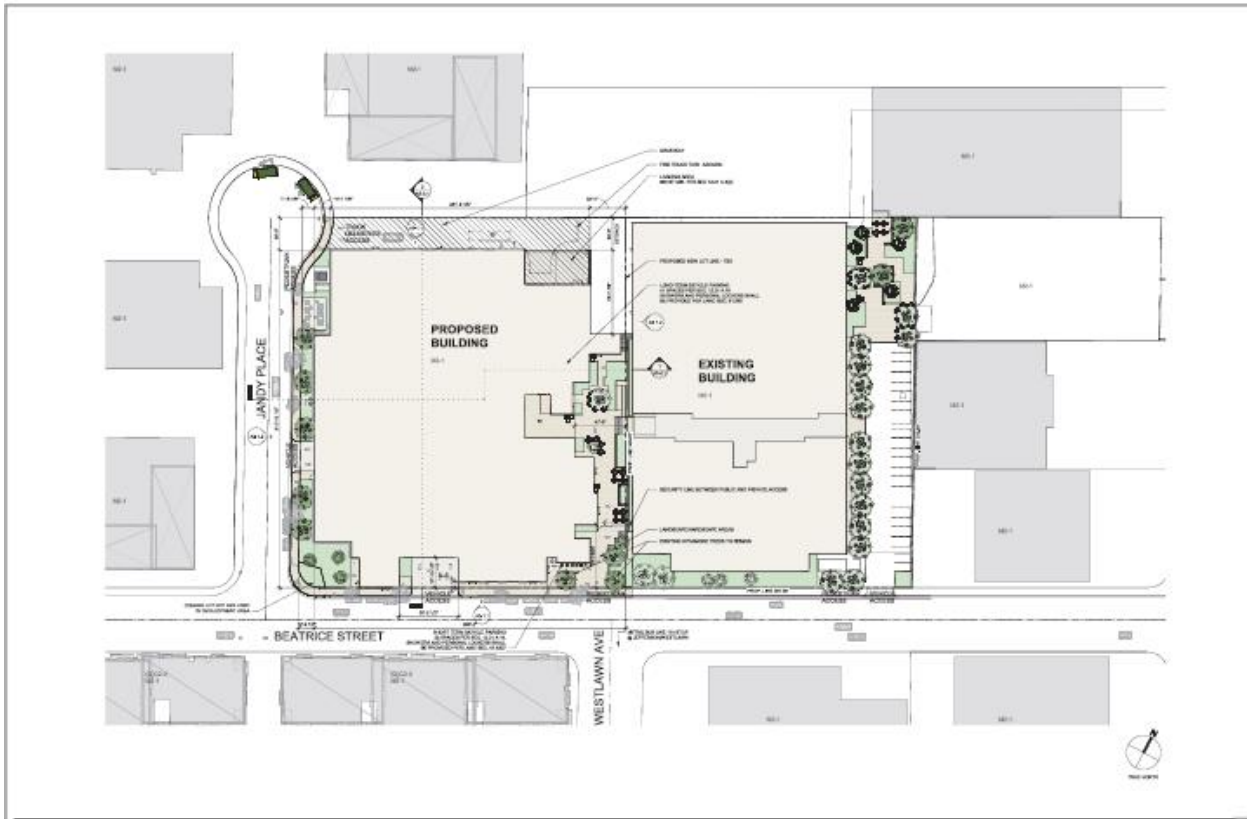


Figure II-4
Conceptual Site Plan

Figure 1: Conceptual Site Plan

The Project Site is currently occupied by a 23,072 square-foot office building and two accessory buildings of 5,044 square feet and 2,144 square feet at the 12575 West Beatrice Street address, and an 87,881 square-foot office building at 12541 West Beatrice Street. The existing 12575 West Beatrice structure will be demolished and the 12541 West Beatrice Street building will be retained.

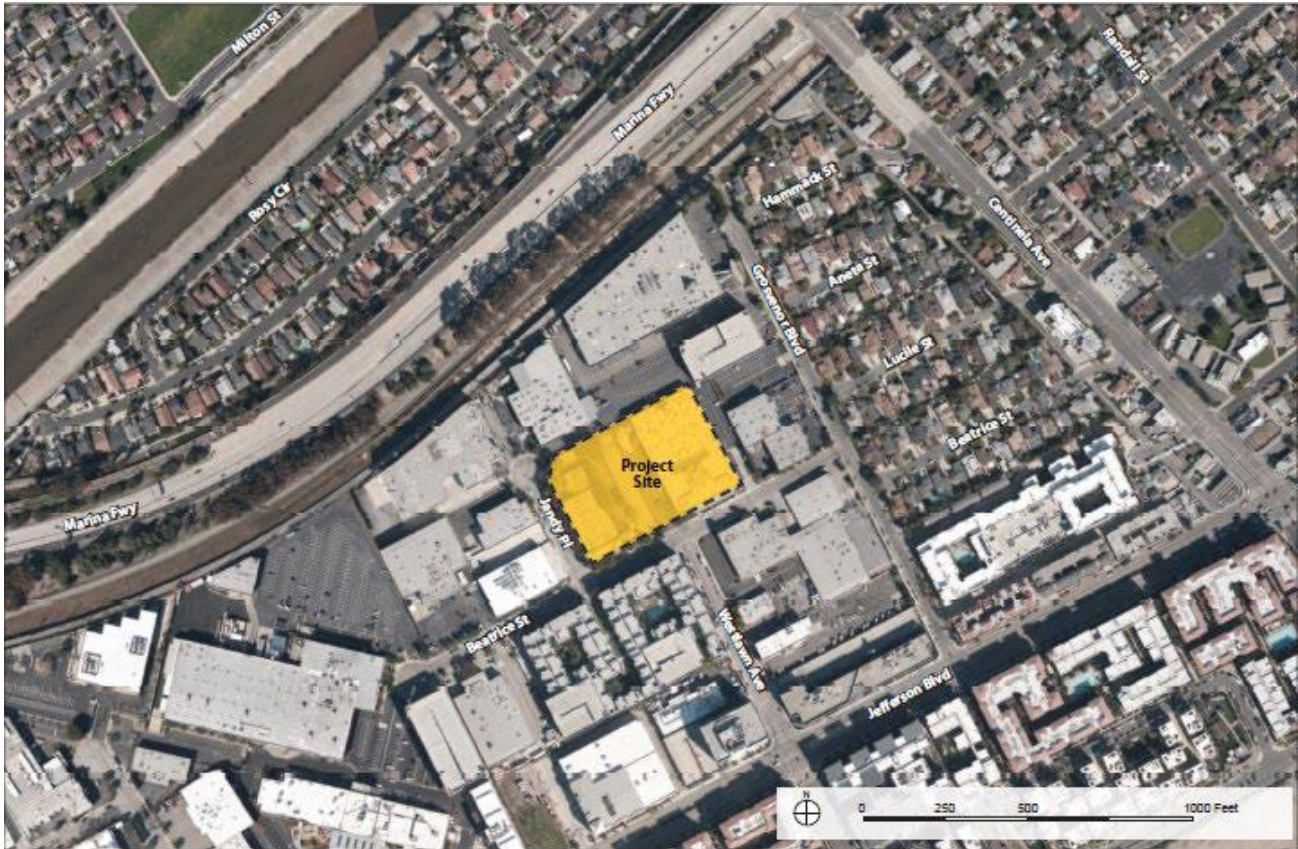


Figure II-2
Aerial Photograph of the Project Vicinity

Source: Apple Maps, 2020; Eyestone Environmental, 2020.

Figure 2: Project Site Location

The Project Site is located in a commercial office and industrial low- and medium-rise, mixed use neighborhood. The area surrounding the Project site includes office, light industrial, and manufacturing uses along with multi-family and single-family residences.

The Project is anticipated to be constructed over a period of approximately 18 months, with completion anticipated in 2025. Construction activities would include approximately 59,000 cubic yards of soil being exported from the Project Site.

Response to Comment No. 3-20

This introductory comment, which introduces comments provided by Clark and Associates and summarizes the Project and Project site location, is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 3-21**Specific Comments****1. The City's Air Quality Analysis Fails To Include A Quantitative Health Risk Analysis Of The Impacts Of Toxic Air Contaminants From The Construction Phase And Operational Phase Of The Project For The Nearest Sensitive Receptor(s)**

The City has failed to conduct a numerical health risk analysis (HRA) for Project. According to the DEIR¹, potential TAC impacts are evaluated by conducting a qualitative analysis consistent with CARB's Air Quality and Land Use Handbook: A Community Health Perspective (CARB's Handbook), which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities). This guidance is wholly inappropriate for determining the impact of emissions from the construction and operation of the Project Site on the sensitive receptors nearby. Rather this guidance is designed to assist in the siting of new sensitive land uses (e.g., residences, schools, daycare centers, playgrounds, or medical centers) near known emission sources. The proposed Project does not qualify as a sensitive land use.

The DEIR also claims that since the construction schedule is approximately 18 months, the Project would not result in long-term (i.e., 70-year) source of TAC emissions. In the City's analysis it claims that there is no need to evaluate long-term cancer impacts from a relatively short duration of exposure.² To support the idea that there is no substantial impact from TACs during the operation of the facility, the City assumes that given the limited number of delivery trucks expected at the Project Site that the Site would not be a substantial source of DPM. All of these assumptions are done without quantifying any of the potential emissions from the Project as required under CEQA. The determination of a significance threshold is based on a quantitative risk analysis that requires the City to perform a multistep, quantitative health risk analysis.

¹ City of Los Angeles. Draft Environmental Impact Report New Beatrice West Project. Dated January 2024. Pg IV.B-47-48.

² City of Los Angeles. Draft Environmental Impact Report New Beatrice West Project. Dated January 2024. Pg IV.B-66.

Response to Comment No. 3-21

As with Comment No. 3-9, this comment asserts that the Draft EIR failed to disclose and analyze the health risk posed by the Project's air emissions from construction and operations. The City as the Lead Agency has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a project's impacts including

potential impacts related to health risk. This comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of toxic air contaminants (TACs) is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR.

From a construction standpoint, health risks from toxic air contaminants (TACs) were comprehensively evaluated in Section IV.B, Air Quality, of the Draft EIR. As discussed on pages IV.A-65 to IV.A-66 of the Draft EIR, the greatest potential for TAC emissions during construction would be from diesel particulate emissions associated with heavy equipment operations. According to SCAQMD methodology, the health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. Given the short-term construction schedule of approximately 18 months (1.5 years), the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. Additionally, the SCAQMD CEQA Air Quality Handbook does not provide guidance requiring an HRA for short-term construction emissions. This comment does not provide guidance from the City or SCAQMD recommending a quantitative health risk assessment for short-term construction activities. Therefore, it was not necessary in the Draft EIR to evaluate long-term cancer impacts from construction activities, which occur over a relatively short duration. In addition, there would be no residual emissions or corresponding individual cancer risk after construction. This supporting information is consistent with *L.A. City CEQA Thresholds Guide* in making a case-by-case basis determination of significance. As such, the Draft EIR correctly concluded that Project-related TAC emission impacts during construction would be less than significant and consequently not result in a potential health risk impact.

From an operational health risk standpoint, CARB's Air Quality and Land Use Handbook: A Community Health Perspective (CARB's Handbook) can be used for both determining the impact of emissions of the Project Site on nearby sensitive receptors as well as siting of new sensitive land uses near known emission sources. SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plan and Local Planning (Guidance Document) provides the following information regarding the siting of new facilities on page 2-3.

The potential impacts of new facilities on sensitive sites will depend on a variety of factors including the amount and toxicity of pollutants emitted, the type of air pollution control equipment at the facility, design features of the facility, the distance from the source of emissions to the sensitive receptor, and local meteorology. All these factors should be carefully evaluated when siting a source of air pollution. Typically, the siting process followed by land use agencies to avoid the location of sensitive sites (e.g., residences, health clinics, etc.) near sources of air pollution does not involve the AQMD. The potential

for public health impacts remains unchanged when siting sensitive receptors near a pollution source or a pollution source near a sensitive receptor.

Page 1-6 of the SCAQMD's Guidance Document provides CARB recommended minimum separation distances between new sensitive land uses and eight categories of existing sources (Table 1-1 in CARB's Handbook) which include: (1) high-traffic freeways and roads; (2) distribution centers; (3) rail yards; (4) ports; (5) refineries; (6) chrome plating facilities; (7) perchloroethylene dry cleaners; and (8) large gasoline stations. The Project would not include any of these substantial TAC sources. As discussed on page IV.B-68 in Section IV.B, Air Quality, of the Draft EIR, the primary sources of potential TACs associated with Project operations include DPM from delivery trucks (e.g., truck traffic on local streets and idling on adjacent streets). The Project primarily includes office and retail uses, which would not be expected to generate a large number of heavy duty truck trips. The Project total truck deliveries including both diesel and non-diesel would be approximately eight daily truck deliveries (5 truck deliveries daily under existing condition and approximately 13 truck deliveries daily under buildout).

The commenter is incorrect in stating that CEQA requires a quantification of the potential emissions within a health risk assessment. Based on SCAQMD and CARB guidance, a quantitative analysis was not required for future cancer risk within the vicinity of the Project as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of DPM warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating TRUs as discussed on page IV.B-68 in Section IV.B, Air Quality, of the Draft EIR. It should be noted that emergency generators are not included in the SCAQMD and CARB guidance as they are not considered substantial sources of TAC emissions.

An HRA is not required by SCAQMD or the *L.A. CEQA Thresholds Guide*, and no guidance for HRAs for construction has been adopted by SCAQMD or the City. Based on the above information, the Draft EIR correctly concluded that an operational HRA was not warranted.

Nonetheless, a combined construction and operational HRA has been prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million

for residences (Avalon Playa Vista Apartment Complex) located south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 3-22

TACs, including diesel particulate matter (DPM)³, contribute to a host of respiratory impacts and may lead to the development of various cancers. Failing to quantify those impacts places the community at risk for unwanted adverse health impacts. *Even brief exposures to the TACs could lead to the development of adverse health impacts over the life of an individual.*

Diesel exhaust contains nearly 40 toxic substances, including TACs and may pose a serious public health risk for residents in the vicinity of the facility. TACs are airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. The current California list of TACs includes approximately 200 compounds, including particulate emissions from diesel-fueled engines.

Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.^{4,5,6} Fine DPM is deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death.⁷ Exposure to DPM increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.⁸ DPM is a TAC that is recognized by state and federal agencies as causing severe health risk because it contains toxic materials, unlike PM_{2.5} and PM₁₀.⁹

The inherent toxicity of the TACs requires the City to first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern. Following that analysis, then the City can make a determination of the relative significance of the emissions.

No effort is made in the DEIR to quantify the potential health impacts from DPM generated by construction activities or operational activities from the Project on these sensitive receptors. The City's failure to perform such an analysis is clearly a major flaw in the DEIR and may be placing the residents of the adjacent structures at risk from the construction and operational phases of the Project.

- ³ Because DPM is a TAC, it is a different air pollutant than criteria particulate matter (PM) emissions such as PM₁₀, PM_{2.5}, and fugitive dust. DPM exposure causes acute health effects that are different from the effects of exposure to PM alone.
- ⁴ California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998; see also California Air Resources Board, Overview: Diesel Exhaust & Health, <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=Diesel%20Particulate%20Matter%20and%20Health&text=In%201998%2C%20CARB%20identified%20DPM,and%20other%20adverse%20health%20effects>.
- ⁵ U.S. EPA, Health Assessment Document for Diesel Engine Exhaust, Report EPA/600/8-90/057F, May 2002.
- ⁶ Environmental Defense Fund, Cleaner Diesel Handbook, Bring Cleaner Fuel and Diesel Retrofits into Your Neighborhood, April 2005; http://www.edf.org/documents/4941_cleanerdieselhandbook.pdf, accessed July 5, 2020.
- ⁷ California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.
- ⁸ Findings of the Scientific Review Panel on The Report on Diesel Exhaust as adopted at the Panel's April 22, 1998 Meeting.
- ⁹ Health & Safety Code § 39655(a) (defining "toxic air contaminant" as air pollutants "which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health. A substance that is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412 (b)) is a toxic air contaminant.")

Response to Comment No. 3-22

This comment purports to provide background information regarding the health effects from TACs and in particular diesel particulate matter (DPM). However, some of the information in this comment is incorrect.

For example, it may be correct that "*Even brief exposures to the TACs could lead to the development of adverse health impacts over the life of an individual*" for some TACs. However, this statement would only apply to TACs with an acute (i.e., 1-hour) short-term risk exposure reference level.⁵

DPM does not have an acute risk exposure reference level and to infer that it does is factually incorrect.⁶ This comment does not provide any references/documentation to support that brief exposure to DPM could lead to the development of adverse health impacts over the life of an individual. This comment also cites the California Air Resources Board, Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a

⁵ SCAQMD, *All American Asphalt—OEHHA Health-Based Exposure Levels*, www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt/air-sampling-initiative/oehha-exposure-levels#, accessed June 27, 2024.

⁶ OEHHA, *OEHHA Acute, 8-hour and Chronic Reference Exposure Level (REL) Summary*, <https://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary>, accessed June 27, 2024.

Toxic Air Contaminant, Staff Report, June 1998 regarding fine DPM and children. The referenced document does not discuss “fine DPM” nor what the differences would be between DPM and “fine DPM.” Instead, the referenced document states:

The Panel believes there is still more to be learned about the adverse health effect associated with exposure to diesel exhaust. The Panel is concerned that some technological advance may result in greater total particulate exposure, particularly of fine particles that penetrate deeper into the lungs, but some controls and fuels may reduce overall particulate level. The Panel encourages further research to quantify the amounts of specific compounds emitted from a variety of engine technologies, operating cycles, and fuel to characterize better any differences between old and new fuels and technologies.

This comment does not accurately characterize the source document. In addition, children are not mentioned in the source document as it relates to disease. Therefore, the Draft EIR appropriately analyzes the extent to which DPM may result in an environmental impact, and correctly concluded that Project-related TAC emission impacts during construction and operation would be less than significant and consequently not result in a potential health risk impact.

Comment No. 3-23

2. The DPM Emissions From The Construction Phase Of The Project Will Result In A Significant Risk To The Sensitive Receptors Nearest The Project Site.

Using the CalEEMOD [sic] analysis provided in Appendix C to the DEIR, I have prepared an HRA of the impacts from DPM emissions from construction activities. The closest sensitive receptors to the Project Site are located at 12598–12554 Beatrice Street (directly across from the Project Site). Using the cumulative emissions of DPM listed in Table 2.3 of the Beatrice Street—Construction Onsite Custom Report, dated 10/6/2023, it is evident that construction activities will generate (on the low end) between 0.87 lbs of DPM per day in 2024 and 0.84 lbs of DPM per day in 2025.



2025	1.07	1.32	1.40	< 0.005	0.05	0.13	0.18	0.05	0.01	0.06
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2.3. Construction Emissions by Year, Mitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Year	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T
Daily - Summer (Max)	—	—	—	—	—	—	—	—	—	—
2024	2.40	21.6	23.4	0.04	0.94	5.57	6.00	0.87	1.17	2.04
2025	31.2	23.6	25.6	0.04	0.91	2.60	3.51	0.84	0.26	1.10
Daily - Winter (Max)	—	—	—	—	—	—	—	—	—	—
2024	2.62	23.7	26.7	0.04	1.08	5.34	6.42	0.99	1.17	2.04
2025	2.22	19.6	20.9	0.04	0.77	1.86	2.62	0.70	0.19	0.89

Using the lowest value of 0.84 lbs per day; assuming an area of construction equal to 6,786 square meters (based on Google Earth) for the new construction; limiting the construction activities to 8-hours per day; an emission rate of 1.99×10^{-6} grams per second per meter squared is calculated.

Assuming that emissions will be limited to an eight-hour period during weekdays, it is possible to calculate an averaged emissions over the whole construction site. Using AERMOD, the US EPA’s preferred air dispersion model, it is possible to calculate the concentrations of DPM from the construction area at the closest receptors located at 12598–12554 Beatrice Street. AERMOD is an acronym for the American Meteorological Society/Environmental Protection Agency Regulatory Model Improvement Committee’s Dispersion Model. AERMOD contains the necessary algorithms to model air concentrations from a wide range of emission source types, including stack-based point sources, fugitive area sources, and volume sources. The modeling domain with the building around the Project site are indicated in the figure below. The green area is the source area of DPM from construction of the Project.

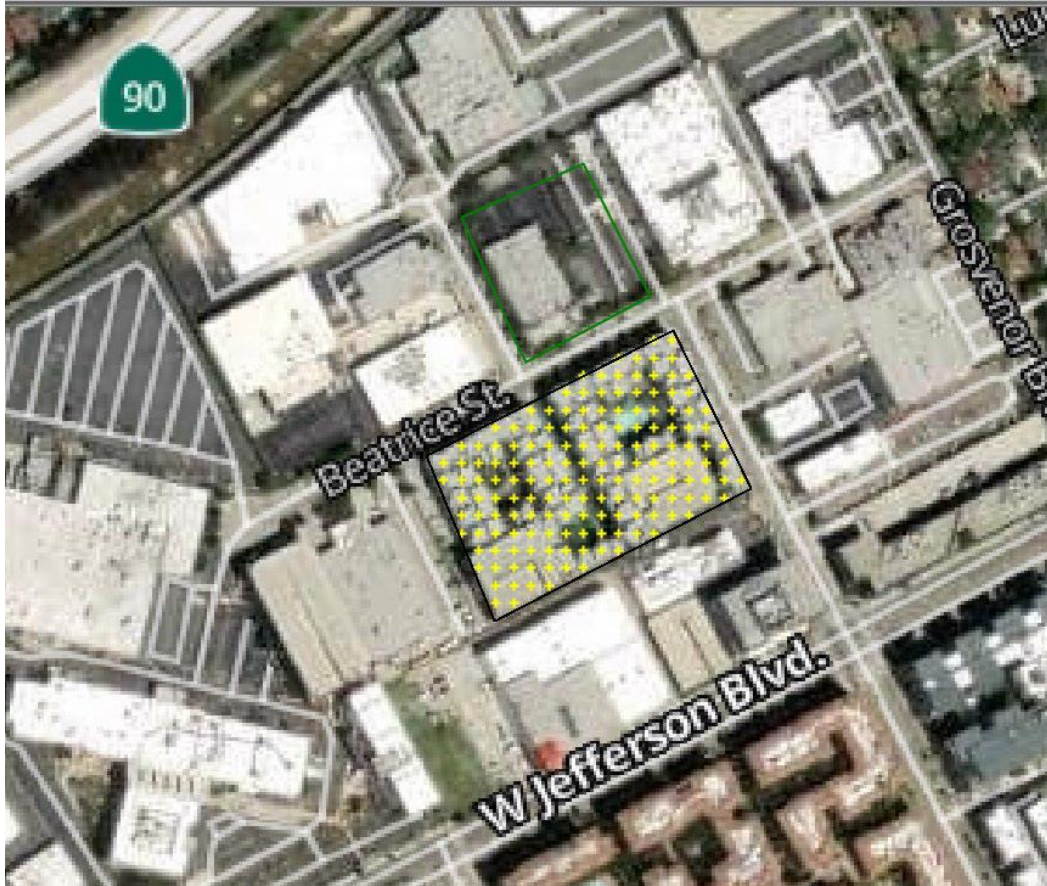


Figure 3: Model Domain

Using the meteorological data from SCAQMD for the Los Angeles International Airport monitoring station (closest met station to the Project site), limiting the emissions to an 8-hour period on weekdays, the concentrations at the 12598–12554 Beatrice Street buildings were calculated and are summarized below.

Table 1: DPM Concentrations Modeled For Construction Phase

Receptor	X	Y	ug/m ³
Maximum 12598-12554 Beatrice Street	369288	3760929.5	1.13
Average 12598-12554 Beatrice Street	-	-	0.418
Minimum 12598-12554 Beatrice Street	-	-	0.187

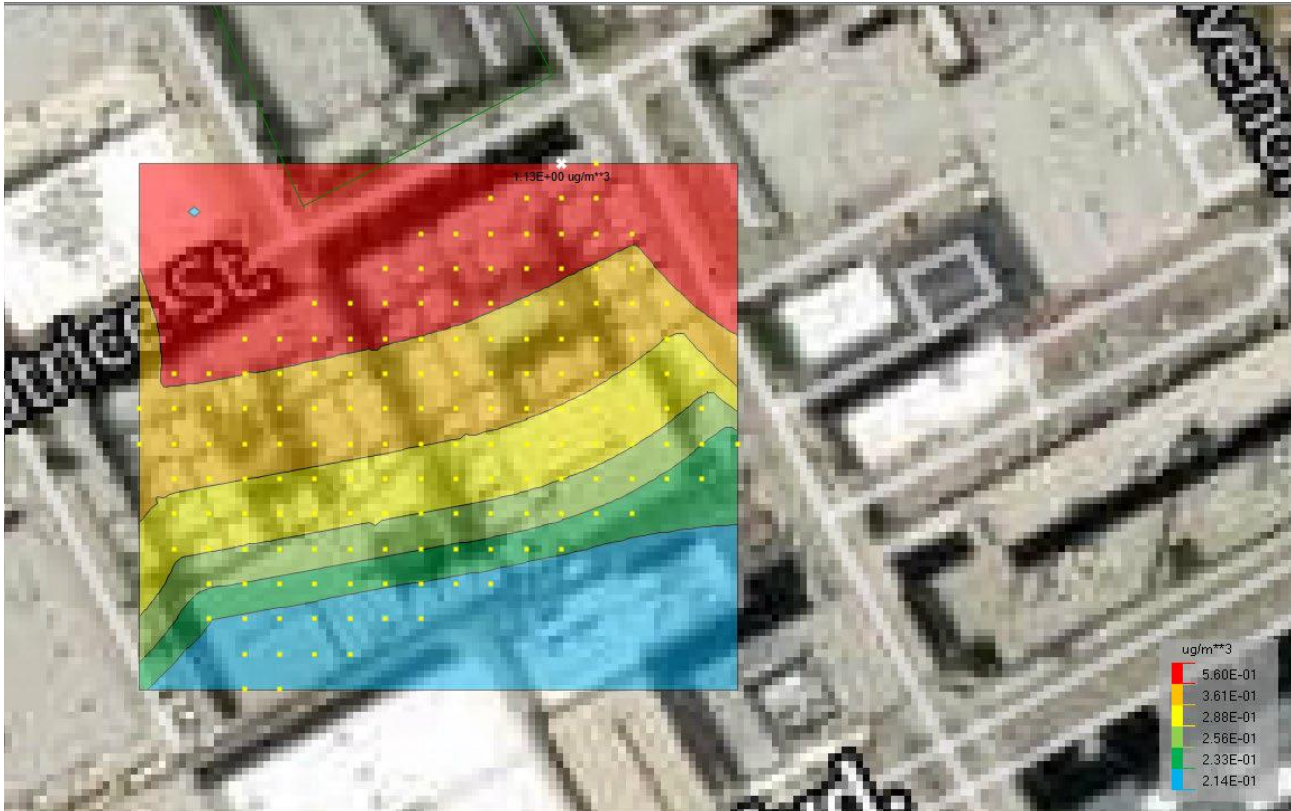


Figure 4: Model output showing DPM concentrations from 2024 through 2025

Using the OEHHA's Toxic Hot Spot Emissions Guidance, the cancer risk to the most sensitive population, infants less than 3 years old was calculated. The maximum cumulative risk for exposure of infants at the 12598–12554 Beatrice Street buildings during the 1.5 years of construction is 210 in 1,000,000, much greater than the 10 in 1,000,000 threshold outlined by SCAQMD, resulting in a significant impact.

Using the average values of the DPM modeled results in an average risk for exposure of infants at the 12598–12554 Beatrice Street buildings during the 1.5 years of construction is 77.8 in 1,000,000, much greater than the 10 in 1,000,000 threshold outlined by SCAQMD, resulting in a significant impact. The results of the air model and the health risk analysis are attached as an appendix to this letter.

The City must quantify and disclose these significant impacts in a revised DEIR, and incorporate additional mitigation to reduce health risk to less than significant levels.

Response to Comment No. 3-23

As discussed above in Response to Comment No. 3-9, a detailed health risk assessment was not warranted or required. The City, as the Lead Agency, has the discretion to select the appropriate thresholds of significance and methodologies for evaluating a

project's impacts including potential impacts related to health risk, based upon the analysis conducted by expert consultants. Therefore, it was not necessary in the Draft EIR to evaluate long-term cancer impacts from construction activities, which occur over a relatively short duration. In addition, there would be no residual emissions or corresponding individual cancer risk after construction. This supporting information is consistent with *L.A. City CEQA Thresholds Guide* in making a case-by-case basis determination of significance.

Additionally, this comment does not provide substantial evidence to demonstrate that a quantified HRA related to any potential on-site sources of toxic air contaminants (TACs) is required under CEQA or that the City abused its discretion in not requiring one in the Draft EIR. Nonetheless, a combined construction and operational HRA has been prepared pursuant to the California Air Pollution Control Officers Association (CAPCOA) Guidance Document for Health Risk Assessments for Proposed Land Use Projects in response to this comment letter to confirm, as the Draft EIR concludes, that no significant health risk impacts would occur from the Project. The HRA is provided as Appendix FEIR-2 of this Final EIR and includes the necessary steps to conduct a detailed HRA. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million for residences (Avalon Playa Vista Apartment Complex) located south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

This comment also summarizes the findings of an HRA prepared by Clark. The Clark analysis and related technical appendices were carefully reviewed for purposes of considering the potential of the Project to result in health risk impacts. Based on this evaluation, multiple methodological flaws in the calculations and AERMOD modeling were identified that substantially undermine the accuracy of the Clark results. The most important of these issues are detailed here.

First, this comment cites the CalEEMod Output file (Table 2.3 of the Beatrice—Construction Onsite Custom Report) provided in Appendix C of the Draft EIR and implies that the lowest value of DPM emissions from construction activities was used in the HRA. This is not correct. As shown in this comment, Clark selected the 2025 Daily-Summer (Maximum) emissions. Five rows down in the referenced table shows the 2024 average daily emissions (average of peak daily for each phase of construction) of 0.52 pounds per day and 2025 average daily emissions of 0.26 pounds per day. Clark provides no support for use of peak daily emissions to evaluate health risk impacts from DPM especially given that health risk impacts are calculated based on total DPM emission over the entire duration of construction. This incorrect assumption results in peak daily activity (e.g., grading activities) occurring every day during construction.

Second, Clark compounds the error of using max daily emissions instead of average daily emissions by then calculating an emission rate (grams per second per meter squared) based on an area measurement from Google Earth. While use of Google Earth would be acceptable to calculate the construction area, the same area would then have to be input into the AERMOD modeling. Instead, a larger area was input into the modeling which overestimates the total emissions modeled. Furthermore, the construction area modeled by Clark did not account for the entire construction site and resulted in the emissions compressed into a smaller area closer to the sensitive receptors which erroneously increased impacts.

Next, the AERMOD modeling performed by Clark also did not follow SCAQMD's LST Guidelines. Clark used a single rectangular source to evaluate the release of diesel exhaust from proposed construction activities. However, a volume source (in this case linear volume sources) is the type of source recommended by the SCAQMD for modeling construction equipment and diesel truck exhaust emissions. Furthermore, Clark selected rural instead of urban (incorporates the effects of increased surface heating from an urban area under stable atmospheric conditions) in AERMOD which is not consistent with SCAQMD LST Guidelines and results in overestimated DPM concentrations. While Clark correctly assumed that the emissions would be limited to an eight-hour period during weekdays, the emissions were then input into the model as a 24-hour source (essentially multiplying the max daily emissions times three). Even worse, meteorological conditions during the night often result in stable atmospheric conditions which compounds this error when assuming rural conditions. If the Clark analysis accounted for the guidance and data discussed above, then the results would have been substantially less.

Accordingly, potential health risk impacts from the Project to nearby sensitive uses (e.g., nearby residences) as the result of proposed construction activities are more accurately identified by the AERMOD evaluation included in the HRA prepared in response to these comments. As demonstrated by the analysis therein, the Project would not result in a significant health risk impact during combined construction and operation. As discussed on Page 1 of Appendix FEIR-2, the HRA demonstrates that health risks from the Project (combined construction and operation) would be a maximum of 1.5 in one million for residences (Avalon Playa Vista Apartment Complex) located south of the Project Site (for combined construction and operational emissions), which is below the applicable SCAQMD significance threshold of 10 in one million.

Comment No. 3-24**Conclusion**

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. An environmental impact report should be prepared to address these substantial concerns.

Response to Comment No. 3-24

As demonstrated in Responses to Comments Nos. 3-20 through 3-24, no changes to the significance conclusions would occur based on the Clark comment letter. As no new significant and unavoidable impacts were identified, there is no need to recirculate the Draft EIR.

Comment No. 3-25

Attachment—James J.J. Clark Curriculum Vitae (18 pages)

Response to Comment No. 3-25

This attachment is the curriculum vitae for the preparer of Exhibit A. This comment is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 3-26

Attachment—Worksheets (25 pages)

Response to Comment No. 3-26

As discussed above in Responses to Comments Nos. 3-20 through 3-24, the modeling output file provided by Clark contains numerous errors (e.g., incorrect emission rate that does not account for average daily emissions, incorrect source type, and modeled construction activity occurring 24 hours per day instead of 8 hours per day). Health risk calculations provided by Clark are erroneous and should not be considered further.

Comment Letter No. 4

Richard Drury
Lozeau Drury obo SAFER
1939 Harrison St., Ste. 150
Oakland, CA 94612-3507

Comment No. 4-1

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Draft Environmental Impact Report (“DEIR”) prepared for the New Beatrice West Project (SCH #2020120119, ENV-2020-3533-EIR), which proposes the construction of a new, eight-story office building with up to 196,100 square feet of office space, and 3,400 square feet of ground floor commercial space, and a five-level parking structure located at 12531–125553 West Beatrice Street, 12565–12575 West Beatrice Street, and 5410–5454 South Jandy Place in the City of Los Angeles. (“Project”).

SAFER is concerned that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Planning Department address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approvals for the Project.

SAFER reserves the right to supplement these comments during the administrative process. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Response to Comment No. 4-1

The Draft EIR has been completed in full compliance with CEQA and the CEQA Guidelines and fulfills CEQA’s informational purpose by disclosing all of the elements of the Project required by CEQA. The Draft EIR provides thorough and comprehensive analyses of all required CEQA impact areas based on appropriate methodologies and, where appropriate, supported by expert technical analyses as well as input from numerous other agencies. For each of the issue areas where significant impacts have been identified, mitigation measures have been proposed to reduce such impacts where feasible. A summary list of the Project Design Features and Mitigation Measures to be incorporated as part of the Project can be found in Section IV, Mitigation Monitoring Program, of this Final EIR.

As demonstrated in this Final EIR, no new significant information that would require recirculation of the Draft EIR has been identified. Specifically, upon review of all of the comments received and analyzed, there are no new significant information or substantial

evidence of any new significant environmental impacts from the Project or from a mitigation measure that was identified subsequent to circulation of the Draft EIR. In addition, upon review of all comments received and analyzed, there are no substantial increases in the severity of any of the significant environmental impacts identified in the Draft EIR. Rather, the Draft EIR is comprehensive and has been prepared in accordance with CEQA.

The commenter does not submit any additional detail, justification, or evidence to support the claims of deficiencies in the Draft EIR; therefore, the Draft EIR appropriately analyzes the Project's environmental impacts. This comment is nevertheless noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment Letter No. 5

Carole & Paul Suzuki
12462 Beatrice St.
Los Angeles, CA 90066-6904
(And other neighbors identified below)

Comment No. 5-1

Thank you for the outreach to our neighborhood relating to the New Beatrice West Project, which is just up the street from our homes. The draft EIR indicates that the ultimate project will include 811 new parking spaces and approximately 3000 additional daily vehicle trips in the area of the project.

Response to Comment No. 5-1

This introductory comment summarizing components of the Project is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

As provided in Section II, Project Description, of the Draft EIR, the Project would include 811 new parking spaces. As provided in the Transportation Assessment included in Appendix K of the Draft EIR, the Project would result in 2,537 total daily vehicle trips (after mitigation).

Comment No. 5-2

Several neighbors (identified below) in the unincorporated County neighborhood approximately 1/2 block to the east of the project location are joining with me in requesting that the intersection of Grosvenor and Beatrice be controlled with a three way stop sign, similarly to the intersection of Beatrice and Westlawn, also near the project location. At this time, there is no stop sign for cars traveling in the north/south direction on Grosvenor. This is a current concern for our neighborhood given existing traffic; and with additional traffic resulting from this project, the problem will only worsen.

Response to Comment No. 5-2

The comment includes a request for a three-way stop control at the intersection of Grosvenor Boulevard and Beatrice Street due to existing conditions asserted in the comment such as the speed of vehicle traffic on Grosvenor Boulevard. There is no evidence that the Project would have any additional impacts necessitating this improvement and all potential transportation-related impacts under CEQA have been fully mitigated. However,

implementation of the Project would not preclude the City's Department of Transportation and/or the County Department of Public Works from installing a three-way stop control in the future should the relevant agency determine that a change in traffic control at the Grosvenor Boulevard/Beatrice Street intersection is warranted. The recommendation in the comment for installation of a three-way stop control at the Grosvenor Boulevard/Beatrice Street intersection is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 5-3

Our neighborhood has no sidewalks; and there is no sidewalk on the east side of Grosvenor. If we walk around the block, then we have to either cross Grosvenor to the sidewalk on the west side of the street, or we walk in Grosvenor—in the street. People from all over the neighborhood walk along, and in, Grosvenor. This includes kids on bicycles; people walking dogs and people just walking for better health.

Response to Comment No. 5-3

This comment is not entirely accurate. The comment refers to the existing lack of a sidewalk along a segment of the east side of Grosvenor Boulevard in the vicinity of its intersection with Beatrice Street. A sidewalk currently exists on the east side of Grosvenor Boulevard beginning at Jefferson Boulevard and extending approximately 380 feet northerly therefrom. From the terminus of the sidewalk on the east side of Grosvenor Boulevard to the terminus of the street (at Hammack Street, south of the SR-90 Freeway), there is no sidewalk along the east side of Grosvenor Boulevard although a sidewalk is provided on the west side of the roadway along the entire segment. A portion of the east side of Grosvenor Boulevard which lacks an improved sidewalk is located within unincorporated Los Angeles County, and not within the City of Los Angeles.

Page IV.K-17 of the Draft EIR notes that public sidewalks and pedestrian facilities are provided on streets in the vicinity of the Project Site, which would include the west side of Grosvenor Boulevard for its entire length between Jefferson Boulevard and its terminus south of the SR-90 freeway. Thus, Project-related pedestrians would be able to safely walk from the Project Site using the existing sidewalks, such as the sidewalk on the west side on Grosvenor Boulevard, to nearby destinations, including transit stops along Jefferson Boulevard.

The Project includes improvements to ensure circulation that is consistent with all local plans and policies, and the Project would not create or exacerbate any hazards. The Project is not required to complete the missing segments of sidewalk located off the Project site along the east side of Grosvenor Boulevard. The Project would not be in conflict with any City mobility program, plan, ordinance, or policy addressing the circulation system, including

transit, roadway, bicycle and pedestrian facilities nor would the Project increase hazards due to a geometric design feature or incompatible use, as evaluated in Section IV.K, Transportation, of the Draft EIR. Further, the Project would not preclude the future installation of pedestrian improvements along the east side of Grosvenor Boulevard. However, the recommendation in the comment for the sidewalk installation on Grosvenor Boulevard is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

Comment No. 5-4

We are concerned about the speed reached by typical traffic on Grosvenor. The EIR notes that the speed limit on Grosvenor is 25 miles per hour, however cars travel well in excess of that speed on a daily basis. A three way stop sign (and posting of a speed limit sign) would help to reduce the speed for vehicles traveling north/south on Grosvenor. These measures would lessen the hazard not only to pedestrians but also to cars turning onto Grosvenor from Beatrice.

We are therefore asking for a three way sign to be posted at the intersection of Grosvenor and Beatrice.

Response to Comment No. 5-4

Refer to Response to Comment No. 5-2.

Comment No. 5-5

We are also copying the offices of Supervisor Holly Mitchell as our neighborhood is within the unincorporated County and Grosvenor straddles both the City and the unincorporated County. Please advise if you need any further information from our neighborhood about this request. Thanks much for your attention to this concern.

Steve Berry
12446 Beatrice St.
Los Angeles, CA 90066-6904

Robert Ishida
12433 Aneta St.
Los Angeles, CA 90066-6901

Christina & Drew Morgan
12466 Beatrice St.
Los Angeles, CA 90066-6904

Theresa Kelly
12425 Beatrice St.
Los Angeles, CA 90066-6903

Sunhee Joo
12471 Beatrice St.
Los Angeles, CA 90066-6903

Mickey Shockley
12460 Lucile St.
Los Angeles, CA 90066-6922

Louis and Joyce Gottlieb
12445 Beatrice St.
Los Angeles, CA 90066-6903

Charlie Camacho
12474 Beatrice St.
Los Angeles, CA 90066-6904

Ryan and Rachael Churchill
12413 Beatrice St.
Los Angeles, CA 90066-6903

Teresa Walters
12467 Beatrice St.
Los Angeles, CA 90066-6903

Cary and Amanda Gries
12461 Beatrice St.
Los Angeles, CA 90066-6903

Response to Comment No. 5-5

This concluding comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.