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# RECIRCULATED SECTIONS OF DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SOUTHERN CALIFORNIA FLOWER MARKET PROJECT

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## I. INTRODUCTION

Two sections of the Draft Environmental Impact Report (DEIR) previously prepared by the City of Los Angeles (City) for the Southern California Flower Market Project (Project) have been revised to address two deficiencies determined by the Los Angeles Superior Court (Court) in a lawsuit entitled *AIDS Healthcare Foundation v. City of Los Angeles, et al.*, (Los Angeles Superior Court, Case No. 19STCP05445) (Lawsuit). Except for those two deficiencies, the Final EIR (EIR) previously certified by the City was upheld as to all other issues. [A copy of the Court's Order Granting Petition For Writ Of Mandate And Complaint For Injunctive Relief dated April 5, 2021 (April 2021 Court Order) is provided at Appendix 1 to this Partially Recirculated DEIR (PR-DEIR).] The two sections that have been revised provide further clarification regarding the implementation of one noise-related mitigation measures, as well as a more in-depth discussion and analysis of impacts associated with City's conclusion that the emission of greenhouse gases (GHG) is consistent with the goals and policies set forth in Senate Bill 32.

## II. BACKGROUND

### A. The Project's EIR

On November 12, 2019, the Los Angeles City Council (City Council) certified the EIR. At that time, the EIR consisted of the Draft EIR and Appendices (September 2018), Final EIR and Appendices (April 2019), Erratum No. 1 (July 26, 2019), Erratum No. 2 (August 7, 2019), and Erratum No. 3 (October 2019). Those elements of the EIR can be viewed at <https://planning.lacity.org/development-services/eir> or by contacting Erin Strelch at [Erin.Strelch@lacity.org](mailto:Erin.Strelch@lacity.org) to schedule an appointment to review those documents in person.

### B. The Project

The Project Site is located at 709-765 S. Wall Street (with additional addresses at 306-326 E. 7th Street and 750-752 S. Maple Avenue) within the Central City Community Plan (CCCP) area in the City. The Project Site's main address is 755 Wall Street, and the address of the Project Site's current parking structure is 742 Maple Avenue. The Project Site is located in the Los Angeles Flower District, which generally is focused along 8th Street. Major highways serving the Project area include the Santa Monica Freeway (I-10) (one mile to the south) and the Interstate Highway 110 (one mile to the west).

The Project Site is approximately 168,577 square feet (or approximately 3.87 acres). The Project Site consists of one city block, with the exception of three interior parcels and three parcels to the south. The Project Site was zoned M2-2D (light Industrial, Height District 2 with Development Limitation) and designated Light Manufacturing in the Central City Community Plan. The Project Site is also located within the Los Angeles State Enterprise Zone and the Greater Downtown Housing Incentive Area. The Project Site is also located within a Transit Priority Area, as defined by Public Resources Code Section 21099 and City of Los Angeles ZI No. 2452.

The Project Site is currently improved with two buildings (the north and south building). The Project will maintain and renovate the Project Site's north building, but will demolish the south building and construct a new building in its place. The Project would include a new mixed-use development consisting of wholesale trade, retail, restaurant, office, and residential uses. The Project would specifically include 323 residential units (including 10% of units set aside as affordable units for moderate income families), approximately 4,385 square feet of retail space, 64,363 square feet of office space, 63,785 square feet of wholesale space and storage, 13,420 square feet of restaurant space, and 21,295 square feet of event space. The existing north building would continue to operate as the Flower Market with offices on the second floor and an event space and terrace on the fourth floor. The new south building would include the new residential uses, as well as restaurants, a public paseo, retail uses, and additional wholesale flower space.

Clarifying information on the description of the Project was also provided at pages 2-3 of Erratum No. 3 (dated October 2019).

The trial court in the Lawsuit found no deficiencies in the description of the Project in the EIR. In connection with this Revised DEIR, the Project applicant is not proposing any changes to the Project.

### **C. Project Entitlements**

In connection with its certification of the EIR on November 12, 2019, the City Council approved the following entitlements and approvals for the Project: (i) General Plan Amendment from "Light Manufacturing" to "Community Commercial" to allow for the mixed-uses on the Project Site; (ii) Vesting Zone Change from M2-2D (manufacturing) to C2-2 Zone (commercial); (iii) Site Plan Review; (iv) Conditional Use Permit for on-site sales and consumption of alcoholic beverages; (v) Vesting Tentative Tract Map; and (vi) a Zone Variance related to the provision of on-site trees (collectively referred to as the "Project Entitlements"). The Trial Court in the Lawsuit found no deficiencies in the Project Entitlements but only found two deficiencies in the EIR supporting the Project Entitlements. In connection with its consideration of the Recirculated EIR Sections, the City Council, through its Planning, Land Use and Management Committee (PLUM), will hold a public hearing to consider reinstating the Project Entitlements.

#### **D. The Lawsuit**

On December 2019, the AIDS Healthcare Foundation (Plaintiff) filed the Lawsuit challenging the sufficiency of the EIR and the Project Entitlements under the California Environmental Quality Act (Cal. Public Resources Code Section 21000 et seq.) (CEQA) and other state and local laws. Except for the two deficiencies discussed herein, the trial court denied all other claims alleged by the Plaintiff in its Complaint.

The Trial Court held that the EIR was deficient under CEQA as to the following two items:

1. The conclusion stated in the EIR that the Project will be consistent with the goal of reducing greenhouse gases (“GHG”) by a certain amount by the year 2030 as set forth in a State law known as “SB 32” (codified at California Health and Safety Code sections 38566 et seq.) was not supported by substantial evidence. (April 2021 Court Order, pp. 6-9.)
2. A measure identified in the EIR to mitigate noise impacts attributable to the construction of the Project was insufficiently worded so as to be vague as to the nature of that mitigation measure (MM I-2). (April 2021 Court Order, pp. 19-21.)

### **III. NATURE AND SCOPE OF THIS PARTIALLY RECIRCULATED DEIR**

CEQA requires recirculation of an EIR only when “significant new information” is added to the EIR after public notice of the availability of the Draft EIR has occurred (refer to California Public Resources Code Section 21092.1 and CEQA Guidelines Section 15088.5). CEQA Guidelines Section 15088.5 defines “significant new information” as (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented; (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it; (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. CEQA Guidelines Section 15088.5 also provides that “[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR [...]”

The information added pursuant to the PR-DEIR, specifically to the Noise and GHG sections of the Draft EIR (Sections 4.F and 4.I), does not disclose a (1) new significant environmental impact that would result from the Project or from a new mitigation measure or (2) substantial increase in the severity of an environmental impact. Instead the information provided in this PR-DEIR clarifies and refines the EIR and provides additional information to the City’s decision-makers and the public. However, even though the information provided in the PR-DEIR Sections does not require recirculation of the sections in the original EIR relating to GHG impacts and construction noise

impacts, the City is publishing the Revised EIR Sections for public review and comment in order to provide full disclosure and receive additional public input.

#### **IV. ADDITIONAL GHG IMPACT ANALYSIS**

The following is a summary of the revisions to the GHG section in the EIR. For a complete discussion of the revisions and supplemental GHG analysis, please review the revised Section 4.F of the EIR that has been published concurrently with this Introduction Section.

The original EIR included a section that analyzed the impacts associated with the Project's emissions of GHGs. (Refer to Section 4.F of the Original Draft EIR.) In the Original Draft EIR, the City adopted a significance threshold for evaluating such impacts that was based on the Project's consistency with multiple laws, regulatory plans and policies adopted by state and local agencies to reduce GHG emissions. One of those laws is referred to as "Senate Bill 32" (SB 32) (codified at Cal. Health and Safety Code section 38566 et seq.). The EIR concluded that the Project is consistent with SB 32, but the Court in the Lawsuit ruled that there was insufficient evidence to support that conclusion. Accordingly, Section 4.F of the Draft EIR has been revised to provide additional evidence to support the conclusion that the Project is consistent with SB 32, including the technical report provided at Appendix F-1 to this PR-DEIR (referred to as the "Supplemental GHG Analysis").

##### **A. Project's GHG Emissions**

As explained in Section 4.F of the PR-DEIR, the Project's greenhouse gas emissions were calculated for construction and long-term operations. Both one-time emissions and indirect emissions are expected to occur each year after build-out of the Project. One-time emissions from construction and vegetation removal were amortized over a 30-year period in accordance with regulatory requirements.

The analysis in Section 4.F of the PR-DEIR and the Supplemental GHG Analysis compares the Project's GHG emissions resulting from Project commitments and regulatory changes to the emissions that would be generated by the Project in the absence of any GHG reduction measures. Specifically, the evaluation of the Project's GHG emissions includes two scenarios. One scenario is based upon a No Action Taken scenario (the "2020 NAT scenario"). The No Action Taken scenario is modeled on the "Business As Usual" (BAU) approach taken by California Air Resources Board (CARB) in its Scoping Plans adopted to implement plans and programs to reduce GHG emissions to the levels identified in the estate legislation referred to as AB 32<sup>1</sup> and SB 32<sup>2</sup>. Both AB 32 and SB 32 call for reduction of GHG emissions relative to a baseline year

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<sup>1</sup> AB 32 is provided at Cal. Health and Safety Code sections 35500 et seq.

<sup>2</sup> SB 32 is provided at Cal. Health and Safety Code sections 35800 et seq.

(1990). Therefore, CARB, as the regulatory agency primarily responsible for implementing a state-wide plan to achieve the goals in AB 32 and SB 32, had to establish a baseline for GHG emissions (referred to as business as usual in CARB's scoping plans). The Scoping Plan sets forth the BAU projection, which assumes no conservation or regulatory efforts to reduce GHG emissions beyond what was in place when the forecast was made. The 2020 NAT scenario in the revised GHG section of the Project's EIR uses the same approach. In addition, the 2020 NAT scenario conservatively does not consider site-specific conditions, Project design features, or prescribed mitigation measures.

The second scenario used in evaluating the Project's GHG related impacts (which is referred to "Project As Proposed") assumes the Project will implement measures required by the plans, policies and regulations adopted to reduce GHG emissions. This approach is consistent with the concepts used in the *Climate Change Scoping Plan* previously adopted by the California Air Resources Board (CARB) (a State agency) for the implementation of a State law known as "AB 32" (another law aimed at reducing GHG emissions throughout the State). This methodology is used to analyze a development project's consistency with applicable GHG reduction plans and policies and demonstrate the efficacy of the measures contained therein. The 2020 NAT scenario does not consider site-specific conditions, Project design features, or prescribed mitigation measures.

Table 4.F-5 in the original EIR summarized the Project's GHG emissions both under the 2020 NAT scenario and the "As Proposed Scenario". The calculation of those emissions was refined per the Supplemental GHG analysis to account for (1) the Project's "net" GHG emissions, which represent the difference between the Project's operational GHG emissions and the GHG emissions associated with existing development on the Project Site<sup>3</sup>; (2) additional regulatory programs developed since the adoption of SB 32; and (3) the nature of the Project being an urban in-fill, mixed use development project with close proximity to substantial public transit. (Refer to pp. 4.F-43 to 45 and Tables 4.F-5A and 5B in Section 4.F of the PR-DEIR.) Based on these analyses, the Project's net GHG emissions will be 40% to 64% lower than under the NAT Scenario.

### **B. Executive Order B-30-15, SB 32 and 2017 Scoping Plan**

As explained at pp. 4.F-48 to 49 and 4.F-52 to 53 of Section 4.F of the PR-DEIR, on April 29, 2015, Governor Brown issued Executive Order setting a statewide GHG reduction target of 40 percent below 1990 levels by 2030. SB 32, which codified Executive Order B-30-15, also calls for Statewide reductions in GHG 40 percent below 1990 levels by 2030. In November 2017, the CARB adopted its *Climate Change Scoping Plan* (2017 Scoping Plan) that addressed how long-

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<sup>3</sup> To arrive at net new emission figures, the existing emissions must be subtracted from the Project's GHG emissions because the GHG emission figures for the Project account for the entirety of the Project, including the redeveloped portion of the Flower Market.

term objectives could be met, including SB 32 targets in 2030. Specifically, the 2017 Scoping Plan states that the Plan “establishes a path that will get California to its 2030 target” and “identifies how the State can reach our 2030 climate target to reduce...GHG emissions by 40 percent from 1990 levels.” (2017 Plan at pp. 1).<sup>4</sup> Also, many of the emission reduction strategies recommended by CARB would serve to reduce the Project’s post-2020 emissions level to the extent applicable by law and help lay the foundation “...for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050,” as called for in CARB’s First Update to the AB 32 Scoping Plan.<sup>5,6</sup>

The 2017 Scoping Plan and the SB 32 objectives that drive it involve increasing renewable energy use, imposing tighter limits on the carbon content of gasoline and diesel fuel, putting more electric cars on the road, improving energy efficiency, and curbing emissions from key industries.

The Project is consistent with the State’s Executive Order S-3-05, which calls for strategies for the purpose of reducing GHG emissions. (Goals identified in this Executive Order were adopted in AB 32.) These strategies encourage the development of more efficient land-use patterns to match population increases, workforce, and socioeconomic needs for the full spectrum of the population. The Project includes elements of smart land use as it is a mixed-used development located in an urban infill area well-served by transportation infrastructure that includes robust public transit provided by Metro. Accordingly, the Project is consistent with Executive Order S-3-05.

Table 4.F-7A in Section 4.F of the of the PR-DEIR provides a detailed review of the Project’s consistency with a wide range of regulatory actions and programs aimed at reducing GHG emissions, consistent with the 2017 Scoping Plan and SB 32.

### **C. Conclusion**

Based on the analyses and evidence provided in Section 4.F of the of the PR-DEIR, including the Supplemental GHG Analysis in Appendix F-1, the Project is consistent with applicable State and local laws and regulations for the reduction of GHG emissions, including Executive Order B-30-

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<sup>4</sup> California Air Resources Board California’s 2017 Climate Change Scoping Plan, [https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf)

<sup>5</sup> CARB, *First Update*, p. 4, May 2014. See also id. at pp. 32–33 [recent studies show that achieving the 2050 goal will require that the “electricity sector will have to be essentially zero carbon; and that electricity or hydrogen will have to power much of the transportation sector, including almost all passenger vehicles.”] [https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2013\\_update/first\\_update\\_climate\\_change\\_scoping\\_plan.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf)

<sup>6</sup> CARB, *First Update*, Table 6: Summary of Recommended Actions by Sector, pp. 94-99, May 2014.

15, SB 32 and the 2017 Scoping Plan, and therefore the Project's GHG impacts will be less than significant.

## V. CONSTRUCTION NOISE MITIGATION

The following is a summary of the revisions to the noise section in the EIR. For a complete discussion of the revisions and supplemental construction noise analysis, please review the revised Section 4.I of the EIR that has been published concurrently with this Introduction Section.

The original Draft EIR identified six mitigation measures to reduce impacts attributable to the Project's construction noise and vibration measures. Those mitigation measures were incorporated into a Mitigation Monitoring and reporting Program (MMRP). In accordance with CEQA Guideline 15126.4(a)(2), the MMRP is enforced by the City through conditions of approval in the Project Entitlements.

In the Lawsuit, the Trial Court found a deficiency in only one of those construction noise and vibration mitigation measures, specifically Measure I-2. In the original Draft EIR and MMRP, Measure I-2 provided as follows:

“Temporary sound barriers capable of achieving a sound attenuation of at least 15 dBA shall be erected along all other Project's boundaries facing Santee Court Apartments. Temporary sound barriers capable of achieving a sound attenuation of at least 6 dBA shall be erected along all other Project construction boundaries.”

During the administrative proceedings leading up to the City Council's approval of the Project Entitlements in November 12, 2019, the City identified a type of construction noise barrier that would better ensure that construction noise is mitigated to a less-than significant level. That noise barrier can be moved around the Project Site in connection with heavy construction equipment during operation. Such a noise barrier further reduces construction noise, particularly to noise-sensitive receptors living in apartments at upper floors.

However, the Trial Court in the Lawsuit ruled that Measure I-2 was written in a manner that it was not clear whether movable sound barriers would be required. Accordingly, Measure I-2 has been revised to make it clear that (1) traditional sound barrier fencing will be erected along the perimeter of the Project Site and (2) movable sound barriers will also be used. Specifically, Measure I-2 has been revised to read as follows:

“Sound barriers rated to achieve a sound attenuation of at least 15 dBA with a minimum height of 24 feet shall be erected along the Project Site's boundaries that face sensitive receptors, namely the property lines that parallel Maple Avenue and E. 7th Street. Sound barriers capable of achieving a sound attenuation of at least 15 dBA and of the same minimum height of 24 feet shall also be erected along portions of the Project's property line that parallel Wall Street and delineate the North Parking Area. Sound barriers capable of achieving a sound attenuation of at least 6 dBA with a minimum height of 10 feet shall be erected along all other Project

construction boundaries or property lines. Additionally, movable sound barriers composed of materials rated to achieve a sound attenuation of at least 15 dBA with a minimum height of 24 feet shall be utilized to shield line of sight paths from operating heavy equipment<sup>7</sup> to surrounding sensitive receptors. The distance between the operating heavy equipment and the moveable sound barriers shall be determined based on achieving the performance standard of an increase in ambient noise levels of not more than 5 dBA  $L_{eq}$ . The project applicant or its contractor shall submit an implementation plan and an acoustical study detailing the specifications of the moveable sound barrier and the construction process for deploying the moveable sound barriers to achieve the standard of sound attenuation of 15 dBA to the City for review and approval prior to the issuance of any grading or excavation permit.”

In developing revised Measure I-2, a supplemental construction noise analysis was prepared, which is attached as Appendix I-3 to this PR-DEIR (“Supplemental Noise Analysis”). The Supplemental Noise Analysis reviews in detail the commercially available movable noise barriers and their efficacy in reducing construction noise to off-site receptors. Concluding that movable barriers are feasible, the Supplemental Noise Analysis discusses how those barriers can be used at the Project Site during construction activities and then evaluates the level of noise impacts to nearby noise-sensitive receptors when such barriers are used. (Refer to pp. 4.I-22 of Section 4.I of this PR-DEIR and Appendix I-3.)

In the original EIR (specifically Section 4.I of the Draft EIR and Erratum No. 3), the City concluded that through imposition of Mitigation Measures I-1 and I-2, construction noise impacts to noise-sensitive receptors would be mitigated to a less-than-significant level. In preparing the Supplemental Noise Analysis, a review of the uses in the vicinity of the Project site was undertaken. Based on that review, additional new noise-sensitive receptors were identified within the Project’s vicinity.

Table No. 4-I.4 and Figure 4-I.1 in Section 4.I of the PR-DEIR provide a description of all sensitive receptors as well as a map showing the locations of all noise-sensitive receptors. Table No. 4-I.4 also provides the distance of the receptors to the Project Site. No newly discovered sensitive receptor would be located closer to the Project than the studied receptors identified in the EIR previously certified by the City. All of the recently identified receptors are located along 7<sup>th</sup> Street and oriented similarly in relation to the Project Site. All Project-facing frontages of these recently identified receptors also directly front or face 7<sup>th</sup> Street, similar to the previously studied Jardin de la Infancia School receptor. All of the recently identified receptors are located at a similar or greater distance from the Project than the previously studied Jardin de la Infancia School and Textile Lofts receptors. Based on those facts, none of the recently identified receptors would experience Project-related noise impacts that exceed projected impacts to the receptors identified in the original EIR. (Refer to pp. 4-I.22-26 of Section 4.I of the PR-DEIR.) In addition, while some

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<sup>7</sup> “Heavy equipment” refers to bulldozers, backhoes, excavators, and other large construction vehicles.

of the new noise-sensitive receptors are multi-story in nature, the movable noise barriers will mitigate construction noise to a less-than-significant level for the same reasons why noise impacts to the Textile Lofts (a multi-story residential building that is the closest receptor to the Project Site) will be less than significant based on Mitigation Measures I-1 and I-2. (Refer to pp. 4-I.22-26 Section 4.I of the PR-DEIR.)

**Conclusion**

Based on the analyses and evidence provided in Section 4.I of this PR-DEIR, including the Supplemental Noise Analysis in Appendix I-3, the Project's construction noise impacts will be mitigated to a less than significant level.