



FINAL ENVIRONMENTAL IMPACT REPORT

Mirabel Transit Priority Project

Environmental Case: ENV-2019-3937-EIR
State Clearinghouse No.: 2023080791

Project Location: 5401 – 5425 Wilshire Boulevard, 664-670 Cochran Avenue, and 665 – 671 Cloverdale Avenue, Los Angeles, CA 90036

Community Plan Area: Wilshire

Council District: 5 – Katie Yaroslavky

Project Description: The Project involves the construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses. The Project would demolish 38,545 square feet of existing commercial buildings on-site, including the historic building located at 5401 Wilshire Boulevard, which is a designated contributor to the Miracle Mile Historic District. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. Parking would be provided in three above-ground and three subterranean levels. The Project would include a total floor area of 476,777 square feet on a 57,374 square foot lot (1.32 acres) for a FAR of 8.31:1.

PREPARED FOR:

The City of Los Angeles
Department of City Planning

PREPARED BY:

CAJA Environmental Services, LLC

APPLICANT:

Walter N. Marks, Inc.

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1. Introduction

1. Purpose

The City of Los Angeles (City), as the Lead Agency under the California Environmental Quality Act (CEQA), has prepared the Final Environmental Impact Report (Final EIR) for the proposed Mirabel Transit Priority Project (Project). This document, in conjunction with the Draft Environmental Impact Report (Draft EIR), comprises the Final EIR.

As described in Sections 15088, 15089, 15090 and 15132 of the State CEQA Guidelines, the Lead Agency must evaluate comments received on the Draft EIR and prepare written responses and consider the information contained in a Final EIR before approving a project. Pursuant to State CEQA Guidelines 15132, a Final EIR consists of: (a) the Draft EIR or a revision of the Draft; (b) comments and recommendations received on the Draft EIR either verbatim or in summary; (c) a list of persons, organizations, and public agencies commenting on the Draft EIR; (d) the responses of the Lead Agency to significant environmental points raised in the review and consultation process; and (e) any other information added by the Lead Agency.

2. Organization of the Final EIR

Pursuant to Section 15132 of the CEQA Guidelines, this document includes the following sections, which combined with the Draft EIR, constitutes the Final EIR for the Project:

Section 1. Introduction: This section provides an introduction to the Final EIR, describes the purpose of the Final EIR, presents the contents of the Final EIR, provides a summary of the Project, provides an overview of the CEQA process, and the list of persons and agencies that submitted comments on the Draft EIR.

Section 2. Responses to Comments: This section includes responses to each of the significant environmental points raised in the comments submitted.

Section 3. Revisions, Clarifications, and Corrections to the Draft EIR: This section provides corrections and additions to the Draft EIR, based on and in response to comments received.

Section 4. Mitigation Monitoring Program: This section includes all of the Mitigation Measures that have been identified to reduce or avoid the Project's environmental impacts. This section also notes the monitoring phase, the enforcement phase, and the applicable department or agency responsible for ensuring that each mitigation measure is implemented.

Appendices: The appendices to this document include copies of all the comments received on the Draft EIR and additional information cited to support the responses to comments.

3. Project Summary

The Project involves the construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses. The Project would demolish 38,545 square feet of existing commercial buildings on-site, including the historic building located at 5401 Wilshire Boulevard, which is a designated contributor to the Miracle Mile Historic District. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. Parking would be provided in three above-ground and three subterranean levels. The Project would include a total floor area of 476,777 square feet on a 57,374 square foot lot (1.32 acres) for a FAR of 8.31:1.

In order to implement the Project, the Project Applicant is requesting approval of the following discretionary actions from the City:

1. Pursuant to Los Angeles Municipal Code (LAMC) Section 12.22.A.25 and Government Code Section 65915, a Density Bonus for a Housing Development Project with 348 dwelling units, of which 11 percent of the base density, or 29 units, would be set aside for Very Low Income households, with the following on- and off-menu incentives:
 - Pursuant to LAMC Section 12.22.A.25(f)(8), an on-menu incentive to average the density, floor area, and open space, across contiguous parcels in the [Q]C4-2-CDO and [Q]C2-1-CDO zones.
 - Pursuant to LAMC Section 12.22.A.25 (g)(3), an off-menu incentive to permit a Floor Area Ratio (FAR) of up to 8.31:1 across the [Q]C4-2-CDO and [Q]C2-1-CDO zones, in lieu of the 6:1 FAR otherwise permitted in the C4-zoned portion of the Project Site, and the 1.5:1 FAR otherwise permitted in the C2-zoned portion of the Project Site.
2. Pursuant to LAMC Section 12.24 W.1, a Main Conditional Use Permit for the sale, dispensing, and consumption of a full-line of alcoholic beverages for on-site and off-site consumption at five establishments.
3. Pursuant to LAMC Section 13.08.E, a Community Design Overlay (CDO) Plan Approval for the partial demolition and rehabilitation of the existing improvements on the Project Site, the construction of a new mixed-use building, and a Sign Program allowing the installation of up to 2,121 square feet of signage within the boundary of the Miracle Mile CDO.
4. Pursuant to LAMC Section 16.05, Site Plan Review for a development project which creates, or results in an increase of, 50 or more dwelling units.

5. Pursuant to LAMC Section 17.03 and 17.15, a Vesting Tentative Tract Map for the merger and resubdivision of six ground lots into one ground lot and nine airspace lots.
6. Haul route for approximately 152,032 cubic yards of export.
7. Other discretionary and ministerial permits and approvals that may be deemed necessary, including, but not limited to, temporary street closure permits, grading permits, excavation permits, foundation permits, building permits, and sign permits.

4. Overview of the CEQA Public Review Process for the Draft EIR

In compliance with the State CEQA Guidelines, the City, as Lead Agency for the Project, has provided opportunities for the public to participate in the environmental review process. As described below, throughout the environmental review process, an effort was made to inform, contact, and solicit input from the public agencies and other interested parties on the Project.

(a) Initial Study/Notice of Preparation

At the onset of the environmental review process and pursuant to the provisions of 15082 of the State CEQA Guidelines, the City circulated a Notice of Preparation (NOP) on August 31, 2023, for a 30-day review period, ending on October 2, 2023. The purpose of the NOP was to give notification and formally convey that the City was preparing a Draft EIR for the Project, and to obtain comments regarding the scope and content of the environmental information to be included in the Draft EIR. The Initial Study and NOP are included as Appendix A-1 and Appendix A-2, respectively, to the Draft EIR. Public comments received during the NOP circulation period are provided in Appendix A-3 to the Draft EIR.

(b) Draft Environmental Impact Report

Following the circulation of the NOP, the City, serving as the Lead Agency, prepared technical studies and a Draft EIR to identify and evaluate the potential effects of the Project, indicate whether any significant effects could be mitigated or avoided, and analyze potentially feasible alternatives to the Project.

In accordance with the provisions of Sections 15085(a) and 15087(a)(1) of the State CEQA Guidelines, the City: (1) published a Notice of Completion and Availability (NOA) of the Draft EIR in the Los Angeles Times and posted the notice with the Los Angeles City Clerk, indicating that the Draft EIR was available for review at the City's Department of City Planning (221 N. Figueroa Street, Suite 1350, Los Angeles, CA 90012); (2) provided copies of the NOA and Draft EIR to the Central Library, the Fairfax Branch Library, and the Memorial Branch Library; (3) posted the NOA and Draft EIR on the Department of City Planning's website (<http://planning.lacity.org>); (4) prepared and transmitted a Notice of Completion (NOC) as well as an electronic copy of the Draft EIR to the State Clearinghouse, Governor's office of Planning and Research for distribution to State Agencies; (5) sent a NOA to all property owners and occupants within 500 feet of the Project

Site; and (6) sent a NOA to the last known names and addresses of all organizations and individuals who previously requested such notice in writing or attended public meetings about the Project. The Draft EIR was circulated for a 45-day public review and comment period, which commenced on August 22, 2024, and ended on October 7, 2024.

During the Draft EIR public review period, the City Planning Department received comment letters on the Draft EIR from agencies, organizations, and individuals through written correspondence and emails. Comments received during and after the public review period are presented and responded to in Section 2, Responses to Comments, of this Final EIR. The Draft EIR and this Final EIR will be submitted to the City decision makers for certification in connection with action on the Project.

5. Review and Certification of the Final EIR

Following the close of the Draft EIR public review and comment period, the City prepared a Final EIR, which includes responses to comments received on the Draft EIR, revisions to the Draft EIR, and a Mitigation Monitoring Program (MMP). Consistent with State law (Public Resources Code 21092.5), responses to agency comments will be provided to each commenting agency at least 10 days prior to the City certifying the Project EIR.

The Final EIR is available for public review at the following locations:

- Jason McCrea
City of Los Angeles, Department of City Planning
221 N. Figueroa Street, Room 1350
Los Angeles, California 90012
Email: Jason.McCrea@lacity.org
- Los Angeles Central Library
630 West Fifth Street, Los Angeles, CA 90071
- Fairfax Branch Library
161 South Gardner Street, Los Angeles, CA 90036
- Memorial Branch Library
4625 West Olympic Boulevard, Los Angeles, CA 90019

The Final EIR is also available online at <https://planning.lacity.org/development-services/eir>

6. List of Commenters on the Draft EIR

The City of Los Angeles received a total of 14 comment letters on the Draft EIR. Each comment letter has been assigned a corresponding number, and distinct comments within each comment letter are also numbered. Each comment letter has been divided into individual comments, which

are numbered “1-1”, “2-1”, “3-1”, etc., with the first number indicating the comment letter number and the second number indicating the individual comment number within that letter.

The agencies, organizations, and persons listed below provided written comments on the Draft EIR to the City of Los Angeles during the close of the formal public review period, which was from August 22, 2024 to October 7, 2024. Copies of the comments are included in Appendix A to this Final EIR.

(a) Public Agencies, Businesses, and Organizations

- California Department of Transportation
- Los Angeles County Metropolitan Transportation Authority
- City of Beverly Hills
- Wastewater Engineering Services Division, LA Sanitation and Environment
- Los Angeles Conservancy
- Art Deco Society of Los Angeles
- Friends of Historic Miracle Mile
- Coalition for Responsible Equitable Economic Development Los Angeles
- Western States Regional Council of Carpenters
- 660 Cochran, LLC

(b) Private Individuals

- Alana Nabors
- Gene Bramson
- Hana Kawano

2. Responses to Comments

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. Section 15088(a) of the CEQA Guidelines 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 noticed comment period and any extensions and may respond to late comments." In accordance with these requirements, this Section of this Final EIR provides responses to each of the written comments on the Draft EIR received during the public comment period.

Section 2, Responses to Comments, presents comments submitted during the public comment period for the Draft EIR from State, regional, and local government agencies, as well as from individuals and organizations. The City of Los Angeles received a total of 14 comment letters on the Draft EIR. Each comment letter has been assigned a corresponding number, and distinct comments within each comment letter are also numbered. Each comment letter has been divided into individual comments, which are numbered "1-1", "2-1", "3-1", etc., with the first number indicating the comment letter number and the second number indicating the individual comment number within that letter.

As required by the CEQA Guidelines, Section 15088(c), the focus of the responses to comments is on the "disposition of significant environmental issues raised." Therefore, detailed responses are not provided to comments that do not relate to environmental issues.

Note that there may be spelling and/or grammar errors in the Comment Letters. These are replicated here exactly as they were delivered to the City.

LETTER NO. 1: Caltrans

Anthony Higgins
Acting LDR/CEQA Branch Chief
Department of Transportation
District 7
100 S. Main Street, MS 16
Los Angeles, CA 90012

Comment No. 1-1

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced DEIR. The Project involves the construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses. The Project would remove approximately 38,545 square feet of existing commercial uses, including the existing commercial building at 5401 Wilshire Boulevard, which is a contributor to the Miracle Mile Historic District. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. Parking would be provided in three above-ground and three subterranean levels. The Project would include a total floor area of 476,777 square feet on an 57,374 square foot lot (1.32 acres). The City of Los Angeles is the Lead Agency under the California Environmental Quality Act (CEQA).

Caltrans acknowledges and supports infill development that helps California meet its climate, transportation, and livability goals. The Project would develop on an infill location with convenient access to public transit and opportunities for walking and biking, which would result in a reduction of vehicle trips, VMT, and GHG emissions. Specifically, the Project Site is located in a transit-rich neighborhood serviced by Metro and LADOT DASH lines. In addition, the Project Site's proximity to a variety of commercial uses and services would encourage residents and employees of the Project Site to walk, bike and take transit to nearby destinations.

Response to Comment No. 1-1

The comment provides introductory information and a summary of the Project description, which are acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration. The comment also notes Caltrans' belief that the Project's infill location would result in a reduction of vehicle trips, VMT, and GHG emissions, which is consistent with the analysis contained in the Draft EIR.

Comment No. 1-2

Caltrans is aware of challenges that the region faces in identifying viable solutions to alleviating congestion on State and Local facilities. With limited room to expand vehicular capacity, this development should incorporate multi-modal and complete streets transportation elements that will actively promote alternatives to car use and better manage existing parking assets. Prioritizing and allocating space to efficient modes of travel such as bicycling and public transit can allow streets to transport more people in a fixed amount of right-of-way.

Caltrans recommends the following to further improve the urban design and minimize reliance on personal cars and trucks:

Reduce the amount of vehicle parking. Research looking at the relationship between land-use, parking, and transportation indicates that the amount of car parking supplied can undermine a project's ability to encourage public transit and active modes of transportation. For any project to better promote public transit and reduce vehicle miles traveled, we recommend the implementation of Transportation Demand Management (TDM) strategies as an alternative to building excessive car parking.

While the project is located in an amenity rich area, the 478 parking spaces proposed unnecessarily induce demand for vehicle trips. Research shows rates of car ownership and vehicle miles traveled (VMT) are significantly lower for low-income households, and since this project proposes to set aside 29 units for very low-income households, there is additional justification to consider reducing the amount of car parking being built to promote affordability and achieve project goals.

Additionally, with the implementation of AB 2097 this project is not required to include car parking, but the proposed design suggests that the Lead Agency should seriously consider adopting parking maximums. This project's location is an excellent candidate for reduced car parking due to it being an infill location within a high-quality transit corridor.

Response to Comment No. 1-2

As discussed on pages 39 through 47 of the Initial Study (which is included as Appendix A-1 of the Draft EIR), the Project Site is located within the boundaries of a HQT, Transit Priority Area, and a Neighborhood Mobility Area, and along a Livable Corridor. Therefore, Project residents and employees would be able to walk and bike to work and to shop. In addition, as discussed on pages 39 and 40 of the Initial Study (included as Appendix A-1 of the Draft EIR), the Project Site's location near transit (bus and the future Metro D Line) would further reduce dependence on automobile travel. The Project would provide sidewalks that meet City requirements and would provide varying stepbacks along Wilshire Boulevard, between 10 and 21 feet, which would allow

for a wider sidewalk and amenities such as pedestrian benches and landscaped areas. Finally, the Project would include approximately 172 long-term bicycle parking stalls and 28 short-term bicycle parking stalls, which would encourage bicycling as a form of transportation. This type of transit-oriented mixed-use project helps reduce both dependence on automobile travel and mobile-source GHG emissions.

As discussed on pages 281 and 282 of the Initial Study (included as Appendix A-1 of the Draft EIR), the City's Mobility Plan 2035 established a "Complete Streets" planning framework. The Project would comply with the City's TDM Ordinance and would use passive marketing and promotional tools such as information kiosks, posters, website, and/or similar displays containing route maps and schedules for all public transit and other transportation alternatives serving the Project area. Therefore, the Project would not conflict with implementation of Complete Streets policies.

The Draft EIR (page II-9) acknowledges that pursuant to AB 2097, the City cannot impose a minimum parking requirement on the Project, and that the Project proposes to provide 478 parking spaces. The comment about the preference for fewer parking spaces is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 1-3

Caltrans also encourages the Lead Agency to actively promote alternatives to car use and consider transportation demand management strategies. Such alternatives include incentives for commuters to use transit, discounts on monthly bus and rail passes, shuttle buses, vanpools, etc. These alternatives can be significant to reducing car trips, to the extent that more of the population shifts to transit for some of their inter-regional trips and thus future cumulative transportation impacts to freeways may be satisfactorily mitigated.

Response to Comment No. 1-3

Refer to the Response to Comment No. 1-2 regarding alternatives to car use and TDM strategies that would be implemented by the Project.

Comment No. 1-4

Here are some additional notes on Appendix D-2:

#	Location	Note
1	Appendix D-2: "Future Forecast (Year 2024)" (Page 24)	The future forecast is shown for 2024, which is now insignificant to the current study. Also, please note the page is missing content.

Response to Comment No. 1-4

The referenced page (page 24) of Appendix D-2 of the Draft EIR is part of LADOT's original transportation assessment letter that was dated August 10, 2020. It is unclear what information the commenter believe is missing from this page.

That original assessment letter from LADOT was based on a version of the transportation analysis that assumed a Project completion year of 2024. However, as discussed in the updated LADOT assessment letter (dated December 20, 2021, which is included as page 4 of Draft EIR Appendix D-2), the transportation analysis was updated to assume a Project completion year of 2027. However, the original assessment letter was included as an attachment by LADOT to confirm that all Project requirements identified in the original letter remain in effect.

LETTER NO. 2: Metro

Justin Klaparda
Senior Transportation Planner, Development Review Team
Metro Development Review
One Gateway Plaza
MS 99-22-1
Los Angeles, CA 90012-2952

Comment No. 2-1

Thank you for the opportunity to comment on the Notice of Completion and Availability for the proposed Mirabel Transit Priority (Project) located at 5401-5425 Wilshire Boulevard (Blvd.), 664-670 Cochran Avenue (Ave.), and 665-671 Cloverdale Ave. in the City of Los Angeles (City). Metro is committed to working with local municipalities, developers, and other stakeholders across Los Angeles County on transit-supportive developments to grow ridership, reduce driving, and promote walkable neighborhoods. Transit Oriented Communities (TOCs) are places (such as corridors or neighborhoods) that, by their design, allow people to drive less and access transit more. TOCs maximize equitable access to a multi-modal transit network as a key organizing principle of land use planning and holistic community development.

Per Metro's area of statutory responsibility pursuant to sections I 5082(b) and I 5086(a) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA: Cal. Code of Regulations, Title 14, Ch. 3), the purpose of this letter is to provide the City with specific detail on the scope and content of environmental information that should be included in the Environmental Impact Report (EIR) for the Project. In particular, this letter outlines topics regarding the Project's potential impacts on the under construction Metro D Line Extension Section I and Metro Bus facilities and services which should be analyzed in the EIR, and provides recommendations for mitigation measures as appropriate. Effects of a project on transit systems and infrastructure are within the scope of transportation impacts to be evaluated under CEQA.¹

Metro appreciates the coordination with City staff and the Applicant team to date. In addition to the specific comments outlined below, Metro is providing the City and Walter N. Marks, Inc. (Applicant) with the Metro Adjacent Development Handbook (attached), which provides an overview of common concerns for development adjacent to Metro right-of-way (ROW) and transit facilities, available at <https://www.metro.net/devreview>.

¹ See CEQA Guidelines section 15064.3(a); Governor's Office of Planning and Research Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018, p. 19.

Response to Comment No. 2-1

The comment provides introductory information as well as information about the commenter, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 2-2**Project Description**

The Project includes the construction of up to 348 dwelling units and 12,821 sqft. of ground floor commercial uses. The Project will retain and rehabilitate the east and south facades of 5401 Wilshire Blvd., which is a contributor to the Miracle Mile Historic District, into a new one-story building. The remainder of the 5401 Wilshire Blvd. property would be demolished in order to construct the Project's subterranean levels. Remainder of the Project site would be developed with a new 42-story, mixed-use tower, with parking included in a three-level above-ground podium and three subterranean levels. The Project anticipates construction to occur over approximately 36 months and become operational in 2027.

Response to Comment No. 2-2

The comment provides a summary of the Project description, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 2-3**Recommendations for EIR Scope and Content***Bus Service Adjacency*

1. Service: Metro Bus Lines 20 and 720 operate westbound on Wilshire Blvd. adjacent to the Project. One Metro Bus stop is directly adjacent to the Project at Wilshire Blvd. and Cloverdale Ave. Other transit operators such as LADOT may provide service in the vicinity of the Project and should be consulted. Although the Project is not expected to result in any long-term impacts on transit, the Applicant should be aware of the bus services that are present. With an anticipated increase in traffic during and after construction, Metro encourages any impact analysis to include potential impacts on Metro Bus service. Potential impacts could include construction traffic, as well as operation of, and shipment/deliveries, to the completed Project.

2. Impact Analysis: The EIR should analyze potential effects on Metro Bus service and identify mitigation measures as appropriate. Potential impacts may include impacts to transportation

services, stops, and temporary or permanent bus service rerouting. Specific types of impacts and recommended mitigation measures to address them include, without limitation, the following:

- a. **Bus Stop Condition**: The EIR should identify all bus stops on all streets adjacent to the Project site. During construction, the Applicant may either maintain the stop in its current condition and location, or temporarily relocate the stops consistent with the needs of Metro Bus operations. Temporary or permanent modifications to any bus stop as part of the Project, including any surrounding sidewalk area, must be Americans with Disabilities Act (ADA) compliant and allow passengers with disabilities a clear path of travel between the bus stop and the Project. Once the Project is completed, the Applicant must ensure any existing Metro bus stop affected by the Project is returned to its pre-Project location and condition, unless otherwise directed by Metro.
- b. **Driveways**: Driveways accessing parking and loading at the Project site should be located away from transit stops, and be designed and configured to avoid potential conflicts with on-street transit services and pedestrian traffic to the greatest degree possible. Vehicular driveways should not be located in or directly adjacent to areas that are likely to be used as waiting areas for transit.
- c. **Bus Stop Enhancements**: Metro encourages the installation of enhancements and other amenities that improve safety and comfort for transit riders. These include benches, bus shelters, wayfinding signage, enhanced crosswalks and ADA-compliant ramps, pedestrian lighting, and shade trees in paths of travel to bus stops. The City should consider requesting the installation of such amenities as part of the Project.
- d. **Bus Operations Coordination**: The Applicant shall coordinate with Metro Bus Operations Control Special Events Coordinator at 213-922-4632 and Metro's Stops and Zones Department at 213-922-5190 not later than 30 days before the start of Project construction. Other municipal bus services may also be impacted and shall be included in construction outreach efforts.

Response to Comment No. 2-3

Pages II-2 and II-3 of the Draft EIR provide a discussion of surrounding transit, including Metro bus lines 20 and 720. The Transportation Assessment Report prepared for the Project (included as Appendix G-1 of the Initial Study), provided an analysis of potential impacts to public transit facilities as part of its "non-CEQA" analysis. As discussed on pages 80 through 87 of this report, the Project would not result in any detrimental effects to the public transit system. Throughout the vicinity of the Project, including adjacent to the Project Site itself, Wilshire Boulevard currently provides a curbside bus-only lane during weekday peak traffic periods (7:00 to 9:00 AM, 4:00 to 7:00 PM), along with a bus stop and shelter located along the Project frontage between Cochran Avenue and Cloverdale Avenue. The Project would not result in any changes to the existing geometric conditions of Wilshire Boulevard that would preclude or otherwise negatively affect the implementation of any new public transit-related improvements, and further, will retain the existing bus stop/shelter, either at its current location, or at a location to be determined by the City. Finally,

the Project does not include any driveways on Wilshire Boulevard, and therefore, Project driveways would not conflict with access to bus service on Wilshire Boulevard.

As discussed in the Transportation Assessment Report (contained in Appendix G of the Initial Study, which is included as Appendix A-1 of the Draft EIR), the closure of the sidewalks along each of the Project frontages during Project construction would require the relocation of the existing bus stop/shelter along Wilshire Boulevard, adjacent to the Project Site, and the rerouting of pedestrian traffic along each of the site-adjacent streets. It is anticipated that the existing bus stop/shelter will be moved one block west of the Project Site, although the final location would be determined by Metro prior to the start of the Project's construction activities. However, the relocation of the bus stop/shelter is not expected to negatively affect either rider access or the operations of the bus lines served by this stop. As discussed on pages 177 and 178 of the Initial Study, based on the Transportation Assessment Letter prepared by LADOT (included in Appendix G of the Initial Study), the Project would be required to implement a Construction Work Site Traffic Control Plan, which would be reviewed and approved by LADOT prior to the start of any construction work, and which would ensure access to the relocated bus stop/shelter.

Therefore, no mitigation measures would be required of the Project with respect to bus service. Nevertheless, the recommendations provided in the comment are acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 2-4

Subway Adjacency

1. Operations: The Metro D Line Extension Section I is under construction and is slated to open in 2025. Once opened, it will operate peak service as often as every four minutes in both directions. Trains will operate 24 hours a day, seven days a week in the tunnels adjacent to the Project. The following concerns related to the Project's proximity to Metro's Station and ROW should be addressed

2. Impact Analysis: Due to the Project's proximity to the under-construction Metro D Line Extension Section I tunnels, the EIR must analyze potential effects on subway operations and identify mitigation measures as appropriate. Critical impacts that should be studied include (without limitation): impacts of Project construction and operation on the structural and systems integrity of subway tunnels; damage to subway infrastructure, including tracks; and disruption to subway service.

The following provisions should be used to develop a mitigation measure that addresses these potential impacts:

- a. Technical Review: The Applicant shall submit architectural plans, engineering drawings and calculations, and construction work plans and methods, including any crane placement and radius, to evaluate any impacts to the Metro D Line Extension Section I

infrastructure in relationship to the Project. Before issuance of any building permit for the Project, the Applicant shall obtain Metro's approval of final construction plans.

- b. Construction Safety: The construction and operation of the Project shall not disrupt the operation and maintenance activities of the under-construction Metro D Line Extension Section I or the structural and systems integrity of Metro's tunnels. Not later than two months before Project construction, the Applicant shall contact Metro to schedule a pre-construction meeting with all Project construction personnel and Metro Real Estate, Construction Management, and Construction Safety staff. During Project construction, the Applicant shall:
 - i. Work in close coordination with Metro to ensure that station access, visibility, and structural integrity are not compromised by construction activities or permanent build conditions;
 - ii. Notify Metro of any changes to demolition and/or construction activities that may impact the use of the ROW;
 - iii. Permit Metro staff to monitor demolition and/or construction activities to ascertain any impact to the under-construction Metro D Line Extension Section 1.

3. Advisories to Applicant: The Applicant is encouraged to contact the Metro Development Review Team early in the design process to address potential impacts. The Applicant should also be advised of the following:

- a. Occupational Safety and Health Administration (OSHA) Requirements: Demolition, construction and/or excavation work in proximity to Metro right-of-way (ROW) with potential to damage subway tracks and related infrastructure may be subject to additional OSHA safety requirements.
- b. Technical Review: Metro charges for staff time spent on engineering review and construction monitoring.
- c. Right of Way (ROW) Entry Permit: For temporary or ongoing access to Metro ROW for demolition, construction, and/or maintenance activities, the Applicant shall complete Metro's Track Allocation process with Metro Rail Operations and obtain a Right of Entry Permit from Metro Real Estate. Approval for single tracking or a power shutdown, while possible, is highly discouraged; if sought, the Applicant shall apply for and obtain such approval not later than two months before the start of Project construction. The Applicant shall apply for and obtain approval for any special operations, including the use of a pile driver or any other equipment that could come in close proximity or encroach on the tunnels or related structures, not later than two months before the start of Project construction.
- d. Cost of Impacts: The Applicant will be responsible for costs incurred by Metro resulting from Project construction/operation issues that cause delay or harm to Metro service delivery or infrastructure, including single-tracking or bus bridging around closures. The Applicant will also bear all costs for any noise mitigation required for the Project.

Response to Comment No. 2-4

Pages II-2 and II-3 of the Draft EIR provide a discussion of surrounding transit, including the Metro D Line. The Transportation Assessment Report prepared for the Project (included as Appendix G-1 of the Initial Study), provided an analysis of potential impacts to public transit facilities as part of its “non-CEQA” analysis. As discussed on pages 80 through 87 of this report, the Project would not result in any detrimental effects to the public transit system, including the D Line. As discussed, on average, the Project would result in only about one or two riders on any individual D Line train both throughout the day and during the peak commute periods, and as such, no adverse Project-related effects on this future public transit service are expected.

Excavation for construction of the Project is expected to reach a maximum depth of 63 feet below the existing grade. During construction of the Project, the Project would comply with all applicable regulations and conditions of approval to ensure that construction of the Project does not adversely affect any subway infrastructure, and will coordinate with Metro as required. Further, the Project does not propose construction on any public right-of-way, nor are any easements for subway alignments active on the Project Site. Additionally, a shoring plan is required by the Department of Building and Safety when excavating, which would ensure that the Project would not adversely affect the subway infrastructure.

Therefore, no mitigation measures would be required of the Project. Nevertheless, the recommendations and advisories provided in the comment are acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 2-5**Transit Supportive Planning: Recommendations and Resources**

Considering the Project's proximity to the future Wilshire/La Brea Station, Metro would like to identify the potential synergies associated with transit-oriented development:

1. Transit Supportive Planning Toolkit: Metro strongly recommends that the Applicant review the Transit Supportive Planning Toolkit which identifies 10 elements of transit-supportive places and, applied collectively, has been shown to reduce vehicle miles traveled by establishing community-scaled density, diverse land use mix, combination of affordable housing, and infrastructure projects for pedestrians, bicyclists, and people of all ages and abilities. This resource is available at <https://www.metro.net/about/funding-resources/>.

1. Land Use: Metro supports development of commercial and residential properties near transit stations and understands that increasing development near stations represents a mutually beneficial opportunity to increase ridership and enhance transportation options for the users of developments. Metro encourages the City and Applicant to be mindful of the Project's proximity to the future Wilshire/La Brea Station, including orienting pedestrian pathways towards the station.

2. Transit Connections and Access: Metro strongly encourages the Applicant to install Project features that help facilitate safe and convenient connections for pedestrians, people riding bicycles, and transit users to/from the Project site and nearby destinations. The City should consider requiring the installation of such features as part of the conditions of approval for the Project, including:

- a. Walkability: The provision of wide sidewalks, pedestrian lighting, a continuous canopy of shade trees, enhanced crosswalks with ADA-compliant curb ramps, and other amenities along all public street frontages of the development site to improve pedestrian safety and comfort to access the nearby Metro Bus Lines 20 and 720 and future nearby future Wilshire/La Brea Station.
- b. First & Last Mile Access: The Project should address first-last mile connections to transit and is encouraged to support these connections with wayfinding signage inclusive of all modes of transportation. For reference, please review the First Last Mile Strategic Plan, authored by Metro and the Southern California Association of Governments (SCAG), available on-line at: [http://media.metro.net/docs/sustainability/path design guidelines.pdf](http://media.metro.net/docs/sustainability/path%20design%20guidelines.pdf).

3. Parking: Metro encourages the incorporation of transit-oriented, pedestrian-oriented parking provision strategies such as the reduction or removal of minimum parking requirements and the exploration of shared parking opportunities. These strategies could be pursued to reduce automobile-orientation in design and travel demand.

4. Wayfinding: Any temporary or permanent wayfinding signage with content referencing Metro services or featuring the Metro brand and/or associated graphics (such as Metro Bus or Rail pictograms) requires review and approval by Metro Signage and Environmental Graphic Design.

5. Transit Pass Programs: Metro would like to inform the Applicant of Metro's employer transit pass programs, including the Annual Transit Access Pass (A-TAP), the Employer Pass Program (E-Pass), and Small Employer Pass (SEP) Program. These programs offer efficiencies and group rates that businesses can offer employees as an incentive to utilize public transit. The A-TAP can also be used for residential projects. For more information on these programs, please visit the programs' website at <https://www.metro.net/riding/eapp/>.

Response to Comment No. 2-5

This commenter discusses potential resources, considerations, and possible conditions of approval related to Metro facilities. There are no environmental issues raised by this comment, the recommendations and proposed conditions of approval provided in the comment are acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 3: City of Beverly Hills

Patrick Achis, Associate Planner
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210

Comment No. 3-1

The City of Beverly Hills appreciates the opportunity to provide the following comments on the Draft Environmental Impact Report (EIR) for the Mirabel Transit Priority Project. Given the project's location on Wilshire Boulevard, we have identified several concerns that warrant additional commitments and sustained oversight to mitigate potential impacts on our community and the surrounding area.

Response to Comment No. 3-1

The comment provides introductory information, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 3-2

TRAFFIC AND CUMULATIVE IMPACTS - The December 2023 Transportation Impact Analysis (TIA) and LADOT's assessment conclude that the project's transportation impacts, including Vehicle Miles Traveled (VMT), are within acceptable thresholds. However, with the introduction of two newly identified nearby developments, cumulative traffic impacts deserve closer scrutiny. Although these additional projects are factored into the "background" traffic conditions, post-occupancy traffic monitoring is indispensable to assess how actual traffic evolves, particularly at Wilshire and Cochran. Immediate adjustments should be made if traffic patterns differ from expectations to maintain regional traffic flow.

Response to Comment No. 3-2

The commenter suggests that cumulative traffic impacts from the Project are not adequately analyzed due to two additional related projects. As discussed on pages 350 through 356 of the Initial Study (included as Appendix A-1 of the Draft EIR), transportation impacts were evaluated pursuant to the LADOT Transportation Assessment Guidelines (TAG), which was prepared in response to SB 743 which transitioned the CEQA analysis for transportation from a LOS metric to a VMT metric. As discussed on page 382 of the Initial Study, impacts were analyzed per the LADOT TAG, which establishes steps for cumulative analysis, which establishes that "For

Projects and land use plans that do not demonstrate a project impact by applying an efficiency-based impact threshold (i.e., VMT per capita, VMT per employee, or VMT per service population) in the impact analysis, a less than significant project impact conclusion is sufficient in demonstrating there is no cumulative VMT impact.” The commenter here suggests that two nearby developments would factor into a cumulative analysis and further analysis should be conducted. As the LADOT TAG establishes that cumulative impacts related to transportation for Projects within the City of Los Angeles can be determined to be less than significant when Project level impacts related to inducing significant VMT are determined to not be significant and unavoidable. The inclusion of these two projects would not affect the primary determinant for this analysis, which is Project level VMT impacts, but appear to be a reference to LOS analysis.

As discussed on page VI-37 of the Draft EIR (in Section VI, Other CEQA Considerations), a subsequent transportation analysis was prepared for the Project, which includes a non-CEQA analysis for informational purposes which includes consideration of the commenter’s non-CEQA topics.

Comment No. 3-3

Additionally, LADOT emphasizes the need for the project to fully integrate the forthcoming revisions to the Transportation Demand Management (TDM) plan under LAMC 12.26 J. A formal commitment to these strategies is necessary to manage traffic volumes effectively and support sustainable transportation goals.

Response to Comment No. 3-3

As discussed in the Initial Study (included as Appendix A-1 to the Draft EIR), the Project’s VMT impacts would be less than significant. Nevertheless, the Project would comply with the City’s TDM Ordinance.

Comment No. 3-4

Please coordinate with Daren Grilley, Assistant Director / City Engineer in the Public Works Department at dgrilley@beverlyhills.org to ensure the Construction Traffic Management Plan ("CTMP") and Worksite Traffic Control Plan ("WTCP") Plan specified in Mitigation Measure MM-TRA-1 is adhered to.

Response to Comment No. 3-4

As discussed on pages 177 and 178 of the Initial Study, based on the Transportation Assessment Letter prepared by LADOT (included in Appendix G of the Initial Study), the Project would be required to implement a Construction Work Site Traffic Control Plan, which would be reviewed and approved by LADOT prior to the start of any construction work. Construction traffic would not be routed through Beverly Hills, as the Project Site is entirely within the City of Los Angeles, the haul route as described on pages II-10 and II-11 of the Draft EIR would not travel west, and no

road or street closures within the City of Beverly Hills are required. The City of Los Angeles is the Lead Agency for the Project and would require that measures identified in the MMP for the Project are Conditions of Approval and implemented accordingly.

Comment No. 3-5

AIR QUALITY AND CONSTRUCTION EMISSIONS - The EIR's mandate for the use of Tier 4 construction equipment and stringent dust control measures (Mitigation Measures 4.2-2(a) and 4.2-3) is essential for mitigating construction-related emissions. Should any deviations occur, a construction health risk assessment should be initiated immediately, particularly if alternative equipment is utilized. Any adjustments should be communicated to Beverly Hills to address regional air quality concerns.

Response to Comment No. 3-5

The analysis contained in Section 6.III, Air Quality, of the Initial Study (contained in Appendix A-1 of the Draft EIR), and also in the air quality modeling contained in Appendix A-1 of the Initial Study, assumes a mix of both Tier 3 and Tier 4 equipment. As the analysis demonstrates that the Project would not result in any significant impacts requiring mitigation, the Project would not be required to use only Tier 4 equipment during construction. Nevertheless, the Project would implement Mitigation Measure MM 4.2-3 from the City's Housing and Safety Element EIR, which requires the use of Tier 4 construction equipment or the preparation of a construction health risk assessment.

Comment No. 3-6

VEHICLE MILES TRAVELED (VMT) - Although the project's VMT impacts currently meet CEQA thresholds, it is imperative that periodic reassessments occur as neighboring developments progress. Traffic dynamics are inherently fluid, and as more projects in the area become operational, cumulative traffic patterns may lead to VMT increases beyond the EIR's projections. We urge that ongoing VMT evaluations be conducted post-occupancy to track actual outcomes and implement transit incentives or other strategies if VMT begins to rise. Such monitoring will help sustain the project's transportation goals and prevent long-term congestion that could undermine the benefits of transit-oriented development.

Response to Comment No. 3-6

Please refer to Comment No. 3-2 for a discussion of the commenter's assertion related to surrounding developments affecting Project level analysis. The commenter appears to fundamentally misconstrue VMT as a metric, as additional uses in proximity to a Project would typically lower VMT, as it is an efficiency metric, not necessarily additive.²

² https://lci.ca.gov/docs/20190122-743_Technical_Advisory.pdf, page 6.

Comment No. 3-7

NOISE IMPACTS AND MITIGATION MEASURES - The EIR proposes limiting construction noise during peak hours, which is appropriate for minimizing disruption to nearby residents and businesses. However, attention must also extend to post-construction noise impacts, particularly as increased traffic may lead to elevated noise levels beyond projections. Implementing post-occupancy noise monitoring will be important to track these levels and respond with additional mitigation, such as sound attenuation devices or adjusted traffic flow, if needed.

Response to Comment No. 3-7

Regarding construction noise, as discussed on page IV.B-29 of the Draft EIR, during all construction phases, noise-generating activities could occur at the Project Site between 7:00 A.M. and 9:00 P.M. Monday through Friday, in accordance with LAMC Section 41.40(a). On Saturdays, construction would be permitted to occur between 8:00 A.M. and 6:00 P.M.

Pages IV.B-37 and IV.B-38 of the Draft EIR provide an analysis of off-site operational noise, which includes an estimate of noise from vehicle traffic associated with the Project. As discussed therein, the Project would generate 1,678 daily vehicle trips. However, when the 1,766 daily vehicle trips associated with the existing development on the Project Site are removed, the Project would result in a net decrease of 88 daily vehicle trips. In addition, the Project would result in fewer peak hour trips, with a reduction of four vehicle trips in the A.M. peak hour and 66 vehicle trips in the P.M. peak hour. As shown in Table IV.B-12, noise impacts due to off-site mobile noise sources associated with the Project would be less than significant, and no mitigation was required. Therefore, there is no requirement for post-occupancy noise monitoring.

Comment No. 3-8

CONSTRUCTION TRAFFIC CONTROL - The December 2023 TIA acknowledges the potential for significant traffic disruption along Wilshire Boulevard during construction. While limiting truck traffic to offpeak hours is prudent, it may not suffice on its own. Real time traffic monitoring should be implemented to enable timely adjustments to construction schedules when congestion increases.

Alternative routes for construction vehicles should be identified to minimize their impact on Wilshire, especially during peak hours. Regular traffic condition reports should be made available to both Los Angeles and Beverly Hills throughout the construction phase to enable both cities to collaborate on addressing any emerging issues.

Response to Comment No. 3-8

Any analysis of traffic on Wilshire Boulevard is part of the “non-CEQA” traffic analysis. Therefore, the portion of the comment about traffic disruption on Wilshire Boulevard does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained

in the Draft EIR. The Project's proposed haul route is discussed on pages II-10 and II-11 of the Draft EIR. As discussed therein, the haul route would ultimately be subject to LADOT approval but would likely involve travel on Cloverdale Avenue, Wilshire Boulevard, and La Brea Avenue to and from the I-10 freeway. As discussed above in the Response to Comment No. 3-4, the Project would be required to implement a Construction Work Site Traffic Control Plan, which would be reviewed and approved by LADOT prior to the start of any construction work.

Comment No. 3-9

The City of Beverly Hills looks forward to seeing the EIR directly engage with the issues raised above and respond with the level of depth and care these concerns merit.

Response to Comment No. 3-9

Responses to the specific comments included in this letter have been provided above in Responses to Comment Nos. 3-1 through 3-8.

LETTER NO. 4: LA Sanitation

Rowena Lau, Division Manager
Wastewater Engineering Services Division
1149 South Broadway, 10th Floor
Los Angeles, CA 90015-2213

Comment No. 4-1

This is in response to your August 22, 2024 letter requesting a review of the proposed mixed-use project located at 5401-5425 Wilshire Boulevard, 664-670 Cochran Avenue and 665-671 Cloverdale Avenue, Los Angeles, CA 90036. The project will consist of multi-family residential units, commercial uses and auto parking. LA Sanitation has conducted a preliminary evaluation of the potential impacts to the wastewater and stormwater systems for the proposed project.

WASTEWATER REQUIREMENT

LA Sanitation, Wastewater Engineering Services Division (WESD) is charged with the task of evaluating the local sewer conditions and to determine if available wastewater capacity exists for future developments. The evaluation will determine cumulative capacity impacts and guide the planning process for any future sewer improvement projects needed to provide future capacity as the City grows and develops.

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
<i>Proposed</i>			
Residential: APT- Studio	75 GPD/ DU	136 DU	10,200
Residential: APT- 1 BDRM	110 GPD/ DU	102 DU	11,220
Residential: APT- 2 BDRM	150 GPD/ DU	110 DU	16,500
Commercial Use	50 GPD/1000 SQ.FT	12,821 SQ.FT	641
Parking	20 GPD/1000 SQ.FT	191,200 SQ.FT	3,824
Total			42,385 GPD

Response to Comment No. 4-1

The comment provides a table showing the projected wastewater discharges for the Project. However, the projected wastewater generation included in Table XIX-2 of the Initial Study (included in Appendix A-1 of this Draft EIR) provides a more conservative estimate of wastewater generation, as it accounts for wastewater generated by Project amenities and also separates the

proposed commercial uses by specific use (restaurant, coffee house, and retail). This comment is nevertheless acknowledged for the record.

Comment No. 4-2

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 8-inch line on Cloverdale Ave. The sewage from the existing 8-inch line feeds into a 18-inch line on Wilshire Blvd before discharging into a 18-inch sewer line on Wilshire Blvd. The 18-inch line discharges into a 78-inch line on 8th St. Figure 1 shows the details of the sewer system within the vicinity of the project. The current flow level (d/D) in the 8-inch line and 18-inch lines cannot be determined at this time without additional gauging.

The current approximate flow level (d/D) and the design capacities at d/D of 50% in the sewer system are as follows:

Pipe Diameter (in)	Pipe Location	Current Gauging d/D (%)	50% Design Capacity
8	Cloverdale Ave	*	280,900 GPD
18	Wilshire Blvd	*	1.3 MGD
18	Wilshire Blvd	*	1.4 MGD
78	8 th St	49	99 MGD

* No gauging available

Based on estimated flows it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation will be needed as part of the permit process to identify a specific sewer connection point. If the public sewer lacks sufficient capacity, then the developer will be required to build sewer lines to a point in the sewer system with sufficient capacity. A final approval for sewer capacity and connection permit will be made at the time. Ultimately, this sewage flow will be conveyed to the Hyperion Water Reclamation Plant, which has sufficient capacity for the project.

All sanitary wastewater ejectors and fire tank overflow ejectors shall be designed, operated, and maintained as separate systems. All sanitary wastewater ejectors with ejection rates greater than 25 GPM shall be reviewed and must be approved by LASAN WESD staff prior to other City plan check approvals. Lateral connection of development shall adhere to Bureau of Engineering Sewer Design Manual Section F 480.

This response letter is not intended to address any potential utility conflicts associated with the wastewater or stormwater conveyance systems. Construction of any type near any wastewater or stormwater conveyance infrastructure in the public right of way, or in/near any conveyance easement must be evaluated separately.

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

Response to Comment No. 4-2

The comment provides information about the existing sewer infrastructure in the area, which is consistent with the information contained on pages 365 and 366 of the Initial Study (included as Appendix A-1 of this Draft EIR). As also discussed in the Initial Study and in the Utility Infrastructure Technical Report (included as Appendix H of the Initial Study), a Sewer Capacity Availability Request (SCAR) was submitted to LA Sanitation (LASAN) to verify that the existing public infrastructure can accommodate the Project. In response, LASAN analyzed the Project demands in conjunction with existing conditions and forecasted growth, and has approved the Project to discharge up to 892,701 gpd of wastewater to the existing 8-inch sewer lines in Cloverdale and Cochran Avenues and the existing 18-inch sewer line in Wilshire Boulevard. The approved SCAR is Exhibit 3 of the Utility Infrastructure Report (which is included as Appendix H of the Initial Study). The existing design capacity of the 18" sewer line along Wilshire Boulevard has a capacity of 0.77741 cubic feet per second (cfs) (2.674 mgd) according to the City of LA Bureau of Engineering online Navigate LA utility database. Therefore, the Project's net increase of sewage generation represents approximately 2.16 percent of the existing pipe's capacity, and Project impacts on wastewater infrastructure were determined to be less than significant. Looking downstream, the existing design capacity of the Hyperion Service Area is approximately 550 million gallons per day (consisting of 450 mgd at the Hyperion Treatment Plant, 80 mgd at the Donald C. Tillman Water Reclamation Plant, and 20 mgd at the Los Angeles–Glendale Water Reclamation Plant). The Project's proposed wastewater generation is approximately 0.01 percent of the Hyperion Treatment Plant's design capacity, and therefore, Project impacts on wastewater treatment capacity were also determined to be less than significant. Nevertheless, as noted in the comment, the Project will follow the City's process for final approval for sewer capacity and connection permit.

The remainder of the comment is acknowledged for the record.

Comment No. 4-3

STORMWATER REQUIREMENTS

LA Sanitation, Stormwater Program is charged with the task of ensuring the implementation of the Municipal Stormwater Permit requirements within the City of Los Angeles. We anticipate the following requirements would apply for this project.

POST-CONSTRUCTION MITIGATION REQUIREMENTS

In accordance with the Municipal Separate Storm Sewer (MS4) National Pollutant Discharge Elimination System (NPDES) Permit (Order No. R4-2012-0175, NPDES No. CAS004001) and the City of Los Angeles Stormwater and Urban Runoff Pollution Control requirements (Chapter

VI, Article 4.4, of the Los Angeles Municipal Code), the Project shall comply with all mandatory provisions to the Stormwater Pollution Control Measures for Development Planning (also known as Low Impact Development [LID] Ordinance). Prior to issuance of grading or building permits, the applicant shall submit a LID Plan to the City of Los Angeles, Public Works, LA Sanitation, Stormwater Program for review and approval. The LID Plan shall be prepared consistent with the requirements of the Planning and Land Development Handbook for Low Impact Development.

Current regulations prioritize infiltration, capture/use, and then biofiltration as the preferred stormwater control measures. The relevant documents can be found at: www.lacitysan.org. It is advised that input regarding LID requirements be received in the preliminary design phases of the project from plan-checking staff. Additional information regarding LID requirements can be found at: www.lacitysan.org or by visiting the stormwater public counter at 201 N. Figueroa, 2nd Fl, Suite 280.

Response to Comment No. 4-3

The comment states that the Project requires stormwater measures based on the Low Impact Development (LID) requirements. As described on pages 311 through 314 of the Initial Study (included as Appendix A-1 of this Draft EIR), the Project would comply with the City's LID Ordinance (Ordinance No. 183,833), which applies to all development and redevelopment projects in the City that require a building permit. LID plans are required to include a site design approach and BMPs that address runoff and pollution at the source. Further, to comply with LID Ordinance, the Project would be required to capture and treat the first 3/4-inch of rainfall in accordance with established stormwater treatment protocols. Compliance with the LID Ordinance would reduce the amount of surface water runoff leaving the Project Site during Project operations as compared with the current conditions. Compliance with the LID Plan and SUSMP, including the implementation of BMPs, would ensure that operation of the Project would not violate water quality standard and discharge requirements or otherwise substantially degrade water quality.

The remainder of the comment about the preferred stormwater control measures is acknowledged for the record.

Comment No. 4-4

GREEN STREETS

The City is developing a Green Street Initiative that will require projects to implement Green Street elements in the parkway areas between the roadway and sidewalk of the public right-of-way to capture and retain stormwater and urban runoff to mitigate the impact of stormwater runoff and other environmental concerns. The goals of the Green Street elements are to improve the water quality of stormwater runoff, recharge local groundwater basins, improve air quality, reduce the heat island effect of street pavement, enhance pedestrian use of sidewalks, and encourage alternate means of transportation. The Green Street elements may include infiltration systems, biofiltration swales, and permeable pavements where stormwater can be easily directed from the

streets into the parkways and can be implemented in conjunction with the LID requirements. Green Street standard plans can be found at: <https://eng2.lacity.org/techdocs/stdplans/index.htm>.

Response to Comment No. 4-4

The comment provides information about the City's Green Streets initiative, and also states that the Green Streets elements may include infiltration systems, biofiltration swales, and permeable pavements where stormwater can be directed from streets and into parkways. These elements can be implemented in conjunction with the LID requirements. As described on pages 311 through 314 of the Initial Study, the Project would comply with the LID Ordinance and Stormwater BMPs. The Project would therefore not provide a substantial additional source of polluted runoff, and this impact was determined to be less than significant.

Comment No. 4-5

CONSTRUCTION REQUIREMENTS

All construction sites are required to implement a minimum set of BMPs for erosion control, sediment control, non-stormwater management, and waste management. In addition, construction sites with active grading permits are required to prepare and implement a Wet Weather Erosion Control Plan during the rainy season between October 1 and April 15. Construction sites that disturb more than one-acre of land are subject to the NPDES Construction General Permit issued by the State of California, and are required to prepare, submit, and implement the Storm Water Pollution Prevention Plan (SWPPP).

If there are questions regarding the stormwater requirements, please call WPP's plan-checking counter at (213) 482-7066. WPD's plan-checking counter can also be visited at 201 N. Figueroa, 2nd Fl, Suite 280.

Response to Comment No. 4-5

The comment lists the construction requirements to implement stormwater control measures to lessen the impact of pollution. As described in Section X, Hydrology and Water Quality, of the Initial Study (pages 310 through 316), the Project Applicant would be required to obtain coverage under the General Construction Permit, which requires development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and implementation of Best Management Practices (BMPs). Construction projects that include grading activities during the rainy season must also develop a Wet Weather Erosion Control Plan. The Project will comply with LAMC Chapter IX, Division 70, which addresses grading, excavation, and fills. Compliance with the LAMC would ensure that construction would not violate any water quality standards or discharge requirements, or otherwise substantially degrade water quality. Therefore, through compliance with NPDES requirements and City grading regulations, Project impacts related to water quality during construction would be less than significant.

Comment No. 4-6**GROUNDWATER DEWATERING REUSE OPTIONS**

The Los Angeles Department of Water and Power (LADWP) is charged with the task of supplying water and power to the residents and businesses in the City of Los Angeles. One of the sources of water includes groundwater. The majority of groundwater in the City of Los Angeles is adjudicated, and the rights of which are owned and managed by various parties. Extraction of groundwater within the City from any depth by law requires metering and regular reporting to the appropriate Court-appointed Watermaster. LADWP facilitates this reporting process, and may assess and collect associated fees for the usage of the City's water rights. The party performing the dewatering should inform the property owners about the reporting requirement and associated usage fees.

On April 22, 2016 the City of Los Angeles Council passed Ordinance 184248 amending the City of Los Angeles Building Code, requiring developers to consider beneficial reuse of groundwater as a conservation measure and alternative to the common practice of discharging groundwater to the storm drain (SEC. 99.04.305.4). It reads as follows: "Where groundwater is being extracted and discharged, a system for onsite reuse of the groundwater, shall be developed and constructed. Alternatively, the groundwater may be discharged to the sewer."

Groundwater may be beneficially used as landscape irrigation, cooling tower make-up, and construction (dust control, concrete mixing, soil compaction, etc.). Different applications may require various levels of treatment ranging from chemical additives to filtration systems. When onsite reuse is not available the groundwater may be discharged to the sewer system. This allows the water to be potentially reused as recycled water once it has been treated at a water reclamation plant. If groundwater is discharged into the storm drain it offers no potential for reuse. The onsite beneficial reuse of groundwater can reduce or eliminate costs associated with sewer and storm drain permitting and monitoring. Opting for onsite reuse or discharge to the sewer system are the preferred methods for disposing of groundwater.

To help offset costs of water conservation and reuse systems, LADWP offers a Technical Assistance Program (TAP), which provides engineering and technical assistance for qualified projects. Financial incentives are also available. Currently, LADWP provides an incentive of \$1.75 for every 1,000 gallons of water saved during the first two years of a five-year conservation project. Conservation projects that last 10 years are eligible to receive the incentive during the first four years. Other water conservation assistance programs may be available from the Metropolitan Water District of Southern California. To learn more about available water conservation assistance programs, please contact LADWP Rebate Programs 1-888-376-3314 and LADWP TAP 1-800-544-4498, selection "3".

For more information, related to beneficial reuse of groundwater, please contact Greg Reed, Manager of Water Rights and Groundwater Management, at (213)367-2117 or greg.reed@ladwp.com.

Response to Comment No. 4-6

The comment provides general information about City programs for groundwater reuse, which is acknowledged for the record. As discussed on page 315 of the Initial Study, the depth of excavation for the Project's three subterranean levels would exceed the depth of historic high groundwater at the Project Site. Therefore, temporary dewatering would be required during construction. However, the amount of groundwater infiltration would be minimal given the small area and depth to excavation. Therefore, impacts with respect to groundwater were determined to be less than significant.

Comment No. 4-7**SOLID RESOURCE REQUIREMENTS**

The City has a standard requirement that applies to all proposed residential developments of four or more units or where the addition of floor areas is 25 percent or more, and all other development projects where the addition of floor area is 30 percent or more. Such developments must set aside a recycling area or room for onsite recycling activities. For more details of this requirement, please contact LA Sanitation Solid Resources Recycling hotline 213-922-8300.

Response to Comment No. 4-7

The comment describes the solid resources requirements, such as a recycling area or room for onsite recycling activities. The Project would comply with all applicable City requirements, including those related to recycling.

LETTER NO. 5: LA Conservancy

Andrew Salimian
Director of Advocacy
523 West Sixth Street, Suite 826
Los Angeles, CA 90014

Comment No. 5-1

On behalf of the Los Angeles Conservancy, I am writing to comment on the Draft Environmental Impact Report (EIR) for the Mirabel Transit Priority Project. The Conservancy supports efforts to add new density and housing where possible, especially when setting aside some units as affordable in an area close to transit. As the California Environmental Quality Act (CEQA) calls for, we also press for project alternatives that can achieve this goal without causing any harm or destruction to historic places. New development does not always need to come at the expense of historic resources; rather it can and should work cohesively through an integration approach. We believe adaptive reuse is readily achievable in this Project, and can complement the proposed new, mixed income housing, and infill construction.

We are pleased to see some of our comments submitted in response to the Notice of Preparation addressed in the Draft EIR. The most notable change is the evaluation of the Sontag Drug Building as an individually eligible resource as well as contributor to the Miracle Mile Historic District.

Response to Comment No. 5-1

The comment provides general comments in support of new density and housing, including affordable housing, near transit.

The comment also provides the opinion that the Project could be achieved through adaptive reuse. The Draft EIR included an analysis of a Preservation Alternative, which would preserve the existing building at 5401 Wilshire Boulevard, with a new tower developed on the remainder of the Project Site (see Draft EIR pages V-8 through V-11 in Section V, Alternatives). However, as discussed on page V-11 of the Draft EIR, this alternative would provide 120 fewer residential units than the Project and would only partially meet the majority of the Project objectives based on the reduction in the number of residential units and the modified design in order to retain the existing building.

Comment No. 5-2**Prioritizing Parking Over Preservation and Housing**

We believe there is a critical flaw in the current Draft EIR and its failure to identify viable alternatives to such a large project. Only two alternatives were identified, a no project alternative

and a preservation alternative that also significantly downsizes the project. There does not appear to be a valid reason as to why the preservation alternative would occupy the same footprint and maintain approximately the same street frontage yet have 120 fewer units.

We request that the City and project applicant share the rationale for only studying essentially one preservation alternative. From our understanding of this, the alternative was structured in a way to fail in meeting essential project goals and objectives. What were other preservation alternatives considered and/or rejected and not studied further?

The alternatives also do not contemplate a project with reduced parking, which is not required to be provided on-site pursuant to AB 2097. Many of the identified project impacts are due to the construction of three levels of subterranean parking, including the potential demolition of the Sontag Drug Building, as well as noise and vibration impact during construction. These impacts could be avoided or greatly lessened by simply reducing the subterranean extraction to one-or-two stories.

Given this is being processed as a Transit Priority Project with associated streamlining, and the fact that the Wilshire Subway extension appears on track to open in 2025, we suggest a reduced parking alternative be seriously studied and considered. The proposed project is over-parked and contains more parking than necessary to serve the proposed project. Miracle Mile is already a walkable and pedestrian oriented neighborhood with many nearby amenities, and therefore we suggest a 1:1 parking space to unit ratio might be more appropriate, economical, and sustainable, as opposed to 1.37:1 in the proposed project or 1.78:1 in Alternative 2. We believe that some reduction in parking could allow the Sontag Drug Building to be preserved in whole while still allowing for a large number of units and on-site affordable units to be built.

Response to Comment No. 5-2

The commenter states that the DEIR fails to identify a viable alternative for the size of the Project and fails to provide a preservation alternative within the same footprint that meets all of the goals, known as Objectives under CEQA, as well as failing to explain why there would be a reduction in units. As a matter of law, CEQA Guidelines Section 15126.6 requires the Project to analyze a reasonable set of Alternatives which attain most of the Project's basic Objectives while also reducing Project impacts. CEQA has no requirements or suggestion that an Alternative to the Project be drafted based on size, within the same footprint, or meet all of the goals of the Project. Further the Guidelines section sets forth a Rule of Reason, that Lead Agencies, such as the City, need only set forth a range of alternatives that permits a reasoned decision, with a detailed analysis required for only a range of alternatives that the agency determines are feasible and can meet most of the basic objectives. The DEIR for the Project includes a Preservation Alternative, as well as alternatives intended to reduce noise impacts. The commenter seems to propose a physical impossibility that the same number of units or square feet of floor area can be accommodated within the footprint of the existing structures, which cover nearly 75% of the Project Site, while still preserving the structures and meeting the objectives of the Project. Further

suggesting there is no explanation for why a reduction in units would be required in a Preservation Alternative. The City does not need to explore every possible alternative, rather a range which provide for an informed decision, it is self-evident that persevering the existing structures covering nearly 75% of a constrained site would necessitate a reduction in new development. Nevertheless, the Preservation Alternative analyzed balances preservation with new development to the extent feasible while meeting most of the basic Project Objectives, in compliance with CEQA. A discussion of alternatives considered and rejected was provide on pages V-3 and V-4 of the Alternatives Section, and as stated, the City must consider alternatives that reduce any impact, not solely historic impacts. Nonetheless, the alternatives considered alternatives to reduce both historic and noise (vibration) impacts.

The analysis in Section V, Alternatives, of the Draft EIR considered an alternative with only above-grade parking (see Draft EIR pages V-3 and V-4), thus avoiding much of the excavation and hauling required for the Project. However, this alternative was rejected as infeasible as the construction equipment used in this alternative would be similar to the Project, and would therefore generate similar vibration levels. Therefore, on-site construction vibration impacts would be significant and similar to the Project, as the vibration impact analysis is based on the peak vibration level generated by individual construction equipment, as well as the proximity of the nearest sensitive receptors. As this alternative would not substantially avoid the Project's significant construction-related vibration impact, and as this alternative would provide less housing near transit, this alternative was rejected from further consideration.

The remainder of the comment provides the commenter's opinion about the amount of parking proposed for the Project, which is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 5-3

Integrity of the Miracle Mile Historic District

Despite the methodology used to determine the boundaries of the Miracle Mile Historic District, the Conservancy contends that the District as a whole would be materially impaired through the proposed project as currently envisioned. According to the original 1983 district determination, three contributing properties would be demolished or substantially altered through this undertaking. 5405-5411 Wilshire Boulevard (the Santa Inez Co.) and 5413-5415 (the A&P Food Palace) have been combined into a larger commercial project, however each storefront still reads as independent and still maintains original Streamline Moderne ornament. For the purposes of CEQA, we expect each original storefront to continue to be counted as individual properties in the district. The Santa Inez Co. and the A&P Food Palace, though altered, still appear as contributing properties to the Miracle Mile Historic District.

Response to Comment No. 5-3

The commenter asserts that two former individual buildings on the Project Site (5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard) should remain counted as contributors to the Historic District despite having been combined with a third building (5421-5425 Wilshire Boulevard) to form a single building (5407 Wilshire Boulevard).

As explained in the historic report (included in Appendix B to the Draft EIR), the three separate buildings were merged into one structure in 1991. At that time, the demising walls were removed, and the interiors were combined to create a single large interior space and the south (primary) facades along Wilshire Boulevard were altered to create a uniform appearance. Although the commenter is correct that some original features on the primary facades of 5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard remain, including original decorative detailing on the upper portions and cornices, much of their original appearance has been removed and/or altered.

As noted in the historic report, the original storefronts on 5405-5411 Wilshire Boulevard have been filled with a plaster wall and three contemporary projecting display windows have been added. Similarly, the ground-floor storefront on 5413-5415 Wilshire Boulevard has been filled and is now a blank plaster wall.

These changes substantially obscure the historic identity of 5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard as independent commercial retail buildings by closing up their original street-level entrances and display windows. Contrary to their original appearance and function, the south-facing faces of both buildings read as a continuous south-facing wall of a larger building. The addition of integrated planting areas with low concrete retaining walls directly in front of each building further obscures their original purpose and function.

In addition, as detailed in the historic resources report, the former Santa Inez Co. (5405-5411 Wilshire Boulevard) and the A&P Food Palace (5413-5415 Wilshire Boulevard) buildings have been merged into a single larger building and their ground floors openings have been filled. For these reasons, the analysis in the historic resources report concluded that neither building retained sufficient integrity to be recognized as contributing properties to the Historic District.

Comment No. 5-4

Given the number of the demolitions or substantial alterations since the district was identified, and the proposed substantial alteration of the Sontag Drug Building, the district would only contain 11 contributors of the original 20 identified properties after this project's completion. This would equate to 55% of the properties being contributors to the district, while also creating a large hole in the district. There would be no remaining contributors for two blocks on the north side of Wilshire Boulevard, from Dunsmuir Avenue to Cloverdale Avenue.

In the alternate district boundaries presented by Historic Resources Group – which we do not fully support – there is still a similar issue. 11 of 19 properties would be contributors, or 58%, and the same hole exists in the district. This is a very low mix of contributing to noncontributing properties in a historic district, and below the 60% threshold rule of thumb that usually determines eligibility.

Response to Comment No. 5-4

Historic Resources Group (HRG) prepared the Historical Resources Technical Report (Historic Report, included in Appendix B of the Draft EIR) which informed cultural resources analysis contained in the Draft Environmental Impact Report. The Historic Report included a reevaluation of the Miracle Mile Historic District (Historic District) which was identified in 1983. The Historic Report reevaluation recommended a minor change to the boundary of the Historic District to include two additional buildings which were contiguous with the commercial frontage along Wilshire Boulevard. This added one contributing building and one non-contributing building as a basis for impacts analysis. However, in response to this comment, HRG has prepared a supplemental memorandum (included as Appendix B of this Final EIR), which contains the following:

- 1) A review of the original Historic District determination from 1983.
- 2) An evaluation of the current integrity of the Historic District using the 1983 boundary.
- 3) Analysis of potential impacts to the Historic District from the Project.

The Project will demolish one building at 5407 Wilshire Boulevard, which is the amalgamation of three separate buildings that were separately determined to be contributors to the Historic District in 1983. Due to their alteration and consolidation as one building, 5407 Wilshire Boulevard is considered today a non-contributing building to the Historic District.

As noted in the Historic Report, the Project will preserve the south- and east-facing facades of the contributing Sontag Drug Building at 5401 Wilshire Boulevard. The two facades will be incorporated into a new one-story building in the same location. The replacement building, while generally the same in size, scale, and massing as the original Sontag Drug Building, will ultimately be a new building containing no original materials or fabric outside of the preserved facades. This will substantially reduce the integrity of the Sontag Building, and it will no longer retain its contributing status.

All of the 11 other extant contributing buildings to the Historic District will remain intact and in their original locations and will not be adversely affected by the demolition of 5407 Wilshire Boulevard or the loss of integrity to the Sontag Drug Building. Ultimately, the Historic District would contain 11 contributing buildings and 9 non-contributing buildings after implementation of the Project. Despite the loss of integrity of the contributing Sontag Drug Building, 55-percent of the buildings within the Historic District boundary would remain contributing and the Historic District would continue to reflect its important associations with the commercial development of

the Miracle Mile area in Los Angeles during the 1920s and 30s after implementation of the Project. Therefore, the Project would not involve demolition that results in significant direct impacts to the Historic District.

The supplemental analysis concludes that the Historic District will retain 55-percent contributing properties after implementation of the Project in comparison to the 58-percent contributing properties identified using the reevaluated Historic District in the Historic Report.

Falling just under 60%, this would be a low percentage of contributing buildings using standard preservation practices, although it would still represent a majority of extant buildings within the Historic District boundaries. The 60% threshold is, as noted in the comment, a general “rule of thumb” and not established guidance from recognized historic preservation authorities. According to the National Park Service, “a district can contain buildings, structures, sites, objects, or open spaces that do not contribute to the significance of the district. The number of noncontributing properties a district can contain yet still convey its sense of time and place and historical development depends on how these properties affect the district's integrity.”³ Contributing buildings that characterize the Historic District represent substantial variations in size and architectural expression. Several of the contributors are multi-story commercial blocks spanning the full extent of their respective blocks facing Wilshire Boulevard. These buildings represent some of the best examples of period architecture and make outsized contributions to the integrity of the Historic District in comparison to small single storefront buildings with compromised integrity. The condition of the Historic District cannot be assessed through a straight count of contributing versus non-contributing buildings.

Comment No. 5-5

The introduction of a large, high-rise building and multi-story parking podium further impacts this district. We believe the proposed work (saving only two facades) on the Sontag Building, plus the demolition of two more contributing properties would materially impair the district as whole. In the identified alternative where the Sontag building is preserved, further mitigation measures should still be implemented to prevent the loss of district coherence on the north side of Wilshire Boulevard, and to counteract the impact on the two other contributing structures.

Response to Comment No. 5-5

The proposed high-rise building has been designed to be compatible with the Historic District. As analyzed in the historical resources report (included in Appendix B of the Draft EIR), the podium level will rise 49 feet in height with the tower set back from the podium edges, effectively reducing the perception of mass and height from street level. The podium height will be compatible with the heights of buildings within the Historic District, which generally range from one- to four-stories in height. The tower placement incorporates a substantial setback from the west, allowing the podium level height to define the western edge of the Project. The tower is also set back from the

³ *National Register Bulletin 15, How to Apply the National Register Criteria for Evaluation*, p 5.

east so that the full height of the new building is not immediately juxtaposed with the one-story height of the Sontag Drug Building. In addition, the Project's south-facing façade includes active retail uses on the ground-floor with direct pedestrian access at street level continuing the pattern of the street facing storefronts characteristic of Wilshire Boulevard within the Historic District. The comment's suggestion that high rise elements are somehow inconsistent with the historic character of this district disregards the historic combination of street-facing commercial use with high-rise tower elements that remains a distinctive and surviving feature of the Streamline Moderne architectural style in general and this historic district in particular. Multi-story podium elements, irrespective of their uses, are also elemental features of commercial buildings within the district.

As noted in the historic resources report, the Sontag Building will no longer be considered a contributor to the Historic District after implementation of the Project. Preservation of the south and east façades of 5401 Wilshire Boulevard will, however, preserve the physical features that convey the building's distinctive Streamline Moderne architectural style. The storefront and display window openings will also remain as they currently appear. When complete, the new building will generally appear as the Sontag Drug Building was originally designed, with the extant character-defining features of the primary south and east façades preserved and restored.

Contrary to the comment's assertion, analysis found that the two additional properties referenced (5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard) no longer retain sufficient integrity to remain contributors to the Historic District and their demolition will not result in the loss of contributors overall. As noted above, the assertion that 5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard remain contributing buildings despite their level of alteration sets a very low integrity standard for identifying contributing buildings. Using this standard of integrity would require the building at 5467 Wilshire (identified in the historic report as no longer eligible for contributing status due to poor integrity) to be considered a contributor. Under the same standard of integrity 5401 Wilshire Boulevard could also be considered a contributor after Project implementation.

Comment No. 5-6

Unresolved Design Issues

Two of the stated project goals suggest in part that the project intends to "Create a pedestrian friendly environment" and "Develop an iconic, architecturally-compelling vertical neighborhood." While these objectives are commendable, the proposed design of a three story parking podium does not comply. Furthermore, the design is in direct violation of Standards included in the Miracle Mile Community Design Overlay District (CDO). The two standards in question are:

- Standard 2a: Parking should be located underground where possible.
- Standard 2b: Parking structures should be compatible with the main building through a consistency in building material, color and design.

We suggest some of these can be addressed through the CEQA process in a way that better meets the project goals as well as resolves pending design issues and plan incompatibility. We also think the three-level parking podium can be wrapped to better engage Wilshire Boulevard – there are two excellent examples within the Miracle Mile Historic District that could provide inspiration. The Wilshire Tower at 5500-5522 Wilshire Boulevard and the Dominguez-Wilshire Building at 5410 Wilshire Boulevard are two-story commercial blocks with attached towers. Unlike the proposed project, they both contain fenestration at the second floor in a way that further activates Wilshire Boulevard and provides an active frontage. We strongly suggest the three-story podium should be revised to include units at the second and third stories to better meet the goals of the project and the CDO.

Response to Comment No. 5-6

The Project's consistency with the Miracle Mile Community Design Overlay (CDO) is addressed on pages 322 and 323 of the Initial Study (included as Appendix A-1 of the Draft EIR). As discussed therein, the intent of the CDO is to provide guidance and direction in the design of new and rehabilitation of existing buildings and storefronts in order to improve the appearance, enhance the identity, and promote the pedestrian environment of the District. The Project would not conflict with the stated intention of CDO Guidelines. The Project would comply with the requirements of the CDO, and would not conflict with the implementation and goals of the District. The Project includes Streamline Moderne elements which comply with the materials, pedestrian orientation, and other requirements of the District.

The ground level design promotes pedestrian activity through street-facing commercial uses. The commercial uses are designed with a unified storefront glazing system and high interior ceilings to sustain street level interest, to promote pedestrian traffic, and to increase eyes-on-the-street. The Project would also provide several pedestrian entrances along all street frontages, including Art Deco-inspired awnings.

The public right-of-way would be improved with pedestrian amenities and safety features. The proposed sidewalk improvements include additional building stepbacks along Wilshire Boulevard, between 10 and 21 feet, to allow for a wider sidewalk with pedestrian benches and landscaped areas. Specialty pavers, influenced by the terrazzo flooring of the Art Deco period, would also be provided within the additional stepbacks (on private property).

Overall, the Project would not conflict with the intent CDO Guidelines to improve the appearance, enhance the identity, and promote the pedestrian environment of the District.

Comment No. 5-7

Finally, we believe more historic fabric from the project site can and should be salvaged as a mitigation measure. We support the full retention and preservation of the Sontag Drug Building. The Conservancy also urges that the façades of the Santa Inez Co. at 5405-5411 Wilshire Boulevard and the A&P Food Palace at 5413-5415 Wilshire Boulevard be preserved as well. We

see these Streamline Moderne architectural elements as fairly easy to integrate into the new development, and would help break up the bulky and monotonous parking podium that is proposed with more human-scaled elements.

Response to Comment No. 5-7

The commenter's preference for the full retention and preservation of the Sontag Drug Building is acknowledged for the record, and will be forwarded to the decision-making bodies for their review and consideration.

Regarding the façades of 5405-5411 and 5413-5415 Wilshire Boulevard, the commenter is referred to the Response to Comment No. 5-3. As discussed in that response, much of the original appearance of these façades has been removed and/or altered. As noted in the historic report (included in Appendix B of the Draft EIR), the original storefronts on 5405-5411 Wilshire Boulevard have been filled with a plaster wall and three contemporary projecting display windows have been added. Similarly, the ground-floor storefront on 5413-5415 Wilshire Boulevard has been filled and is now a blank plaster wall. These changes substantially obscure the historic identity of 5405-5411 Wilshire Boulevard and 5413-5415 Wilshire Boulevard as independent commercial retail buildings by closing up their original street-level entrances and display windows. Contrary to their original appearance and function, the south-facing faces of both buildings read as a continuous south-facing wall of a larger building.

Comment No. 5-8

Conclusion

The Conservancy supports adding housing and density, and we believe that is possible here without causing harm to the historic Miracle Mile Historic District and the Sontag Drug Building. We also believe there is a greater win-win outcome possible that pairs more meaningful preservation with new infill development than currently proposed. We would like to see a project emerge that better respects the intent of the Miracle Mile Community Design Overlay District and provides more human-scaled, pedestrian-first design. Finally, we urge this Transit Priority Project to put housing, sustainability, and urban design first, including the critical role historic preservation plays in all three, rather than simply focusing on parking and vehicular access.

Response to Comment No. 5-8

Regarding the Miracle Mile Historic District and impacts to the Sontag Drug Building, refer to the Responses to Comment Nos. 5-3 through 6-6, above.

Regarding the alternatives analyzed in the Draft EIR, refer to the Responses to Comment Nos. 5-1 and 5-2, above.

Regarding the Miracle Mile Community Design Overlay District, refer to the Response to Comment No. 5-6, above.

The remainder of the comment provides the commenter's opinions, which are acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 6: Art Deco Society

Art Deco Society
Steven Luftman
ADSLA Reservation Committee Co-Chair
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Comment No. 6-1

Thank you for the opportunity to provide comments on behalf of the Art Deco Society of Los Angeles (ADSLA), I am writing to comment on the Draft Environmental Impact Report (DEIR) for the Mirabel Transit Priority Project ENV-2019-3937-EIR.

As we stated in our letter for the Notice of Preparation of the EIR dated October 2, 2023 the California Environmental Quality Act (CEQA) calls for, we encourage project alternatives that can achieve quality housing close to transit without causing any harm or destruction to historic resources. Complimentary adaptive reuse is realistic in this Project.

The Art Deco Society of Los Angeles believes new development does not need to come at the expense of historic resources; rather it should work cohesively through an integration approach we believe adaptive reuse is readily achievable in this Project and can complement the proposed new, mixed income housing and infill construction.

Response to Comment No. 6-1

The comment provides general comments in support of new density and housing, including affordable housing, near transit.

The comment also provides the opinion that the Project could be achieved through adaptive reuse. The Draft EIR included an analysis of a Preservation Alternative, which would preserve the existing building at 5401 Wilshire Boulevard, with a new tower developed on the remainder of the Project Site (see Draft EIR pages V-8 through V-11 in Section V, Alternatives). However, as discussed on page V-11 of the Draft EIR, this alternative would provide 120 fewer residential units than the Project and would only partially meet the majority of the Project objectives based on the reduction in the number of residential units and the modified design in order to retain the existing building.

Comment No. 6-2

Unfortunately, the Draft Environmental Report concludes that Anticipated Significant Environmental Effects include:

“Based on the analysis in the DEIR, the Project would result in significant and unavoidable impacts related to: Cultural Resources (historic resources) and Noise (construction vibration related to human annoyance). All other potential impacts would be less than significant or mitigated to less than significant levels.”

Response to Comment No. 6-2

The comment correctly states the Project’s significant and avoidable impacts, as identified by the analysis contained in the Draft EIR.

Comment No. 6-3

From our review of the DEIR, it is clear that the DEIR fails as an informational document under CEQA and lacks substantial evidence to support its conclusions and that the document appears to be unstable based since publication because of recent comments by the developer about changes to the above ground parking count and height of the podium parking level.

Response to Comment No. 6-3

The commenter states that the developer has made statements regarding supposed changes to the above ground parking count and height of the podium parking level. The City has received no revised applications or plans to this effect. Nonetheless, per SB 743, parking is not a CEQA impact, and any changes to the building would need to be reflected in updated plans and analysis to accompany it unless it results in a reduction compared to the Project analyzed in the DEIR.

Comment No. 6-4

Further, the DEIR fails to identify a viable alternative for such a large project and fails to provide a preservation alternative within the same footprint that meets all of the goals of the project. The preservation alternative also fails to explain or rationalize a reason why there could be a reduction in the number of residential units.

Response to Comment No. 6-4

The commenter states that the DEIR fails to identify a viable alternative for the size of the Project and fails to provide a preservation alternative within the same footprint that meets all of the goals, known as Objectives under CEQA, as well as failing to explain why there would be a reduction in units. As a matter of law, CEQA Guidelines Section 15126.6 requires the Project to analyze a reasonable set of Alternatives which attain most of the Project’s basic Objectives while also reducing Project impacts. CEQA has no requirements or suggestion that an Alternative to the Project be drafted based on size, within the same footprint, or meet all of the goals of the Project. Further, Guidelines Section 15126.6(f) sets forth a Rule of Reason, that Lead Agencies, such as the City, need only set forth a range of alternatives that permits a reasoned decision, with a detailed analysis required for only a range of alternatives that the agency determines are feasible

and can meet most of the basic objectives. The DEIR for the Project includes a Preservation Alternative, as well as alternatives intended to reduce noise impacts. The commenter seems to propose a physical impossibility that the same number of units or square feet of floor area can be accommodated within the footprint of the existing structures, which cover nearly 75% of the Project Site, while still preserving the structures and meeting the objectives of the Project. Further, while the comment suggests there is no explanation for why a reduction in units would be required in a Preservation Alternative, the City does not need to explore every possible alternative but rather a range which provide for an informed decision. It is self-evident that preserving the existing structures covering nearly 75% of a constrained site would necessitate a reduction in new development. Nevertheless, the Preservation Alternative analyzed balances preservation with new development to the extent feasible in light of the Project Objectives, in compliance with CEQA.

Comment No. 6-5

Under AB 2097 Friedman 2022, there are no minimum parking requirements for either residential or commercial uses near high quality transit rich areas, which was enacted prior to the start of this EIR document, therefore no rationale by the developer to reduce residential units based on parking requirements should be allowed as a factor in the DEIR. Any density bonuses or expedited processing based on the project's proximity to high quality transit rich areas should not apply if the project cannot provide alternatives that could lower the level of the impacts to the historic resource to less than significant.

Response to Comment No. 6-5

The Draft EIR (page II-9) acknowledges that pursuant to AB 2097, the City cannot impose a minimum parking requirement on the Project, and as discussed above parking is not a CEQA impact. The commenter suggests the City violate state law by restricting density in a Project seeking a State Density Bonus Law compliant application. The City can not lawfully restrict density of eligible Housing Projects. The comment does not suggest a specific concern or issue with the environmental analysis beyond a preference for a different unit count, which is not within the legal authority of the City to dictate to private developers with eligible Housing Projects.

Comment No. 6-6

We further believe that the demolition of the Sontag Drug Building 5401 Wilshire Blvd. along with the other building needed for the proposed construction of the Mirabel project, could render the integrity of the district as a whole, making it no longer eligible for National Register listing. The District as a whole is considered a resource and potential impacts should be studied, which is common and a necessary practice or projects proposed within a district's boundaries.

Response to Comment No. 6-6

Impacts to the Historic District were analyzed in the Draft EIR and historical report (included as Appendix B of the Draft EIR). Refer to the Responses to Comment Nos. 5-3 through 5-6 for additional information on the Historic District.

Comment No. 6-7

We also believe that the needless demolition of the Sontag Drug Building 5401 Wilshire Blvd. also increases the environmental damage created by the additional materials being thrown into landfills, instead of the most environmentally beneficial option if adaptive reuse of the structure and incorporation into the project and the truck emissions created by taking more materials to a distant landfill.

Response to Comment No. 6-7

Section VI (Other CEQA Considerations) of the Draft EIR analyzed the Project's use of building materials such as lumber, aggregate building materials, and plastics. The analysis concluded that the consumption of these non-renewable building materials would not be considered substantial, and the limited use of such resources is justified.

Regarding landfill capacity, the analysis on pages 370 through 373 of the Initial Study (included in Appendix A-1 of the Draft EIR) concluded that given the remaining permitted capacity of the landfills open to the City, the landfills serving the Project Site would have sufficient capacity to accommodate the Project's construction solid waste disposal needs.

In addition, the analysis contained on pages 210 through 212 of the Initial Study, and in the air quality technical modeling attached as Appendix A-1 of the Initial Study, concluded that truck emissions from hauling demolition materials to a landfill would not exceed the SCAQMD's regional thresholds, and therefore, this impact was determined to be less than significant.

Nevertheless, the commenter's opinions are acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 6-8

The DEIR Historic Resources Technical Report prepared by Historic Resources Group completely fails to list the loss of the character defining features to the interior of the Sontag Drug Building 5401 Wilshire Blvd. Streamline Moderne features that are currently intact include the mezzanine floor, current intact Streamline Moderne curving staircase, main front curved entrance with Streamline Moderne features on the corner of Wilshire Blvd. and Cloverdale Ave.

Response to Comment No. 6-8

The commenter refers to interior elements of the former Sontag Drug Building at 5401 Wilshire Boulevard. Interior features are not included as part of CEQA analysis unless the interior features have been identified as character-defining as part of the property's evaluation to qualify as eligible or officially listed. Further, the survey for the Miracle Mile Historic District consisted of an exterior survey, with access to all buildings limited to what was viewable from the public right-of-way.

Comment No. 6-9

Lastly, the remnants from the partial demolition to the Sontag Drugs Building to be incorporated into the proposed project also risk further degradation during the demolition process, the excavation process necessary for the subterranean parking needed and the construction process for the new construction. In the past we have seen partial demolition of historic resources, followed by the halting of the project, rendering the historic resource ineligible for the Nation Register for Historic places. All of this would be unnecessary if there were a proper preservation alternative studied.

Response to Comment No. 6-9

The commenter asserts, without specific evidence, that the incorporation of the proposed incorporation of the facades into the Project would result in further degradation of the resource. While CEQA does not preclude destruction of historic resources, rather a full disclosure of these impacts with a Statement of Overriding Considerations, it does require Projects to adopt all feasible mitigation measures. In the case of the Project, both requirements as met, the Project discloses all impacts, with the decision makers for the Project having discretion to adopt the EIR ultimately, and a mitigation measure MM-CULT-2, which includes a preservation plan subject to City approval before a demolition permit is issued. The mitigation measure includes a requirement for contingencies to be developed in the event any degradation to the remaining aspects of integrity were to occur.

Comment No. 6-10

The Miracle Mile Historic District is one of the best collections of Art Deco and Streamline Moderne commercial architecture in Los Angeles. As far as the ADSLA knows, it is the only Historic District primarily composed of Art Deco style architecture in Los Angeles. As an historic resource any potential loss of a contributor or individually significant historic resource can be devastating to the District. The Project impacts affects three identified contributor to the California Register-listed Miracle Mile Historic District. The proposed Project includes the needless demolition of the 1935 E. Clem Wilson Building/A&P Market (5413-5415 Wilshire Boulevard), and the 1936 Santa Inez Co/ Gallenkamp Shoes building (5405-5411 Wilshire Boulevard), both identified contributors to the Miracle Mile Historic District. The cumulative impacts may jeopardize continued eligibility of this historic district.

Response to Comment No. 6-10

Impacts to the Historic District were analyzed in the Draft EIR and historical report (included as Appendix B of the Draft EIR). Refer to the Responses to Comment Nos. 5-3 through 5-6 for additional information on the Historic District.

Comment No. 6-11

The Sontag Drug Building. The Art Deco Society of Los Angeles believes the Sontag Drug Building (5401 Wilshire Boulevard), an identified contributor to the District, is individually significant as an exemplary example of Streamline Moderne architecture and important in the early development of the Miracle Mile. Demolition and retention of the street facing facades does not adhere to the *Secretary of the Interior's Standards for Rehabilitation*. Furthermore, interior character defining features of the Sontag building, including a grand stairway are extant. "Facadism" is not historic preservation in Los Angeles or internationally.

Response to Comment No. 6-11

The Draft EIR and historic report (included as Appendix B of the Draft EIR) include a historic assessment of the Sontag Drug Building. The analysis concludes that it is eligible for historic listing individually and is, therefore, treated as an individually eligible historical resource in addition to being recognized as a contributor to the Historic District. Further, the impact analysis acknowledges that the Sontag Drug Building will no longer be eligible for historic listing after implementation of the Project and no claim has been made that retention of the south- and east-facing façades conforms with the Secretary of the Interior's Standards.

Please see the Response to Comment No. 6-8 in regard to interior elements of the building.

Comment No. 6-12

Miracle Mile Apartments Historic District. The proposed Project abuts the National Register listed Miracle Mile Apartments Historic District. The ADSLA believes that the height and mass of the 3-story parking podium adversely effects this National Registered Historic District.

Response to Comment No. 6-12

What constitutes a significant impact to a historical resource is defined by CEQA. As explained in the Draft EIR and historic report (included in Appendix B of the Draft EIR), the analysis of impacts to historical resources under CEQA is focused on whether there would be a "substantial adverse change" to a historical resource as a result of the Project. Pursuant to CEQA Guidelines Section 15064.5(b), "substantial adverse change" is defined as "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." This section further states that "[t]he significance of an historical resource is materially impaired when a project demolishes or

materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, the California Register of Historical Resources...or a local register of historical resources.” As explained and analyzed in the Draft EIR and the historic report, all demolition, alteration, and new construction associated with the Project would be contained within the Project Site. As such, and as demonstrated in the Draft EIR, the Project would not result in any material alteration to the Miracle Mile Apartments Historic District located outside of the Project Site.

No evidence of material alteration of any of the buildings, structures, objects, or sites that contribute to the historic significance of the Miracle Mile Apartments Historic District was identified by the comment. Instead, the comment appears to assert that the “height and mass” of new construction alone would somehow adversely affect the integrity of nearby resources and threaten their eligibility for historic listing. However, the comment does not demonstrate how the height and mass of new construction will result in a substantial adverse change such that the physical characteristics of any historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, historic listing will be materially impaired. As demonstrated in the Draft EIR and historic report, the Miracle Mile Apartments Historic District would not be materially impaired by the Project because it would continue to retain all of its significant character-defining features, convey its significance, and remain eligible for listing in the National and California Registers and for designation as an HPOZ.

Comment No. 6-13

About the Art Deco Society of Los Angeles:

The Art Deco Society of Los Angeles (ADSLA) is a non-profit organization dedicated to promoting public awareness of the Art Deco era through the advocacy for historic preservation and celebration of its art, architecture, fashion, design, and culture. With over 1200 members worldwide, the ADSLA is the largest membership organization in the international coalition of Art Deco Societies.

Response to Comment No. 6-13

The comment provides general information about the Art Deco Society of Los Angeles, which is acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 7: Friends of Historic Miracle Mile

Barbara Gallen, President
Friends of Historic Miracle Mile
www.historicmiraclemile.org

Comment No. 7-1

Friends of Historic Miracle Mile (FOHMM) is a volunteer group dedicated to the preservation of the Miracle Mile Apartments Historic District listed on the National Register in 2022 (“Historic District”).

The Historic District abuts the Project on two sides. It is roughly bounded by the rear lots on the west side Hauser Avenue on the west, 6th Street, Park La Brea and the alley south of 3rd Street on the north; the rear residential lot lines on the east side of Detroit; and the southern edge of the residential lots north of Wilshire Boulevard on the south. There are four Contributors adjacent to the Project.

The Historic District is home to more than 7,000 multifamily residents and is well known for decades to be one of the most congested overcrowded residential areas in the city. It also is known for traffic collisions especially the uncontrolled intersection of Cloverdale and 6th Street, less than a block from the Project.

In the late 1990s, through our members’ advocacy, the City established Preferential Parking District 78, installed speed humps on some blocks, and converted some blocks to 1-way traffic with diagonal parking. However, Cochran could not be converted to diagonal parking or have speed humps because it would cause delays to emergency vehicles from Station 61.

Response to Comment No. 7-1

The comment provides information about the FOHMM group as well as the Miracle Mile Apartments Historic District, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-2

We incorporate by reference the concerns stated in comment letters submitted during the Project’s Scoping process in or around October 2023 from James O’Sullivan, ex officio, Miracle Mile Residential Association, Hana Kawano, board member, Miracle Mile Residential Association, and Friends of Historic Miracle Mile (FOHMM), (collectively, the “Scoping Comments”). LA City Planning has a duty to ensure that the Scoping Comments concerns are addressed and mitigated

meaningfully. Unfortunately, the Mirabel Draft Environmental Impact Report (“DEIR”) has failed to do so. City Planning must ensure that failure is remedied.

Response to Comment No. 7-2

The comment states that Draft EIR does not address all scoping comments, but does not provide any information about specific comments that have not been addressed. Generally, the concerns raised in the scoping comment letter relate to vehicle delay, congestion, and parking, impacts that are no longer environmental impacts per CEQA. The request the commenter makes in the letter further includes detailed studies related to air quality, greenhouse gas emissions, trip generation, and consideration of cumulative impacts resulting from nearby developments. The Initial Study for the Project (which is included as Appendix A-1 of the Draft EIR) includes detailed appendices which disclose project impacts related to air quality, greenhouse gas emissions, the Project’s impacts to VMT based on LADOT VMT Calculator outputs, and cumulative impacts from nearby projects. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-3

An additional concern not reflected in the Scoping Comments is the proximity of the proposed 42 story Project so close to the property line (due to reduced set back requirements), towering over a 2 to 4 story historic neighborhood. Thousands of neighbors will lose sunlight and the residents immediately adjacent will lose not just sunlight but daylight. The geometry of having a 42 story skyscraper so close to your windows means perpetual darkness in your home – you cannot even see the sky. Children living in the adjacent dwellings would grow up in darkness with only artificial light and encourage mold to form because surfaces do not dry out without air flow. Living perpetually without daylight from the sky (not to mention sunlight) can result in depression, a medical condition. Every time a long term tenant moves out because their home has been plunged in perpetual shadow, their rent stabilized unit can be hiked to market rates, resulting in a permanent loss of naturally occurring affordable housing in the neighborhood.

We could not find any other instances of a project this tall being built so close to residential dwellings. We do not have a solution for this aside from halving the height of the Project and requiring appropriate setback distance from the property line to limit the harms to human health. This problem is a grievous weight imposed on a sensitive historic neighborhood so that more rich people can enjoy panoramic views at the expense of our homes being habitable. It will drive families with kids and homebound elders out of the neighborhood in search of a home where they can actually see the sky and not have to keep lights on all day to avoid total darkness in their homes.

Response to Comment No. 7-3

Regarding the Miracle Mile Apartments Historic District, refer to the Response to Comment No. 6-12.

As discussed on pages 187 through 189 of the Initial Study (included as Appendix A-1 of the Draft EIR), pursuant to Senate Bill 743 and City Zoning Information File 2452, shade and shadow impacts shall not be considered an impact for infill projects within transit priority areas. Therefore, Project impacts with respect to shade and shadow would be less than significant.

Comment No. 7-4

“LESS THAN SIGNIFICANT IMPACTS” IS A LESS-THAN-TRANSPARENT FINDING!

In particular, we challenge the DEIR’s conclusion that the Project will have “less than-significant” impacts on our neighborhood vis a vis vehicle miles traveled, air quality, pollution, emissions, cut through traffic, existing resident access to / egress from their homes, and emergency response times to reach the 600, 700 blocks and 800 blocks of Cochran, Cloverdale and Dunsmuir, from the area’s main (and only Task Force) fire station.

How could inserting a building with 8:1 FAR stuffed with 700-800 residents—effectively doubling the permanent population of the block -- NOT increase congestion, vehicle emissions, air pollution, cut through traffic, double parking, and delays for emergency responders? In fact, it absolutely will increase all of those harms.

Mr. Bertoni: Please answer this question honestly and transparently: Would cramming 700-800 more residents onto YOUR block have “less than significant environmental impacts on you and your neighbors?”

Mr. McCrea: Are you on board to have 700-800 more residents stuffed into YOUR block and call it even?

Response to Comment No. 7-4

The comment appears to disagree with the less than significant impacts identified in the Draft EIR, but does not provide specific evidence to dispute the Draft EIR’s conclusions.

As discussed on pages 350 through 354 of the Initial Study (which is included as Appendix A-1 of the Draft EIR), and in the associated technical reports contained in Appendix G of the Initial Study, Project impacts with respect to vehicle miles traveled (VMT) would be less than significant.

As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, the Project’s air quality impacts during operation, including from vehicles traveling to and from the Project Site, would be less than significant.

Per SB 743, congestion, vehicle delay, and “traffic” are no longer considered impacts under CEQA. Regarding emergency response, refer to the Response to Comment No. 7-8, below.

Comment No. 7-5

The Historic District has long been subject to frequent double parking in part due to residents in historic structures lacking driveways or carports. They must double park to unload groceries, packages and passengers before spending 20 minutes driving around in search of a curb space.

But an even bigger force behind the double parking is the astronomical growth of ecommerce that took off during COVID, sometimes referred to as the “Amazon Effect,” and which has permanently altered the landscape, shuttering brick and mortar retail and flooding neighborhoods with Amazon and other delivery vehicles.

Yet the DEIR failed to study the impacts of consumer purchases shifting more and more to e-commerce although we asked you to. The DEIR is based on 2018 - 2021 data.

Response to Comment No. 7-5

The comment provides information about double parking in the Historic District, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-6

Nor is there any analysis of ridehailing factor’s impact on circulation and vehicle trips on the surrounding residential streets despite explicit request for same in the Scoping Comments.

The volume of ridehailing trips continues to increase every year and indeed as the City works to all but eliminate parking to discourage car use, ride hailing becomes a greater and greater contributor to VMTs, emissions and congestion. As described in the Scoping Comments, many prominent studies have documented that ridehailing has doubled VMTs and greenhouse gases in urban areas due to the “deadheading” effect, i.e., a person who uses Uber to travel to a destination, then later summons another Uber to return home, generates FOUR vehicle trips—not two—because each “ride” the person hails also entails the Uber driver traveling empty to pick up the rider, typically a few miles away. That results in doubling the vehicle trips, VMTs and emissions, besides adding to congestion.

Response to Comment No. 7-6

As discussed above, vehicle delay and congestion are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant.

Comment No. 7-7

The DEIR's transportation analysis fails to analyze (as requested) the impact of e-commerce services like Amazon on vehicle trips, VMTs, pollution and traffic congestion (idling cars stuck in congestion on residential blocks endanger residents who must breathe their emissions. Such delivery vehicles already impede resident and emergency response on the 600 block of Cochran near the intersections of Cloverdale/Wilshire and Cochran/Wilshire.

Response to Comment No. 7-7

As discussed above, vehicle delay and congestion are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant. As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, operational emissions associated with Project vehicle trips would be less than significant.

Comment No. 7-8

Captain Richard Martinez of LAFD Station 61, which uses Cochran as a principal route to emergencies south of Wilshire, lamented that there are already delays caused when the emergency responders have to navigate around a plethora of Amazon vans and double parked delivery trucks on Cochran, adding, "And that's before any new development." Captain Martinez also told us he had never heard of the proposal to erect at a 42 story skyscraper on the 600 block of Cochran until we told him about it last week. He said it would jeopardize response times if congestion gets any worse on Cochran.

Response to Comment No. 7-8

The Los Angeles Fire Department (LAFD) was notified of the Project, and sent a letter regarding the Project on February 10, 2023 (included in Appendix I-1 of the Initial Study). As discussed in that letter, and on pages 333 through 338 of the Initial Study (included as Appendix A-1 of the Draft EIR), the LAFD has existing fire stations located in the area of the Project, and concluded that based on response distance from existing fire stations, fire protection would be considered adequate.

Project impacts with respect to emergency access are discussed on pages 355 and 356 of the Initial Study (included as Appendix A-1 of the Draft EIR). As discussed therein, vehicular access to the Project Site would be maintained from Cloverdale Avenue and Cochran Avenue. The Project's driveways and internal circulation would be designed to meet all applicable City Building Code and Fire Code requirements regarding site access, including providing adequate emergency vehicle access both during construction as well as after completion of the Project. Therefore, the analysis contained in the Initial Study confirmed that emergency access to the

Project Site would be maintained both during construction and operation of the Project, and impacts were determined to be less than significant.

Comment No. 7-9

There are 402 *residential* parking spaces proposed, whose ingress and egress are on Cloverdale. While this number of spaces is patently insufficient for an upscale skyscraper whose high earning residents are typically 2-car households, it is still a huge number suggesting a tidal wave of cars. The DEI fails to discuss how the Project will ensure that thousands of additional vehicle trips associated with the Project (including ridehailing vehicles, commercial deliveries, and passenger vehicles) will be prevented from choking the already-burdened neighborhood with pollution and paralyzing congestion. Nor is there any plan to prevent more collisions caused by vehicles headed to or from the Project at the uncontrolled intersection of 6th and Cloverdale, the site of multiple collisions caused by drivers who disobey the Right Turn Only for southbound drivers. As this Project is expected to generate a flood of e-commerce deliveries related to the 700-800 additional residents—on top of the existing deliveries on Cochran—the Mirabel portends more collisions at the uncontrolled intersection.

Response to Comment No. 7-9

As discussed above, vehicle delay, congestion, and parking are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant. As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, operational emissions associated with Project vehicle trips would be less than significant.

Comment No. 7-10

To mitigate this burden of excessive vehicles headed to and from the Mirabel and protect existing residents from related congestion, pollution and collisions, **we need a concrete barrier separating the residentially zoned portion of Cloverdale (the Historic District) from the commercially zoned portion where Mirabel is situated.**

Conversion of the residentially zoned portion of the block to a 1-lane, 1-way southbound road with angled parking, with a pass through so residents can travel southbound to access Wilshire but no cars can travel northbound. (Cloverdale is already a 1-lane, 1-way southbound road on the 300 and 400 blocks and southbound cars are required to turn right at 6th, however passenger vehicles and commercial vehicles routinely abuse the Right Turn Only to proceed straight across the intersection headed southbound toward Wilshire, which has resulted in numerous collisions over the years (LADOT installed the RTO in 2017 as a reaction to the frequency of collisions there).

To discourage drivers headed to the Mirabel from using Cloverdale as a southbound cuthrough, another physical barrier should be installed to prevent southbound vehicles on Cloverdale coming through the pass through from accessing the Project's Cloverdale driveway. Vehicles headed to Mirabel should only be able to access the Cloverdale driveway coming from Wilshire.

The goal is for the thousands of vehicles traveling to the Project every week from points north of Wilshire to be prevented from using the residential portion of Cloverdale as a cut through to approach or leave the Project.

The circulation impacts on Cochran are more problematic to mitigate because Cochran is a principal egress route for LAFD Station 61 emergency responders headed south of Wilshire. LAFD will not allow any barrier that would delay their vehicles from getting through to Wilshire.

Response to Comment No. 7-10

The commenter asserts without evidence an “excessive” amount of vehicles accessing the Project Site as an impact to existing residents that the Project must mitigate by installation of concrete traffic diversion. The commenter states this would reduce congestion, collisions and pollution. As discussed above, vehicle delay is no longer considered an impact under CEQA per SB 743. As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, operational emissions associated with Project vehicle trips would be less than significant. With respect to emergency access, please refer to Response to Comment No. 7-8.

The commenter claims the mitigation measure they suggest is required to mitigate impacts. As discussed above, these impacts are not considered significant under CEQA. Nevertheless, in formation of mitigation measures, the City must weigh a number of factors such as legality of the action in the measure, the legal nexus to impose the measure, and “rough proportionality” of the measure to the impact, per CEQA Guidelines 15126.4 (a). In addition the same section requires analysis of subsequent impacts as a result of the measure. The commenter does not provide substantial evidence to support the diversion of traffic from a through street has a nexus or proportionality to any impact, and further proposes this mitigation in conflict with CEQA Guidelines. The comment will be forwarded to the decision maker for their consideration.

Comment No. 7-11

Yet the volume of delivery, ridehailing and passenger vehicles circulating and double parked on Cochran will themselves be obstacles that delay emergency responders, endanger the public, and prevent existing residents from reaching or leaving their homes on Cochran. The Project's “loading zone” cannot accommodate the amount of vehicles and deliveries associated with a skyscraper of this size. What's more, Amazon drivers and UPS drivers) are notorious for double parking near the delivery address to expedite the delivery process because if they fail to deliver their quota of packages per hour, they could lose their jobs. So, too, for Uber drivers who drop

riders at the curb near the destination (because the rider preferred that to sitting in backed up traffic to reach a designated Uber drop off).

It's also commonplace for ridehailing drivers to make abrupt U turns to go back the way they came to avoid the delays of going through multiple intersections. This could be disastrous on Cochran which is too narrow and congested already. It's nice to say the Project provides a porte cochere for ride hailing vehicles, but the Project is not going to police Cochran to ensure double parking and illegal U turns don't happen. The residents pay the price of the street chaos generated by Project much too big for its footprint.

Response to Comment No. 7-11

As discussed above, vehicle delay and congestion are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant. Regarding emergency response, refer to the Response to Comment No. 7-8, above.

The remainder of the comment expresses the commenter's opinions about ride hailing and delivery drivers, as well as the size of the Project, which are acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-12

Per LAFD data, Station 61's response times have been steadily deteriorating over the past three years. When we asked LAFD Station 61 Captain Richard Martinez last week what would happen if a 42 story luxury apartment tower opens at 688 Cochran he was startled because he did not know anything about the Mirabel project. He said they already at the mercy of constant double parked Amazon trucks, which seem to be getting bigger all the time, along with residents who have to double park to unload groceries and passengers because their historic apartment building lacks a driveway or any offsite parking.

The only way to keep Cochran from getting more congested and creating longer and longer response times is to **eliminate all ingress and egress on Cochran and shift those driveways to Wilshire to keep more than a thousand daily vehicle trips (and double parked vehicles) off Cochran.**

We are aware that LADOT's current policy is to keep ingress / egress away from a major thoroughfare because egress and ingress can slow down the flow of through traffic and the driveways interrupt pedestrian flow, but in a neighborhood as congested as the Historic District, on blocks as narrow as Cochran and Cloverdale are, the burden of vehicle emissions and traffic bottlenecks preventing any traffic flow at all is unacceptable to impose on the existing residents and the emergency responders.

Response to Comment No. 7-12

Regarding emergency response, refer to the Response to Comment No. 7-8, above.

As discussed above, vehicle delay and congestion are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant. As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, operational emissions associated with Project vehicle trips would be less than significant.

As noted in the comment, all of the Project's ingress and egress is proposed via Cochran and Cloverdale Avenues. Nevertheless, the commenter's opinion that access should be provided via Wilshire Boulevard is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-13

As well, how is putting driveways across the pedestrian sidewalk on Cochran any less hazardous than having them on Wilshire? Simply put, it isn't. The massive driveways on the side streets would put the densely packed neighborhood residents in harm's way when they walk between Wilshire and their homes.

Response to Comment No. 7-13

The commenter suggests that the Project access is unsafe for pedestrians, and driveways should be relocated to Wilshire Boulevard. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), the Project does not pose a safety risk to pedestrians and complies with applicable Mobility Plan, community plan, and Miracle Mile CDO policies and objectives related to pedestrian safety. Specifically, the Miracle Mile CDO prohibits vehicle entry and exit along Wilshire Boulevard for new construction to maintain pedestrian circulation and safety. The Project will be required to comply with LADOT requirements related driveways, including pedestrian safety and visibility. Further, the commenter provides no evidence beyond speculation and conjecture that the proposed driveways would be a safety concern. The comment will be forwarded to the decision maker for their consideration.

Comment No. 7-14

We have heard LADOT staffers being vocal about congestion being a motivator for people to use transit. So by shifting the ingress / egress driveways to Wilshire, the Wilshire through traffic will be motivated to use transit if Mirabel ingress and egress slows has an inhibiting effect on traffic flow. This is necessary to protect emergency vehicle forward movement on Cochran headed to emergencies and protect residents from harmful bottlenecks, double parking, dangerous U turns, pedestrian injuries, and deteriorating of access to their homes on Cochran.

Historically, a project of this massivity would have been required to cede some of their property to create an access lane to take the project's traffic out of through traffic into its own lane to access the ingress driveways. That is still being done in other parts of the City. We would support carving out an access lane on the Wilshire frontage to keep thousands of vehicles from circulating and bottlenecking residential side streets, endangering residents and poisoning us with emissions.

Response to Comment No. 7-14

The commenter suggests that the Project site plan be reconfigured to accommodate purported vehicle delay and resulting impacts. As discussed above, per SB 743, vehicle delay is not an environmental impact under CEQA. With respect to emergency response, refer to the Response to Comment No. 7-8; pollution, refer to the Response to Comment No. 7-7; and pedestrian safety and driveways, refer to Response to Comment No. 7-13. Nevertheless, the commenter's opinion that access should be provided via Wilshire Boulevard is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-15

LAFD RESPONSE TIMES

LAFD Fire Marshall provided a statement in the DEIR opining that emergency response services to the Mirabel would be "adequate" because of the proximity of Station 61, but **the Fire Marshall did not opine on potential impacts the tidal wave of passenger and commercial vehicles associated with the Mirabel on response times to the residents further south if the emergency vehicles cannot get around the congestion and double parked vehicles on Cochran.**

Response to Comment No. 7-15

Regarding emergency response, refer to the Response to Comment No. 7-8, above.

Comment No. 7-16

There are yet more factors not considered in the DEIR that will significantly impact circulation and vehicle miles in the Project vicinity, and exacerbate the amount of double parking and idling cars that pollute the air and create impassable bottlenecks.

Response to Comment No. 7-16

The commenter states that additional factors were not considered in the DEIR that will impact circulation, vehicle miles [sic] and exacerbate double parking and idling cars leading to air pollution and congestion. The commenter provides no specifics or indication of what these additional factors are, and repeats other points that do not raise an environmental concern and have been addressed above in responses. The comment will be forwarded to the decision maker for their consideration.

Comment No. 7-17

WHERE WILL MIRABEL'S PARKING OVERFLOW PARK WITH NEW STATE LAW SET TO EXCLUDE MIRABEL FROM NEIGHBORHOOD PARKING DISTRICT? Due to a new state law, AB 2712 (Friedman), effective January 1, 2025, the City of LA will be required to redraw the boundaries of preferential parking districts to exclude any development built with reduced or zero parking requirements based on proximity to transit. As such, the Mirabel will be excluded from Parking District 78 and its residents barred from obtaining parking permits that would exempt them from posted restrictions.

AB 2712 was written and sponsored by Friends of Historic Miracle Mile. We brought the bill to Asm Friedman last year which she agreed to introduce and champion. The Mirabel was actually the poster child for winning the support of state legislators. They were quick to recognize the problem we presented—an ultra luxury, intentionally-under-parked skyscraper looming over a parking-burdened renter neighborhood and poised to hijack existing residents' scarce street parking.

More than half of Mirabel's car-using residents and guests will have to double park and/or circle the block when other motorists honk at them to move, as they try to negotiate loading, unloading of groceries, packages, and passengers.** The LA Times and Metro have stated that in LA it's mainly the very poor who don't have a car. **Any claim that Metro ridership is increasing is meant to mislead the public: the so-called increase is merely a partial recapture of further losses during COVID; in fact Metro ridership had been declining steadily since its peak in 2014**, a decline even the opening of the Expo line did not offset. **Someone paying \$5K – 25K per month for their Mirabel crib might take the subway once in a while to go to the Music Center *but they will still have a car— or two, or three!—in their high earning household.*

So, where will the Mirabel parking overflow park, if not on the neighborhood streets? How will the City ensure this parking overflow does not burden the neighborhood with bottlenecks, pollution, and deterioration of emergency response times?

It apparently won't be the City of LA municipal lot on the 700 block of Cochran. Recently South Carthay leader Brent Kidwell proposed that the City to redevelop this lot into a multilevel parking structure modeled on the one at La Cienega Expo Line station, to support commuters who would not otherwise use the subway because they live too far to walk to the La Brea station. The City replied that the parking lot was slated for affordable housing without parking, further shrinking the area's parking supply.

So where will the Mirabel parking overflow go?

It looks like it will be double parked on Cloverdale and Cochran, or risking parking tickets by parking illegally in the neighborhood. All while getting honked at by frustrated motorists and delivery drivers who covet their double-parked space, and while boosting emissions polluting our air while cars circle and idle and block our emergency responders. This must be mitigated.

Response to Comment No. 7-17

As discussed above, vehicle delay and congestion are no longer impacts under CEQA per SB 743. As discussed in Section XVII, Transportation, of the Initial Study (included as Appendix A-1 of the Draft EIR), Project impacts related to VMT were determined to be less than significant. As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, operational emissions associated with Project vehicle trips would be less than significant. Regarding emergency response, refer to the Response to Comment No. 7-8, above.

The remainder of the comment about the amount of parking proposed for the Project does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 7-18

We must serious investigate the above described concerns and suggested mitigations to the circulation plan to route all ingress and egress from this Project via Wilshire and / or the southern (commercially zoned) portion of Cloverdale, to be physically separated from the residential portion of the block except for a 1 way pass through for residents.

Response to Comment No. 7-18

The specific concerns provided above have been responded to in the Responses to Comments 7-1 through 7-17.

Comment No. 7-19

And we must look into our souls and determine that it is not acceptable to compromise the health, safety, well being and basic rights of 7,000+ multifamily residents in a sensitive, historic working class neighborhood so that ultra wealthy individuals—who have no intention of prioritizing transit over car use—can live the dream up on the 40th floor while their hoity toity skyscraper development wreaks havoc with the lives of existing residents.

Response to Comment No. 7-19

The comment provides the commenter's opinion about the Project, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 8: CREED

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Comment No. 8-1

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) to provide preliminary comments on the draft Sustainable Communities Environmental Impact Report (“SCEIR”) prepared for the Mirabel Transit Priority Project (SCH No. 2023080791; Environmental Case No. ENV-2019-3937-EIR), proposed by Walter N. Marks, Inc. (“Applicant”). The SCEIR’s analysis is included in an Initial Study and Draft EIR (“DEIR”).

The Project proposes the construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet (sf) of ground floor commercial uses in the City of Los Angeles, California. The Project would demolish 38,545 sf of existing commercial buildings on-site, including the historic building located at 5401 Wilshire Boulevard. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. The Project Site is comprised of six lots totaling approximately 57,374 sf and includes the following addresses: 5401-5425 Wilshire Boulevard, 664- 670 Cochran Avenue, and 665-671 Cloverdale Avenue, Los Angeles, CA 90036. The Project site comprises of Assessor Parcel Numbers 5508-009-029 and 5508-009-001.

Response to Comment No. 8-1

The comment provides introductory information and a summary of the Project description, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 8-2

We reviewed the SCEIR with the assistance of air quality expert Dr. James Clark.⁴ The City must separately respond to these technical comments.

⁴ Dr. Clark’s comments and curricula vitae and are attached hereto as **Exhibit A** (“Clark Comments”).

Based upon our preliminary review of the SCEIR and supporting documentation, we conclude that the SCEIR fails to comply with the requirements of the California Environmental Quality Act (“CEQA”).⁵ The SCEIR violates CEQA by failing to quantify the Project’s health risk impacts in a health risk analysis, resulting in an unsupported and inaccurate conclusion that health risk impacts would be less than significant with mitigation. Dr. Clark prepared a health risk analysis showing that the Project would result in significant impacts from exposure of diesel particulate matter (“DPM”) emitted during construction activities applying the mitigation proposed in the SCEIR. The SCEIR is also inadequate because it fails to account for back-up generator and fire pump emissions, thus underestimating emissions of criteria air pollutants, greenhouse gases (“GHGs”), and toxic air contaminants (“TACs”). The Project also has significant public utilities impacts unanalyzed in the SCEIR. The SCEIR estimates that the fire flow available to the Project is 6,400 gallons per minute (gpm), which is just over half the 12,000 gpm requirement set by the Los Angeles Fire Department. The Project likely requires extensive water infrastructure upgrades which are unanalyzed in the SCEIR.

As a result of its shortcomings, the SCEIR lacks substantial evidence to support its conclusions, violates CEQA’s analytical requirements, and fails to properly mitigate the Project’s significant environmental impacts.

CREED LA urges the City to remedy the deficiencies in the SCEIR by preparing a legally adequate revised SCEIR and recirculating it for public review and comment.⁶ CREED LA reserves the right to provide supplemental comments at any and all later proceedings related to this Project.⁷

Response to Comment No. 8-2

The issues mentioned in this comment are addressed in response to specific comments, below. For a discussion of the Project’s health risk impacts, refer to the Responses to Comment Nos. 8-10 and 8-11; for a discussion of impacts related to the use of a back-up generator and fire pump, refer to the Response to Comment No. 8-12; and regarding the Project’s impacts with respect to utilities, refer to the Response to Comment No. 8-13.

Comment No. 8-3

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

⁵ PRC § 21100 et seq.

⁶ 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.

⁷ Gov. Code § 65009(b); PRC § 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.

development opportunities. The association includes Los Angeles residents Thomas Brown, John Bustos, Gery Kennon, 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. 8-3

The comment provides information about the commenter, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

In addition, the analysis contained in the Initial Study (included as Appendix A-1 to the Draft EIR) demonstrates that Project impacts with respect to air quality, public health, climate change, and traffic would be less than significant. While impacts with respect to the emission of toxic air contaminants (TACs) during construction would be less than significant, the Project would nevertheless implement Mitigation Measure 4.2-3 from the City's Housing and Safety Element EIR. As discussed in Draft EIR Section IV.B (Noise), with implementation of Mitigation Measure MM-NOI-1, Project impacts with respect to construction noise would be less than significant, and with implementation of Mitigation Measure MM-NOI-2, Project impacts with respect to construction vibration (building damage) would be less than significant. Project impacts with respect to operational noise and vibration would be less than significant without mitigation.

However, as discussed on Draft EIR page IV.B-46, there are no feasible mitigation measures that could reduce the temporary vibration human annoyance impacts from both on- and off-site construction activities. Therefore, vibration impacts from on-site and off-site construction activities with respect to human annoyance would be significant and unavoidable.

Comment No. 8-4

II. THE CITY HAS NOT MADE REFERENCE DOCUMENTS AVAILABLE THROUGHOUT THE PUBLIC REVIEW PERIOD, NECESSITATING AN EXTENSION OF THE PUBLIC COMMENT PERIOD

On October 1, 2024, CREED LA submitted a request for access to records referenced in the SCEIR. The request was made pursuant to CEQA, which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.⁸ On October 4, 2024, the City responded that it was not in possession of any responsive records. However, many of the SCEIR's reference documents remain unavailable to the public. These include:

- Laboratory Analytical Reports, which are referenced as Appendix A of Appendix E-2 of the Initial Study (Phase II ESA);
- LADBS Certification Forms, which are referenced as Appendix B of Appendix E-2 of the Initial Study (Phase II ESA);
- Many reference documents listed in the References section of Appendix C of the Initial Study (Archeological Report);
- Soils Report Approval letters from the City's Department of Building and Safety, referenced in Appendix D-2 (Geotechnical Memo) of the Initial Study;
- Many reference documents listed in the References section of Appendix D-3 of the Initial Study (Paleontological Resources Technical Report).

The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.⁹ In *Ultramar v. South Coast Air Quality Management District*, the lead agency circulated an environmental assessment ("EA") for a 30-day public review period, mailing out copies of the draft EA to interested parties. However, the lead agency failed to include a single chapter of the EA in the copies distributed by mail.¹⁰ The court stated that because the *complete* EA was not available for the full 30 days, "[t]he net effect

⁸ See Public Resources Code § 21092(b)(1) (stating that "all documents referenced in the draft environmental impact report" shall be made "available for review"); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the EIR . . . shall be readily accessible to the public"); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (EIR must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("[W]hatever is required to be considered in an EIR must be in that formal report. . ."), internal citations omitted.

⁹ *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

¹⁰ *Id.* at 697.

of [the lead agency's] action was to deprive the public of the full 30-day comment period on the EA."¹¹ The court held that the lead agency's action violated Public Resources Code section 21091, subdivision (a), which mandates a minimum 30-day public review period.¹²

Here, the City has not provided timely access to all of the SCEIR's reference documents for the entirety of the comment period. The omitted reference documents include Phase II ESA appendices essential to reviewing the Project's potentially significant soil contamination impacts. CREED LA respectfully requests that the City extend the public review and comment period on the SCEIR for at least 45 days from the date on which the City releases all reference documents for public review.

Response to Comment No. 8-4

The technical reports listed in the comment were attached as appendices to the Initial Study, which was released for public review in August of 2023. The entirety of the Initial Study has been available on the City's website since that time. In addition, the entirety of the Draft EIR has been available for the full 45-day public comment period.

The comment misstates CEQA and the CEQA guidelines. The stated section requires documentation that is *incorporated by reference* in an environmental document. Specifically, and not cited in the comment, Section 15072(9)(4) of the CEQA Guidelines requires that the City provide all documents "*incorporated by reference*," *not* all documents "*referenced*." The environmental documentation incorporates appendices by reference, but does not incorporate any other documents by reference. The suggestion implied in the comment that the terms "referenced" and "incorporated by reference" have identical meanings is not supported by any case or statutory authority, and misreads CEQA.

Comment No. 8-5

III. LEGAL BACKGROUND

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances).¹³ The EIR is the very heart of CEQA.¹⁴ "The foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."¹⁵

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.¹⁶ "Its purpose is to inform

¹¹ *Id.* at 701.

¹² *Id.* at 702.

¹³ See, e.g., PRC § 21100.

¹⁴ *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.

¹⁵ *Comtys. for a Better Env' v. Cal. Res. Agency* (2002) 103 Cal. App.4th 98, 109 ("CBE v. CRA").

¹⁶ 14 CCR § 15002(a)(1).

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.”¹⁷ 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.”¹⁸

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures.¹⁹ 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.”²⁰ 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 where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”²¹

Response to Comment No. 8-5

The comment summarizes various CEQA legal standards related to EIRs, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 8-6

A. Streamlined Environmental Review for Transit Priority Projects

CEQA allows for the streamlining of environmental review for “transit priority projects” meeting certain criteria.²² To qualify as a transit priority project, a project must

1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75;

2) provide a minimum net density of at least 20 dwelling units per acre; and

¹⁷ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.

¹⁸ *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

¹⁹ 14 CCR§ 15002(a)(2) and (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.

²⁰ 14 CCR §15002(a)(2).

²¹ PRC § 21081; 14 CCR § 15092(b)(2)(A) & (B).

²² Pub. Res. Code §§ 21155, 21155.1, 21155.2.

3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.²³

A transit priority project is eligible for CEQA's streamlining provisions where it is:

consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board ... has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.²⁴

On September 3, 2020, the Regional Council of the Southern California Association of Governments ("SCAG") adopted the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy ("2020-2045 RTP/SCS"), which was accepted by the California Air Resources Board ("CARB"). The final program EIR for the 2020-2045 RTP/SCS was certified on May 7, 2020.

If "all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081" are applied to a transit priority project, the project is eligible to conduct environmental review using a SCEA or an SCEIR.²⁵ A SCEIR must contain an initial study which "identif[ies] all significant or potentially significant impacts of the transit priority project ... based on substantial evidence in light of the whole record."²⁶ The initial study must also "identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports."²⁷ The SCEIR is not required to discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.²⁸ The environmental impact report component of the SCEIR must address the significant or potentially significant effects of the transit priority project on the environment.²⁹

In this case, the City failed to conduct a proper analysis of the Project's significant and potentially significant impacts. Furthermore, the SCEIR fails to mitigate the significant effects of the Project, rendering the SCEIR incomplete. The City must revise and recirculate the SCEIR in order to fully analyze and mitigate the Project's impacts.

²³ Pub. Res. Code § 21155(b).

²⁴ Pub. Res. Code § 21155(a).

²⁵ Pub. Res. Code § 21155.2.

²⁶ Pub. Res. Code § 21155.2(c)(1).

²⁷ *Id.*

²⁸ Pub. Res. Code § 21159.28(a).

²⁹ Pub. Res. Code § 21155.2(c)(2).

Response to Comment No. 8-6

The comment summarizes various CEQA legal standards related to environmental review for transit priority projects, which is also provided on pages I-2 through I-4 of the Draft EIR. The comment states that the Draft EIR must be revised to fully analyze and mitigate the Project's impacts, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Contrary to the comment, the analysis contained in the Initial Study and Draft EIR collectively analyze all 20 topics contained in the CEQA Guidelines Appendix G checklist, and mitigation measures have been provided where necessary, to reduce Project impacts to less than significant. However, as discussed on pages VI-1 and VI-2 of the Draft EIR, implementation of the Project would result in significant and unavoidable impacts related to historic resources and construction vibration (related to human annoyance).

Comment No. 8-7

IV. THE PROJECT DESCRIPTION IS INADEQUATE

The SCEIR does not meet CEQA's requirements because it fails to include an accurate and complete Project description, rendering the entire analysis inadequate. California courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."³⁰ CEQA requires that a project be described with enough particularity that its impacts can be assessed.³¹ Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.³² Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.³³

CEQA Guidelines section 15378 defines "project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment."³⁴ "The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term project does not mean each separate governmental approval."³⁵ Courts have explained that a complete description of a project 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."³⁶ "If a[n]...EIR...does not

³⁰ *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* ("CBE v. Richmond") (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.

³¹ 14 CCR § 15124; see, *Laurel Heights I, supra*, 47 Cal.3d 376, 192-193.

³² *Id.*

³³ *Sundstrom v. County of Mendocino* ("Sundstrom") (1988) 202 Cal.App.3d 296, 311.

³⁴ CEQA Guidelines § 15378.

³⁵ *Id.*, § 15378(c).

³⁶ *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.

adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project, informed decision-making cannot occur under CEQA and the final EIR is inadequate as a matter of law.”³⁷

Response to Comment No. 8-7

The comment summarizes various CEQA legal standards related to the required Project description, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. While the commentor has suggested that the Project Description is inadequate, it has not provided any ways the Project Description fails to describe what will be approved. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 8-8

A. Use of Back-Up Generators is a Reasonably Foreseeable Consequence of the Project

The SCEIR fails to disclose that the Project would include back-up generators in its discussion of the Project’s air quality and health risk discussions. The SCEIR’s CalEEMod analysis of criteria air pollutants fails to include emissions from backup generators,³⁸ and the SCEIR’s qualitative discussion of health risk impacts from TACs fails to disclose use of back-up generators.³⁹ Back-up generator emissions must be analyzed in the SCEIR because back-up generators are a reasonably foreseeable consequence of the Project. Back-up generators are reasonably foreseeable because multiple are included in the Project’s site plans.⁴⁰ Generators are also required for this Project by applicable building standards codes.

The Project must supply standby and emergency power pursuant to the California Building Standards Code, Los Angeles Building Code, and the Los Angeles Fire Code (the Los Angeles Building Code replicates the California Building Standards Code’s provisions on emergency power, and the Los Angeles Fire Code’s provisions are very similar to the state code on this issue).⁴¹ According to the California Building Standards Code, high-rise buildings exceeding 75 feet in height must install standby and emergency power systems. Specifically, Section 403.1 of the Building Standards Code states that “[n]ew high-rise buildings (see Section 202 for definition of a high-rise) [...] shall comply with Section 403.2 through 403.7. Section 202 provides that “high-rise buildings” are defined as “[e]very building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having

³⁷ *Riverwatch v. Olivenhain Municipal Water Dist.* (2009) 170 Cal. App. 4th 1186, 1201.

³⁸ Clark Comments, pg. 19-20.

³⁹ Initial Study, pg. 215, 216.

⁴⁰ DEIR, Figure II-13, Figure II-7, Figure II-25.

⁴¹ 2022 California Building Standards Code (Cal. Code Regs., Title 24) was published July 1, 2022, with an effective date of January 1, 2023; 2020 Los Angeles Fire Code; 2020 Los Angeles Building Code (this Code replicates the section numbers and language of the state building code).

building access, except buildings used as hospitals.”⁴² This definition is shared by the Los Angeles Fire Code.⁴³ The 530 ft tall Project constitutes a high-rise building because the highest occupied floor proposed by the Project would be located more than 75 feet above the floor level.⁴⁴

Section 2702.2.11 of the California Building Standards Code states that “[e]mergency and standby power shall be provided in high-rise buildings.” Section 403.4.8, which is applicable to high-rise buildings pursuant to Section 403.1, states that “[a] standby power system complying with Section 2702 and Section 3003 shall be provided for the standby power loads specified in Section 403.4.8.3,” and “[a]n emergency power system complying with Section 2702 shall be provided for the emergency power loads specified in Section 403.4.8.4.” Standby power loads specified in Section 403.4.8.3 include ventilation and automatic fire detection equipment and elevators. Emergency power loads specified in Section 403.4.8.4 include exit signs, lighting, emergency communications systems, fire detection systems, fire alarm systems, electrically powered fire pumps, and power and light for the fire command center.

In sum, the California Building Standards Code requires the Project to provide standby and emergency power for the features listed above. The Los Angeles Fire Code also states that these requirements are applicable to the Project: “[s]tandby power and emergency power shall be provided for high-rise buildings and Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department access as required in Section 403 of the California Building Code.”⁴⁵

Additionally, Section 2702.2 of the Building Standards Code provides that emergency and standby power systems shall be provided for Elevators and Platform Lifts;⁴⁶ Emergency Responder Communication Coverage Systems;⁴⁷ Emergency Voice/Alarm Communication Systems;⁴⁸ Exhaust Systems;⁴⁹ Exit Signs;⁵⁰ Gas Detection System;⁵¹ and High-Rise Buildings.⁵² The Los Angeles Fire Code similarly states that emergency and standby power systems are required for these systems.⁵³ The Building Standards Code provides that these systems are generally required for high-rise buildings such as the Project, and the Project site plan includes two elevators.⁵⁴ Thus, the Project will need to provide backup power for these systems.

⁴² See Los Angeles Fire Code, Section 914.3.

⁴³ Los Angeles Fire Code, Chapter 2 – Definitions; Los Angeles Building Code, Chapter 2 – Definitions.

⁴⁴ Elevations are provided in Draft EIR, Figures II-15 through II-17.

⁴⁵ Los Angeles Fire Code, Section 1203.2.10.

⁴⁶ California Building Standards Code, Section 2702.2.2

⁴⁷ *Id.*, Section 2702.2.3

⁴⁸ *Id.*, Section 2702.2.4

⁴⁹ *Id.*, Section 2702.2.5

⁵⁰ *Id.*, Section 2702.2.6

⁵¹ *Id.*, Section 2702.2.7

⁵² *Id.*, Section 2702.2.11

⁵³ Los Angeles Fire Code, Section 1203.2.

⁵⁴ California Building Standards Code, Section 403.2 (“The construction of high-rise buildings shall comply with the provisions of Sections 403.2.1 through 403.2.3.”); Section 403.2 (“The detection, alarm and emergency systems of high-rise buildings shall comply with Sections 403.4.1 through 403.4.8.”); Section 1009.2.1 (“In buildings where a required accessible floor is four or more stories above or below a level of exit discharge, not less than one

In addition to the evidence showing that installation of backup generators is reasonably foreseeable, substantial evidence shows that *use* of the generator(s) is reasonably foreseeable due to routine testing of the generators and emergency use during increasingly common Public Safety Power Shutoff (“PSPS”) events and extreme heat events (“EHE”). EHEs are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit.⁵⁵ From January 2019 through December 2019, Southern California Edison reported 158 of their circuits underwent a PSP event.⁵⁶ In Los Angeles County, two circuits had 4 PSPS events during that period, lasting an average of 35 to 38 hours. The total duration of the PSPS events lasted between 141 hours to 154 hours in 2019. According to the California Public Utilities Commission (CPUC) de-energization report⁵⁷ in October 2019, there were almost 806 PSPS events that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them were residential customers. The California Air Resources Board estimates that with 973,000 customers impacted by PSPS events in October 2019, approximately 125,000 back-up generators were used by customers to provide electricity during power outages.⁵⁸ The widespread use of back-up generators by residences to adapt to PSPS and EHE events suggests that back-up generators are a reasonably foreseeable consequence of this primarily residential Project.

In sum, installation and use of one or more diesel back-up generators is a reasonably foreseeable consequence of the Project. As will be explained below, the omission of back-up generator emissions from the SCEIR’s analysis results in an underestimation of criteria air pollutants and a failure to disclose a significant source of TAC emissions.

Response to Comment No. 8-8

The comment summarizes various regulations related to the use of back-up generators. The Project would be required to comply with any applicable regulations regarding standby and emergency power. Regarding air quality impacts resulting from back-generator emissions, please refer to the Response to Comment No. 8-12, below. As demonstrated in that response, the emissions from a back-up generator would have a nominal effect on Project emissions, and the Project’s daily emissions would remain below SCAQMD regional and localized thresholds even with the inclusion of these emissions. Therefore, the use of a back-up generator would not have a significant impact on air quality.

required accessible means of egress shall be an elevator complying with Section 1009.4”); DEIR, Figure II-4. 52 Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

⁵⁵ Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

⁵⁶ SCAQMD. 2020. Proposed Amendment To Rules (PARS) 1110.2, 1470, and 1472. Dated December 10, 2020. http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1110.2/1110-2_1470_1472/par1110-2_1470_wgm_121020.pdf?sfvrsn=6.

⁵⁷ <https://www.cpuc.ca.gov/deenergization/> as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage..

⁵⁸ California Air Resources Board, Emission Impact: Additional Generator Usage Associated with Power Outage (January 30, 2020), available at <https://ww2.arb.ca.gov/resources/documents/emissions-impact-generator-usage-during-psps>.

Comment No. 8-9**V. THE SCEIR FAILS TO ADEQUATELY ANALYZE, QUANTIFY, AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT IMPACTS**

An SCEIR must fully disclose all potentially significant impacts of a project and must 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.⁵⁹ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.⁶⁰

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by law.⁶¹ 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.⁶²

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.'⁶³

Response to Comment No. 8-9

The comment summarizes various CEQA legal standards related to EIRs, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 8-10**A. The SCEIR Fails to Disclose and Mitigate Significant Health Risk Impacts****1. The SCEIR Fails to Disclose Significant Health Risks from the Project's Construction and Operational Emissions**

Project construction and operation would generate DPM, a type of TAC.⁶⁴ DPM would be emitted during construction by heavy equipment and diesel trucks, and during operations by a diesel

⁵⁹ 14 CCR § 15064(b).

⁶⁰ *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

⁶¹ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

⁶² *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4t 412, 435.

⁶³ *Berkeley Jets*, 91 Cal.App.4th at 1355.

⁶⁴ SCAQMD, Classification of Diesel PM as a Carcinogen, <https://www.aqmd.gov/home/rulescompliance/compliance/toxic-hot-spots-ab-2588/iws-facilities/dice/dice-b2>; OEHHA, Health Effects of Diesel Exhaust (May 21, 2001), <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf>.

backup generator, fire pump, or other diesel fueled stationary equipment.⁶⁵ DPM has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. The Project's emissions of DPM would impact sensitive receptors near the Project site. The SCEIR fails to analyze and mitigate health risk from construction activities or evaluate the combined lifetime risk of exposure to both the Project's construction and operational TAC emissions.

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 prepare an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings.⁶⁶ The Supreme Court has also explained that CEQA requires the lead agency to disclose the health consequences that result from exposure to a project's air emissions.⁶⁷ Courts have 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.⁶⁸

In *Bakersfield Citizens for Local Control v. City of Bakersfield*, the court found that the EIR's 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."⁶⁹ 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.⁷⁰ 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."⁷¹ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.⁷²

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.⁷³ In an

⁶⁵ *Id.*;

⁶⁶ PRC § 21083(b)(3), (d).

⁶⁷ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516, 523.

⁶⁸ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

⁶⁹ *Id.* at 1220.

⁷⁰ *Sierra Club*, at 521.

⁷¹ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

⁷² *Sierra Club*, 6 Cal.5th at 518–522.

⁷³ 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/cnr/notice-adoption-air-toxics-hot-spots-program-guidance-manualpreparation-health-risk-0>.

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.⁷⁴ Following that analysis, then the City can make a determination of the relative significance of the emissions. The applicable significance thresholds, set by the South Coast Air Quality Management District (“SCAQMD”), are whether the Project would result in the exposure of sensitive receptors to TACs that exceed the maximum incremental cancer risk of 10 in one million or an acute or chronic hazard index of 1.0.⁷⁵

Here, Project’s construction would last approximately 36 months, requiring an analysis of construction health risk under CEQA and substantially exceeding the minimum OEHHA thresholds for preparing an HRA. The SCEIR fails to quantify sensitive receptors’ exposure to TACs and determine whether significance thresholds would be exceeded. As such, no connection between the Project’s emissions and their direct, adverse effects on human health has been made.⁷⁶ The SCEIR thus fails to meet CEQA’s information and analytical requirements, and the Project’s health risk impacts remain potentially significant and unmitigated.

The SCEIR attempts to justify the failure to prepare an HRA by stating that the Project would comply with Housing and Safety Element Mitigation Measure 4.2-3, which provides that a project need not prepare an HRA if all construction equipment over 50 hp would meet Tier 4 Final emissions standards.⁷⁷ This argument fails because the City must also comply with CEQA, which requires analysis and mitigation of significant health risks. And as shown above, the SCEIR fails to meet CEQA’s requirements by failing to analyze whether health risk impacts would exceed the applicable SCAQMD thresholds. Further, even if the Project is complying with Mitigation Measure 4.2-3 by electing to use Tier 4 equipment, the SCEIR lacks substantial evidence demonstrating that compliance with this measure would reduce health risk impacts to a less-than-significant level.

Dr. Clark explains that, while Tier 4 Final equipment achieves large reductions in DPM emissions, Tier 4 Final does not stop all DPM emissions, and continues to result in an infant cancer risk of 14.5 in 1,000,000 with mitigation, exceeding the SCAQMD significance threshold of 10 in 1,000,000,000.⁷⁸ Thus, health risk impacts from Tier 4 equipment exceed significance thresholds depending on sensitive receptors’ exposure levels.

Response to Comment No. 8-10

The commentor claims a Health Risk Assessment (HRA) is required for the Project due to diesel particulate matter (DPM) emissions. This claim fails for several reasons. First, it ignores the extensive analysis of the Project’s construction and operational DPM emissions (see pages 208

⁷⁴ *Id.*

⁷⁵ Initial Study, pg. 216.

⁷⁶ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

⁷⁷ Initial Study, pg. 61-62.

⁷⁸ Clark Comments, pg. 5.

through 216 of the Initial Study as well as the air quality modeling contained in Appendix A-1 of the Initial Study), which determines that human health impacts from potential emissions of DPM are less than significant based on substantial evidence. Second, the commentor's claims are not supported by any purported technical analysis showing significant DPM-related impacts resulting from construction or operation of the Project. The comment instead merely asserts that an HRA is required. A demand for additional testing is not substantial evidence of a significant impact.

Third, the claim that an HRA was required here by any applicable regulation is false. 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 in November 1993 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 analysis of toxic air contaminants (TACs) from short-term construction activities. Rather, SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulate emissions (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions. The Project is a mixed-use Project with residential and commercial uses, land uses that would not generate substantial number of truck trips, and have not been identified by SCAQMD as significant sources of truck trips. Based on the guidance from SCAQMD, which does not require detailed analysis for the land use category of the Project, the analysis prepared properly determined a health risk assessment associated with on-site activities is not required.

The commentor also misrepresents the Office of Environmental Health Hazards Assessment (OEHHA) requirements under AB 2588, the Air Toxic Hot Spots Program. AB 2588 only applies to "facilities" as defined in Health and Safety Code Section 44322(a), which the state has determined applies to industrial facilities requiring operational air permits that use, manufacture, formulate, or release certain listed hazardous substances. Covered facilities do not include residential or mixed-use residential developments, which are not regulated under the Toxic Hot Spots Program. Notably, the OEHHA Guidelines assess cancer risks over 30-year exposures, they do not mandate analysis for "short-term" projects even under the Toxic Hot Spots Program, and thus the OEHHA Guidelines do not apply here, where the only DPM emissions would occur during a few months of construction activities as part of the Project. Rather, the information regarding "short term" cancer exposures is provided to assist local air districts when they make permitting decisions for projects requiring AQMD permits related to shorter-term exposures, noting also that "there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime."

As indicated above, with respect to requiring quantitative HRAs related to DPM emissions from mobile sources, SCAQMD only requires HRAs to be prepared for substantial mobile sources of DPM emissions, including truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units. SCAQMD's AB 2588 Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics

Hot Spots Information and Assessment Act only applies to permitted industrial facilities and does not address so called “short term” projects.

Regarding air quality impacts resulting from back-generator emissions, please refer to the Response to Comment No. 8-12, below. As demonstrated in that response, the emissions from a back-up generator would have a nominal effect on Project emissions, generating 0.33 lb/day of ROG, 0.92 lb/day of NO_x, 0.84 lb/day of CO, and 0.05 lb/day of PM₁₀ and PM_{2.5} each. Thus, the Project’s daily emissions would remain below SCAQMD regional and localized thresholds even with the inclusion of these emissions.

Thus, the comment’s assertion that a HRA is required for the Project is incorrect, as no agency has recognized infill mixed-use residential development as a significant source of toxic air emissions requiring quantitative HRAs. As Project construction activities would vary throughout the Project Site and would be short-term in nature, stationary source rules would not be appropriate for assessing impacts associated with DPM and an HRA is not required.

Comment No. 8-11

2. Substantial Evidence Demonstrates that Construction Health Risk Impacts Would Be Significant

Dr. Clark prepared an HRA for the Project’s construction activities. The HRA demonstrates that even with the use of Tier 4 Final construction equipment, construction emissions of DPM would result in health risks in excess of the SCAQMD 10 in one million incremental cancer risk threshold.⁷⁹ Dr. Clark used algorithms from OEHHA’s HARP 2 Standalone Risk software to calculate the cancer risk to the nearest sensitive receptors. The HRA found that the cumulative risk for exposure of infants, the most sensitive population, during the 3 years of construction is 14.5 in 1,000,000, much greater than the 10 in 1,000,000 threshold outlined by SCAQMD, resulting in a significant impact.

As the SCEIR failed to conduct its own HRA, the only evidence in the record demonstrates that the Project’s health risk impacts are significant and unmitigated, even with the use of Tier 4 equipment. The SCEIR must be revised and recirculated to disclose the significant health risk impact and identify effective mitigation to reduce the impact to a less-than-significant level.

Response to Comment No. 8-11

Please see the Response to Comment No. 8-10 regarding the necessity of an HRA, as neither the Project’s construction activities nor the mixed-use residential and retail development are considered “facilities” under OEHHA regulations. Therefore, as discussed in the Response to Comment No. 8-10, an HRA is not required.

⁷⁹ Clark Comments, pg. 10.

With regard to the provided modeling, there is insufficient information in the HRA documentation to adequately review the assumptions. For example, for long-term occupational exposure, the appendix does not clarify sources and location of DPM and corresponding emission rates, as well as the corresponding location of receptors, workplaces, and exposure that were calculated. Without the specific details the analysis cannot be replicated, and the findings cannot be relied upon. Nevertheless, as discussed, a construction HRA is not required. Additionally, the commenter states that the impacts must be disclosed as significant and mitigated to a less than significant level, however, CEQA does not require that all impacts be mitigated to less significant if it is not technologically or economically feasible. While the Project impacts are less than significant with mitigation, contrary to the commenter's assertion otherwise, the Tier IV equipment mitigation measure is the most technologically advanced technologies on the market currently, and other mitigation measures would not be feasible were there an impact. While EPA has long discussed Tier V technologies, no rulemaking has been finalized on such standards.

Comment No. 8-12

3. The SCEIR Fails to Analyze Operational Emissions from Stationary Equipment

The SCEIR underestimates the Project's operational emissions of criteria pollutants, GHGs, and TACs by failing to account for emissions from stationary equipment, including back-up generators and fire pumps. As explained earlier, installation and use of back-up generators is a reasonably foreseeable consequence of the Project. And Figure II-5 of the SCEIR shows that the Project includes a fire pump system.⁸⁰ Fire pumps are used to increase the pressure of a water source when that source is not adequate for the system it is supplying. Fire pumps are commonly found in buildings that tend to have a high-pressure demand such as high-rises such as this. Fire pumps typically use diesel fuel as a power source.

As shown below, the SCEIR's CalEEMod analysis of the Project's operational emissions fails to include any of the stationary equipment required for the Project.⁸¹

⁸⁰ DEIR, pg. II-15.

⁸¹ Clark Comments, pg. 20.

5.16. Stationary Sources

5.16.1. Emergency Generators and Fire Pumps

Equipment Type	Fuel Type	Number per Day	Hours per Day	Hours per Year	Horsepower	Load Factor
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5401-5425 Wilshire Boulevard (Future) Detailed Report, 8/21/2023

5.16.2. Process Boilers

Equipment Type	Fuel Type	Number	Boiler Rating (MMBtu/hr)	Daily Heat Input (MMBtu/day)	Annual Heat Input (MMBtu/yr)
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5.17. User Defined

The SCEIR's discussion of TACs that would be emitted by Project operations also fails to include back-up generators and fire pumps.

Generators and fire pumps can emit criteria air pollutants, greenhouse gases, and toxic air contaminants. This equipment commonly relies on fuels such as natural gas or diesel,⁸² and thus can significantly impact public health through DPM emissions.⁸³ This equipment can emit significant amounts of Nitrogen Oxides ("NOx"), sulfur dioxides ("SO2"), particulate matter ("PM10"), carbon dioxide ("CO2"), carbon monoxide ("CO"), volatile organic compounds ("VOC"), particulate matter less than 10 microns (PM10), PM less than 2.5 microns (PM2.5), and air toxins such as diesel particulate matter (DPM).⁸⁴ Omission of a generator system and fire pumps thus results in an underestimation of the Project's air quality, greenhouse gas, and health risk impacts.⁸⁵

⁸² 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").

⁸³ California Air Resources Board, Emission Impact: Additional Generator Usage Associated with Power Outage (January 30, 2020), available at <https://ww2.arb.ca.gov/resources/documents/emissions-impact-generator-usage-during-psps> (showing that generators commonly rely on gasoline or diesel, and that use of generators during power outages results in excess emissions); California Air Resources Board, Use of Back-up Engines for Electricity Generation During Public Safety Power Shutoff Events (October 25, 2019), available at <https://ww2.arb.ca.gov/resources/documents/use-back-engines-electricity-generation-during-publicsafety-power-shutoff> ("When electric utilities de-energize their electric lines, the demand for back-up power increases. This demand for reliable back-up power has health impacts of its own. Of particular concern are health effects related to emissions from diesel back-up engines. Diesel particulate matter (DPM) has been identified as a toxic air contaminant, composed of carbon particles and numerous organic compounds, including over forty known cancer-causing organic substances. The majority of DPM is small enough to be inhaled deep into the lungs and make them more susceptible to injury. Much of the back-up power produced during PSPS events is expected to come from engines regulated by CARB and California's 35 air pollution control and air quality management districts (air districts)").

⁸⁴ University of California, Riverside Bourns College of Engineering—Center for Environmental Research and Technology, Air Quality Implications Of Backup Generators In California, (March 2005), pg. 8, available at <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=84c8463118e4813a117db3d768151a8622c4bf6b>; South Coast AQMD, Fact Sheet on Emergency Backup Generators ("Emissions of Nitrogen Oxides (NOx) from diesel-fired emergency engines are 200 to 600 times greater, per unit of electricity produced, than new or controlled existing central power plants fired on natural gas. Diesel-fired engines also produce significantly greater amounts of fine particulates and toxics emissions compared to natural gas fired equipment."), available at <http://www.aqmd.gov/home/permits/emergency-generators#Fact2>.

⁸⁵ Clark Comments, pg. 5.

In *East Oakland Stadium Alliance v. City of Oakland*,⁸⁶ the Court of Appeal upheld an EIR's analysis of emissions from backup generators. The EIR's analysis assumed that generators would operate for 50 hours of testing and maintenance annually, while allocating no time for actual emergency use. In discussing the lead agency's duty to analyze backup generator emissions, the Court stated that "if the annual need for emergency generator use is reasonably foreseeable, the EIR was not entitled to disregard such use merely because it would occur at unpredictable times."⁸⁷ The Court explained that use of a generator was reasonably foreseeable because, "[a]s noted in the EIR, some parts of the Bay Area are subject to predictable, sustained power outages undertaken to reduce the risk of fire."⁸⁸ Thus, "[t]he EIR was required to make neither a generally applicable nor a worst-case assumption; rather it was required to make a reasonable estimate of likely annual use of the generators at the project site."⁸⁹

Here, emissions from use of back-up generators are reasonably foreseeable due to routine testing of generators and use in emergencies due to increasingly common PSPS events and EHEs. Fire pump emissions are also reasonably foreseeable due to routine testing.⁹⁰ Per *East Oakland Stadium Alliance*, the SCEIR is not entitled to disregard use of this equipment because it some of its use would occur at unpredictable times. Therefore, the SCEIR violates CEQA by failing to analyze emissions from these stationary sources. The SCEIR's air quality, greenhouse gas, and health risk analyses are not supported by substantial evidence and must be revised to account for these sources of emissions.

Response to Comment No. 8-12

All internal combustion engines greater than 50 brake horsepower (bhp) are regulated by the SCAQMD and are required to obtain permits to construct prior to installation of engines at a site. This would include any standby ICE or turbine for non-utility power generation that does not operate more than 200 hours a year and is only operated in the event of an emergency power failure or for routine testing and maintenance.

The commentor suggests that no analysis of back-up generators or fuel pumps has been included, but this is not true. This Project and this analysis are analogous to the *East Oakland* case which upheld the CEQA analysis. While information about any emergency backup generators and their expected use is speculative, these generators only emit incremental levels of criteria pollutants. For example, a diesel emergency generator of 175-300 hp testing once an hour with a load factor would generate 0.3 lb/day of ROG, 0.9 lb/day of NO_x, 0.8 lb/day of CO, and less than 0.05 lb/day of PM₁₀ or PM_{2.5}, using the latest version of CalEEMod (v2022.1.1.28)

⁸⁶ (2023) 889 Cal. App. 5th 1226.

⁸⁷ *Id.* at 1252.

⁸⁸ *Id.* at 1253.

⁸⁹ *Id.*

⁹⁰ Ambarchian, V. 2024. Fire Pump Testing Requirements: A Step-by-Step Guide. Dated January 9, 2024. <https://www.anchorfire.net/blog/fire-pump-testing-guide/>; QRFS. 2019. #245 – The Fire Pump Flow Test: NFPA 25 Requirements For Fire Pump Tests, Part 1. Dated August 8, 2019. <https://blog.qrfs.com/245-the-fire-pump-flow-test-nfpa-25-requirements-for-fire-pump-tests-part-1/>; CHAMCO. 2024. What Are NFPA Fire Pump Testing Requirements & Why Are They Important? <https://www.chamco.com/news/nfpa-fire-pump-testing-requirements/>.

On days when they operate, they would not contribute to exceedances of SCAQMD's daily thresholds of operation.

Similarly, while information about any fire pumps and their expected use is speculative, they would generate even lesser emissions, with 0.2 lb/day of ROG, 0.5 lb/day of NO_x, 0.6 lb/day of CO, and less than 0.3 lb/day of PM₁₀ or PM_{2.5}, assuming the same bi-monthly intermittent use of fire pumps. On days when they operate, they would not contribute to exceedances of SCAQMD's daily thresholds of operation.

Nevertheless, emissions associated with a back-up generator and fire pump were estimated using CalEEMod (see Section 3, Additions and Corrections, of this Final EIR, as well as the supplemental modeling contained in Appendix C of this Final EIR). As shown, the emissions from the back-up generator and fire pump would have a nominal effect on Project emissions. Specifically, on days when both equipment types are operating on a summer day, they would generate 0.49 lb/day of ROG, 1.38 lb/day of NO_x, 1.43 lb/day of CO, and 0.07 lb/day of PM₁₀ and PM_{2.5} each. The Project's daily emissions would remain well-below SCAQMD regional and localized thresholds even with the inclusion of these emissions. Therefore, the use of a back-up generator and fire pump would not have a significant impact on air quality.

Further, the comment fails to consider subdivision (g)(1)(F) of SCAQMD Rule 1401, which establishes that the requirements of Rule 1401 do not apply to emergency internal combustion engines exempted under Rule 1304. Because a back-up generator qualifies as emergency standby equipment that would not operate more than 200 hours per year, it would be exempted by subdivision (a)(4) of Rule 1304. Thus, the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 instruct that risk assessment tiers would not be applicable to the Project's back-up generator. Per the SCAQMD: "If the equipment falls under one of these exemptions, no further risk assessment is required."⁹¹ Therefore, it is understood that use of a back-up generator would not result in significant health risks, and CREED LA's position that health risks attributable to a back-up generator must be analyzed (and quantified) runs contrary to SCAQMD guidance.

Comment No. 8-13

B. The Project May Result in Potentially Significant Public Utilities Impacts

Under CEQA, a public utilities impact is considered significant if a project would "[r]equire or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities the construction or relocation of which could cause significant environmental effects."⁹² The SCEIR states that these impacts would be less than significant for this Project. The SCEIR's conclusion is not supported by substantial evidence because the SCEIR fails to correctly analyze the Project's fire flow requirements. Fire flow refers to the rate of a water supply that is available at surrounding fire

⁹¹ SCAQMD, *Risk Assessment Procedures for Rules 1401, 1401.1 and 212*, September 2017, pg. 4.

⁹² Initial Study, pg. 361.

hydrants for firefighting purposes. The SCEIR acknowledges that fire flow demands have an “instantaneous impact on infrastructure.”⁹³

In the SCEIR’s analysis of the Project’s projected fire flow requirements, the SCEIR assumes that the Project’s required fire flow would be 6,000 to 9,000 gallons per minute from four to six adjacent hydrants flowing simultaneously with a residual pressure of 20 pounds per square inch (psi).⁹⁴ The City prepared an Information of Fire Flow Availability Request (“IFFAR”) assessing the ability of the City’s infrastructure to meet this requirement. The IFFAR shows that with the construction of one additional hydrant, the City’s infrastructure could support a fire flow of 6,400 gpm. The SCEIR concludes that the Project site currently has adequate fire flow to serve the Project.⁹⁵

The SCEIR’s analysis is not supported by substantial evidence because the SCEIR analyzes the incorrect fire flow requirement for this Project. The Los Angeles Fire Department submitted a letter, attached to the Initial Study as Appendix I-1, stating: “The required fire-flow for this project has been set at 12,000 G.P.M.”⁹⁶ The fire flow requirement analyzed in the SCEIR is therefore much less than the actual fire flow requirement. And the 6,400 gpm fire flow calculated in the IFFAR is just over half the required fire flow for this Project. As a result, the SCEIR fails to analyze whether the Project’s fire flow requirements can be met by existing infrastructure. Further, because the 6,400 gpm fire flow calculated in the SCEIR assumes the construction of an additional hydrant, it stands to reason that even more extensive infrastructure updates are required to meet a 12,000 gpm requirement. These improvements may include construction of additional hydrants and upsizing of the water mains.

Construction of these infrastructure improvements would have environmental impacts not analyzed in the SCEIR. Construction of water infrastructure upgrades typically require street excavation and subsequent repair to access water mains. Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade. This would entail excavation and removal of asphalt, soils, and trench backfill materials. These construction activities may result in significant environmental impacts in several areas, including traffic, noise, vibration, and health risk. Impacts may occur closer to sensitive receptors than analyzed in the SCEIR because construction of utilities improvements may occur offsite and potentially closer to sensitive receptors.

The SCEIR’s analysis is also not supported by substantial evidence because the SCEIR concludes that the Project site currently has adequate fire flow to serve the Project when the IFFAR clearly shows that an additional hydrant must be constructed.⁹⁷ This construction of expanded water infrastructure must be analyzed in the SCEIR.

⁹³ *Id.* at 362.

⁹⁴ *Id.* at 362-363.

⁹⁵ *Id.* at 363.

⁹⁶ Initial Study, Appendix I-1, pg. 2.

⁹⁷ *Id.* at 363.

In sum, the SCEIR fails to support its finding of a less-than-significant utilities impact with substantial evidence. The SCEIR must be revised and recirculated to analyze this potentially significant impact.

Response to Comment No. 8-13

Project impacts with respect to utilities were analyzed on pages 361-373 of the Initial Study and in the Utility Infrastructure Technical Report included as Appendix H of the Initial Study. As discussed therein, based on fire flow standards set forth in Section 57.507.3 of the Los Angeles Municipal Code (LAMC), the Project falls within the Industrial and Commercial land use category, which has a required flow of 6,000 to 9,000 gallons per minute (gpm) from four to six adjacent hydrants flowing simultaneously with a residual pressure of 20 pounds per square inch (psi). The Information of Fire Flow Availability (IFFAR) received from the Los Angeles Department of Water and Power (LADWP) shows six nearby hydrants flowing simultaneously for a combined 6,400 gallons per minute (gpm).

While according to LAMC Section 57.507.3, the Project would require a fire flow of 6,000 to 9,000 gpm, the Los Angeles Fire Department (LAFD) stated that the required fire flow would be 12,000 gpm. Therefore, an updated IFFAR was requested from LADWP, and is included as Appendix D of this Final EIR. As shown therein, the existing 8-inch water mains at the southwest corner of Wilshire Boulevard and Cochran Avenue and at the northwest corner of Dunsmuir Avenue and Wilshire Boulevard, and 6-inch water main on the west side of Cloverdale Avenue north of Wilshire Boulevard cannot support 12,000 gpm, and the Project would be required to install approximately 1,000 feet of 12-inch pipe along Wilshire Boulevard and approximately 80 feet of 8-inch pipe along Cochran Avenue to provide 12,000 gpm. With the installation of this additional pipe, the Project Site would have adequate fire flow to meet LAFD's request. The installation of the additional pipe would not necessitate the need for additional or expanded fire protection facilities, and impacts with respect to fire protection would continue to be less than significant.

With respect to indirect impacts, the installation of the additional pipe could result in potential impacts with respect to air quality during construction, construction noise and vibration, transportation, and utilities (water infrastructure). Analysis of these indirect impacts has been included in Section 3, Revisions, Clarifications, and Corrections of this Final EIR, and as demonstrated therein, all impacts would be less than significant.

Comment No. 8-14

VI. CONCLUSION

For the reasons discussed above, the SCEIR 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 SCEIR be recirculated for public review. Until the SCEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

Response to Comment No. 8-14

The comment suggests that the analysis contained in the Draft EIR is inadequate, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 9: CREED 2

Lorrie J. Lele, Legal Assistant
Adams Broadwell Joseph & Cardozo
520 Capitol Mall, Suite 350
Sacramento, CA 95814

Comment No. 9-1

Please find attached our request for mailed notice of actions and hearings regarding the Mirabel Transit Priority project.

Please add only Sheila Sannadan – ssannadan@adamsbroadwell.com

Response to Comment No. 9-1

The requested email address has been added to the notification list for this Project.

LETTER NO. 10: Western Carpenters

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Pasadena, CA 91101

Comment No. 10-1

On behalf of the Western States Regional Council of Carpenters (“**Western Carpenters**” or “**WSRCC**”), our firm is submitting these comments for the City of Los Angeles’s (“**City**”) Draft Sustainable Communities Environmental Impact Report (“**DEIR**”) for the Mirabel Transit Priority Project, Case #ENV-2019-3937-EIR (“**Project**”).

The Western Carpenters is a labor union representing approximately 90,000 union carpenters in 12 states, including California, and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects.

The Notice of Availability for the DEIR describes the proposed Project as follows:

The Project involves construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses. The Project would demolish 38,545 square-foot of existing commercial buildings on-site, including the historic building located at 5401 Wilshire Boulevard, which is a designated contributor to the Miracle Mile Historic District. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. Parking would be provided in three above-ground and three subterranean levels. The Project would include a total floor area of 476,777 square feet on an 57,374 square foot lot (1.32 acres) for a FAR of 8.31:1

(DEIR Notice of Completion and Availability, p. 1.)

Individual members of the WSRCC live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

The WSRCC expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing and proceeding related to this Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

The WSRCC incorporates by reference all comments raising issues regarding the Environmental Impact Report (“**EIR**”) submitted prior to certification of the EIR for the Project. See *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, the WSRCC requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (CEQA) (Pub. Res. Code, § 21000 et seq.), and the California Planning and Zoning Law (“Planning and Zoning Law”) (Gov. Code, §§ 65000–65010). California Public Resources Code Sections 21092.2, and 21167(f) and California Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

Response to Comment No. 10-1

The comment provides introductory information and a summary of the Project description, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

The commentor has been added to the City’s list of interested parties and will receive notices related to this Project.

Comment No. 10-2

I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY’S ECONOMIC DEVELOPMENT AND ENVIRONMENT

The City should require the Project to be built using a local workers who have graduated from a Joint Labor-Management Apprenticeship Program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state-approved apprenticeship training program, or who are registered apprentices in a state-approved apprenticeship training program.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project site can reduce the length of vendor trips, reduce greenhouse gas emissions, and provide localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG

emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.⁹⁸

Furthermore, workforce policies have significant environmental benefits given that they improve an area’s jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.⁹⁹

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.¹⁰⁰

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.¹⁰¹ Some

⁹⁸ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

⁹⁹ South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/defaultsource/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

¹⁰⁰ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobshousing.pdf>

¹⁰¹ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 ("**AB2011**"). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate greenhouse gas, improve air quality, and reduce transportation impacts.

Response to Comment No. 10-2

The comment requests that the City adopt a local hire requirement but does not list a specific issue or impact related to the Project. The comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-3

II. THE CITY SHOULD IMPOSE TRAINING REQUIREMENTS FOR THE PROJECT'S CONSTRUCTION ACTIVITIES TO PREVENT COMMUNITY SPREAD OF COVID-19 AND OTHER INFECTIOUS DISEASES

Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID- 19.¹⁰²

WSRCC recommends that the Lead Agency adopt additional requirements to mitigate public health risks from the Project's construction activities. WSRCC requests that the Lead Agency

¹⁰² Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, *available at* <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon WSRCC's experience with safe construction site work practices, WSRCC recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual

to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.¹⁰³

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

WSRCC has also developed a rigorous Infection Control Risk Assessment (“ICRA”) training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.¹⁰⁴

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance, and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

Response to Comment No. 10-3

The “Community Spread of COVID-19 and Other Infectious Diseases” is outside the scope of CEQA as it does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts. Additionally, state and federal law regulate worksite health and safety measures. Thus, no further response to this comment is required. Nevertheless, the comment is

¹⁰³ See also The Center for Construction Research and Training, North America’s Building Trades Unions (April 27 2020) NABTU and CPWR COVIC-19 Standards for U.S Constructions Sites, *available at* https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works

¹⁰⁴ For details concerning Southwest Carpenters’ ICRA training program, see <https://icrahealthcare.com/>.

acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-4

III. THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The California Environmental Quality Act (“CEQA”) is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. CEQA Guidelines, § 15002, subd. (a)(1).¹⁰⁵ At its core, its purpose is to “inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1354; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400.

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (CEQA Guidelines, § 15002, subd. (k); see *Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. CEQA Guidelines, § 15002, subd. (k) Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform a threshold initial study. (CEQA Guidelines, § 15063, subd. (a); *Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) If the study indicates that there is no substantial evidence that the project may have a significant effect on the environment the agency may issue a negative declaration. (CEQA Guidelines, §§ 15063, subd. (b)(2), 15070; *Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) Finally, if the project will have a significant effect on the environment, an EIR is required. (CEQA Guidelines, § 15002, subd. (k); see also *Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.)

Response to Comment No. 10-4

The comment summarizes various CEQA legal standards, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the

¹⁰⁵ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, § 15000 et seq., are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Pub. Res. Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-5

A. Background Concerning Environmental Impacts Reports.

The Environmental Impact Report (EIR) under CEQA serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code § 21081. See CEQA Guidelines, §§ 15092, subds. (b)(2)(A)-(B).

“The EIR is often referred to as the heart of CEQA.” (*Cnty. of Butte v. Dept. of Water Resources* (2022) 13 Cal.5th 612, 627, internal citations and quotations omitted.) Ideally, an EIR serves to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. (*Id.*; Pub. Res. Code, § 21002.1, subd. (a).) The document must include a description of the proposed project and its environmental setting and discussions of (1) the possible environmental effects of the project, (2) feasible measures to mitigate any significant, adverse environmental effects of the project, (3) the comparative environmental effects of a range of reasonable alternatives to the proposed project, including a “no project” alternative, and (4) the cumulative impact of the project’s various environmental effects. (CEQA Guidelines, §§ 15124, 15126, 15126.4, 15126.6, 15130.) An EIR may also include a discussion of the economic and social effects of the project. (*Id.*, § 15131.) Given the role it plays and its required analysis, the EIR is commonly referred to as an “informational document.” (Pub. Res. Code, § 21061; CEQA Guidelines, § 15121.) It serves to inform decision makers and the general public about the nature and environmental impact of a proposed project, feasible ways to reduce that impact (often through the mechanism of mitigation measures), and possible alternatives to the project. (Pub. Res. Code, § 21061.)

While the 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. *Berkeley Keep Jets, supra*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights, supra*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Ibid.* Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the First District Court of Appeal has previously stated, 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. *Berkeley Keep Jets, supra*, 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450). The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. *Ibid.* For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Ibid.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” Pub. Res. Code, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75 (hereafter, “*No Oil*”); accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884 (hereafter, “*Jensen*”). Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res. Code, §§ 21100, subd. (a), 21151; CEQA Guidelines, §§ 15064, subds. (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the lead agency *must* adopt a negative declaration. Pub. Res. Code, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063, subd. (b)(2), 15064, subd. (f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” Pub. Res. Code, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, supra*, 13 Cal.App.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309 (hereafter, “*Sundstrom*”). If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063, subd. (b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

The fair argument standard sets a “low threshold” for requiring preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom, supra*, 202 Cal.App.3d at p. 310. It “requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]” *County Sanitation, supra*, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063, subd. (b)(1)). Thus, if substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen, supra*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982)

134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064, subd. (f)(1).

Response to Comment No. 10-5

The comment summarizes various CEQA legal standards related to EIRs, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-6

B. Background Concerning Initial Studies, Negative Declarations, and Mitigated Negative Declarations.

CEQA and its Guidelines are strict and unambiguous about when a Mitigated Negative Declaration (MND) may be used. A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on the environment.” Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; *No Oil, supra*, 13 Cal.App.3d at p. 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112. Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064(f)(1)-(2); see *No Oil, supra*, 13 Cal.App.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” CEQA Guidelines, § 15384, subd. (a). A lead agency may adopt an MND only

if “there is no substantial evidence that the project will have a significant effect on the environment.” (CEQA Guidelines, § 15074, subd. (b).)

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. (*League for Protection of Oakland’s Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905.) “Where the question is the sufficiency of the evidence to support a fair argument, deference to the agency’s determination is not appropriate[.]” (*County Sanitation, supra*, 127 Cal.App.4th at p. 1579, quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318.)

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” (*Sundstrom, supra*, 202 Cal.App.3d at p. 311.) “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Ibid*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 [lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record].)

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. (*Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486, internal citations and quotations omitted.) The remedy for this deficiency would be for the trial court to issue a writ of mandate. (*Ibid*.)

Both the review for failure to follow CEQA’s procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.) “Whether the agency’s record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. (*Consolidated Irrigation Dist., supra*, 204 Cal.App.4th at p. 207; Kostka and Zischke, Practice Under the Environmental Quality Act (2017, 2d ed.) at § 6.76.)

In the MND context, courts give no deference to the agency. The agency or the court should not weigh expert testimony or decide on the credibility of such evidence—this is the EIR’s responsibility. As stated in *Pocket Protectors v. City of Sacramento* (2004):

Unlike the situation where an EIR has been prepared, neither the lead agency nor a court may “weigh” conflicting substantial evidence to determine whether an EIR must be prepared in the first instance. Guidelines section 15064, subdivision (f)(1) provides in pertinent part: if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. Thus, as *Claremont* itself

recognized, [c]onsideration is not to be given contrary evidence supporting the preparation of a negative declaration.

(124 Cal.App.4th 903, 935, internal citations and quotations omitted.)

In cases where it is not clear whether there is substantial evidence of significant environmental impacts, CEQA mandates erring on the side of a “preference for resolving doubts in favor of environmental review.” (*Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332.) “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. (*Friends of Mammoth v. Bd. of Supervisors* (1972) 8 Cal.3d 247, 259.)

Response to Comment No. 10-6

The comment summarizes various CEQA legal standards related to MNDs, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. An EIR, not an MND, was prepared for the Project. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-7

C. Background Concerning CEQA Exemptions.

Where a lead agency chooses to dispose of CEQA by asserting a CEQA exemption, it has a duty to support its CEQA exemption findings by substantial evidence, including evidence that there are no applicable exceptions to exemptions. This duty is imposed by CEQA and related case law. (CEQA Guidelines, § 15020 [lead agency shall not knowingly release a deficient document hoping that public comments will correct the defects]; see *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Agriculture Assn.* (2015) 242 Cal.App.4th 555, 568 [lead agency has the burden of demonstrating that a project falls within a categorical exemption and must support the determination with substantial evidence]; accord *Assn. for Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 732 [lead agency is required to consider exemption exceptions where there is evidence in the record that the project might have a significant impact].)

The duty to support CEQA and exemption findings with substantial evidence is also required by the Code of Civil Procedure (CCP) and case law on administrative or traditional writs. Under the CCP, an abuse of discretion is established if the decision is unsupported by the findings, or the findings are unsupported by the evidence. (CCP, § 1094.5, subd. (b).) In *Topanga Assn. for a Scenic Comm. v. County of Los Angeles* (1977) our Supreme Court held that implicit in CCP § 1094.5 is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order. (11 Cal.3d 506, 515, internal citations and quotations omitted (hereafter, “*Topanga*”).) The lead agency’s findings may be determined to be sufficient if a court has no trouble under the

circumstances discerning the analytic route the administrative agency traveled from evidence to action. (*West Chandler Blvd. Neighborhood Assn. vs. City of Los Angeles* (2011) 198 Cal.App.4th 1506, 1521-1522, internal citations and quotations omitted. However, “mere conclusory findings without reference to the record are inadequate.” (*Id.* At p. 1521 [finding city council findings conclusory in violation of *Topanga*].)

Further, CEQA exemptions must be narrowly construed to accomplish CEQA’s environmental objectives. (*Cal. Farm Bureau Federation v. Cal. Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 187; *accord Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 697 [“These rules ensure that in all but the clearest cases of categorical exemptions, a project will be subject to some level of environmental review.”].)

Finally, CEQA procedures reflect a preference for resolving doubts in favor of environmental review. (See Pub. Res. Code, § 21080, subd. (c) [an EIR may be disposed of only if there is no substantial evidence, in light of the entire record before the lead agency, that the project may have a significant effect on the environment or revisions in the project]; CEQA Guidelines, §§ 15061, subd. (b)(3) [common sense exemption only where it can be seen *with certainty*]; 15063, subd. (b)(1) [prepare an EIR if the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial]; 15064, subd. (h) [the agency must consider cumulative impacts of past, current, and probable future projects]; 15070 [a negative declaration may be prepared only if there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment, or project revisions would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and there is no substantial evidence, in light of the whole record, that the project as revised may have a significant effect on the environment]; *No Oil, supra*, 13 Cal.App.3d at pp. 83-84 [significant impacts are to be interpreted so as to afford the fullest possible protection].)

Response to Comment No. 10-7

The comment summarizes various CEQA legal standards related to CEQA exemptions, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. The Project does not seek a CEQA exemption. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-8

D. Background Regarding Transit Priority Projects and Sustainable Communities Environmental Impact Reports Under CEQA.

A “Transit Priority Project” (“**TPP**”) is a specific project that must: (1) be consistent with a California Air Resources Board (CARB)-approved sustainable communities strategy (SCS) or alternative

planning strategy (APS); (2) contain at least 50 percent residential use, and if the project contains between 26 percent and 50 percent nonresidential uses, then a floor area ratio of not less than 0.75; (3) have a minimum net density of 20 units per acre; and, (4) be located within one-half of a mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. Pub. Res. Code, § 21155.

Where a Project is determined to be a TPP under Senate Bill 375 (SB 375), a slightly different CEQA framework is applied. SB 375 provides CEQA-based incentives and streamlining for certain residential, mixed-use, and transportation-oriented developments. SB 375 includes two optional CEQA streamlining approaches for local lead agencies.

First, under SB 375, residential and mixed-use projects that: (1) are consistent with the use designation, density, building intensity, and applicable policies specified in a CARB-approved SCS or APS, and (2) incorporate mitigation measures required by an “applicable prior environmental document,” which may include the environmental impact report for the regional transportation plan, need not reference, describe or discuss growth-inducing impacts or project-specific or cumulative impacts on global warming or on the regional transportation network arising from automobiles or light duty truck trips generated by the project. Pub. Res. Code, § 21159.28, subd. (a).

Second, TPPs that are consistent with the SCS or APS may qualify for a total CEQA exemption or a SCEIR. Pub. Res. Code, §§ 21155.1-21155.2. If a legislative body of a city or county finds, after conducting a public hearing, that a TPP meets all of the requirements in subdivisions (a) and (b) and one of the requirements of subdivision (c) of Public Resources Code section 21155.1, the TPP is declared to be a sustainable communities project and will be fully exempt from CEQA. At a minimum, the legislative body of a city or county must find that the project can be adequately served by existing utilities and that:

- (1) The project site does not contain wetlands or riparian areas or have significant value as wildlife habitat,
- (2) The project does not have a significant effect on historical resources,
- (3) The project buildings are energy efficient,
- (4) Landscaping is designed to achieve 25 percent less water usage, and
- (5) The project does not present a risk of public health exposure in violation of state or federal law.

(Pub. Res. Code, § 21155.1.)

Alternatively, if a TPP project does not qualify for an exemption, a TPP may be reviewed through a SCEIR provided, *inter alia*, that: (1) an initial study identifies “all significant or potentially significant impacts of the [TPP] . . . based on substantial evidence in light of the whole record” (Pub. Res. Code, § 21155.2, subd. (c)(1)); and (2) the SCEIR addresses “the significant or potentially significant effects of the [TPP] on the environment identified pursuant to [the initial study]. It is not required to analyze off-site alternatives to the [TPP]...” (Pub. Res. Code, §

21155.2, subd. (c)(2)). A SCEIR is a streamlined EIR, in that the lead agency must identify and analyze all significant or potentially significant effects of the project identified in the project's initial study. The remaining CEQA requirements for an EIR are otherwise applicable to a SCEIR. (Pub. Res. Code, § 21155.2, subd. (c)(2).)

Notably, under Public Resources Code section 21159.28(a), a SCEIR does not exempt agencies from their duty to review all other impacts of the project, including but not limited to impacts to historical resources. As to all those impacts, CEQA continues to require studies and mitigation, as well as an EIR to thoroughly assess all feasible mitigation measures and alternatives.

SB 375 also requires regional planning agencies to include a sustainable communities strategy ("**SCS**") in their regional transportation plans ("**RTP**"). (Gov. Code, § 65080, subd. (b)(2)(B).) Moreover, CEQA Guidelines section 15125(d) provides that an EIR "shall discuss any inconsistencies between the proposed project and...regional plans. Such regional plans include . . . regional transportation plans." Thus, CEQA requires analysis of any inconsistencies between the Project and the relevant RTP/SCS plan.

In April 2016, the Southern California Association of Governments ("**SCAG**") adopted the 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy ("2016-2040 RTP/SCS")¹⁰⁶, which includes policies and strategies to will help the region achieve GHG emission reductions that would reduce the region's per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.¹⁰⁷ SCAG's RTP/SCS plan is based upon the same requirements outlined in CARB's 2017 Scoping Plan and SB 375.

On September 3, 2020, SCAG adopted the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy, titled Connect SoCal ("2020-2045 RTP/SCS" or "Connect SoCal").¹⁰⁸ The 2020 RTP/SCS adopts policies and strategies aimed at reducing the region's per capita GHG emissions by 8 percent below 2005 per capita emissions levels by 2020 and 19 percent below 2005 per capita emissions levels by 2035.¹⁰⁹

For both the 2016-2040 RTP/SCS and Connect SoCal, SCAG prepared Program Environmental Impact Reports (PEIR) that include Mitigation Monitoring and Reporting Programs (MMRP) that list project-level environmental mitigation measures that directly and/or indirectly relate to a project's GHG impacts and contribution to the region's GHG emissions.¹¹⁰ These environmental

¹⁰⁶ Southern California Association of Governments (SCAG) (April 2016) The 2016-2040 Regional Transportation Plan / Sustainable Communities Strategy: A Plan for Mobility, Accessibility, Sustainability and a High Quality of Life ("SCAG 2016-2040 RTP/SCS"), *available at* <https://scag.ca.gov/sites/main/files/fileattachments/f2016rtpscs.pdf?1606005557>.

¹⁰⁷ *Id.* at pp. 8, 15, 153, 166.

¹⁰⁸ SCAG (Sept. 2020) Connect SoCal: The 2020-2045 Regional Transportation Plan / Sustainable Communities Strategy of the Southern California Association of Governments (SCAG Connect SoCal"), *available at* https://scag.ca.gov/sites/main/files/fileattachments/0903fconnectsocial-plan_0.pdf?1606001176.

¹⁰⁹ *Id.* at xiii.

¹¹⁰ SCAG (April 7, 2016) Resolution No. 16-578-1: A Resolution of the Southern California Association of Government Certifying the Final Program Environmental Impact Report Prepared for the 2016 – 2040 Regional Transportation Plan / Sustainable Communities Strategy (SCH#2015031035) and Adopting Findings of Fact, a Statement of

mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.

Response to Comment No. 10-8

The comment summarizes various CEQA legal standards related to transit priority projects, which are also summarized on pages I-2 through I-4 of the Draft EIR (relating to the preparation of a SCEIR). However, the comment does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

The comment wrongly suggests that the Draft EIR (or SCEIR) prepared for the Mirabel Transit Priority Project does not analyze all potential impacts of the Project. However, the analysis contained in the Initial Study and the Draft EIR collectively analyze all 20 topics contained in the CEQA Guidelines Appendix G checklist, and mitigation measures have been provided where necessary and feasible. This includes an analysis of historic resources (Section IV.A and Appendix B of the Draft EIR) and Project Alternatives (Section V of the Draft EIR). In addition, the Initial Study (Tables 5-1 and 5-2 on pages 57 to 186) includes an analysis of the applicability of mitigation measures from prior EIRs, including the SCAG 2020-2045 RTP/SCS EIR and the City's Housing and Safety Element EIR. Where applicable, mitigation measures from these EIRs have been incorporated by the Project.

Comment No. 10-9

IV. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. The DEIR's Initial Study Fails to Adequately Analyze and Assess the Project's Potentially Significant Impacts

1. The Project May Have a Significant Hazards Impact

Under CEQA Guidelines section 15065(a)(1)(4), a lead agency "shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project

Overriding Considerations and a Mitigation, Monitoring and Reporting Program Pursuant to the California Environmental Quality Act, Exhibit B, "Mitigation Monitoring and Reporting Program," *available at* https://scag.ca.gov/sites/main/files/fileattachments/2016fpeir_exhibitb_mmrp.pdf?1623887711; *see also* SCAG (Sept. 3, 2020) A Resolution of the Southern California Association of Governments (SCAG) Adopting the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (Connect SoCal) Program Environmental Impact Report (PEIR) Addendum and Approving Connect SoCal in its Entirety, Exhibit A, "Revised Mitigation Monitoring and Reporting Program," *available at* https://scag.ca.gov/sites/main/files/file-attachments/exhibita_connectsocial_peir_revisedmmrp.pdf?1606004474.

where [...] (4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.”

The Project’s Historic Resources Technical Report states the following regarding the proposed Project Site:

“The site originally contained four separate buildings constructed in the mid- to late-1930s.”

Appendix B to DEIR, Historic Report, p. 5. [Emphasis added.]

Therefore, the structures proposed for demolition are more than eighty (80) years old. As such, the buildings may contain asbestos and/or lead, which will need to be handled and disposed of.

It is undisputed that both *lead* and *asbestos* are dangerous to people’s health. While intact asbestos by itself may not be hazardous, damaged or disturbed asbestos may release asbestos fibers and become a health hazard.¹¹¹ Per Occupational Health and Safety Administration’s (“**OSHA**”) description:

What are the hazards of asbestos?

Asbestos is well recognized as a health hazard and its use is now highly regulated by both OSHA and EPA. Asbestos fibers associated with these health risks are too small to be seen with the naked eye. Breathing asbestos fibers can cause a buildup of scar-like tissue in the lungs called asbestosis and result in loss of lung function that often progresses to disability and death. Asbestos also causes cancer of the lung and other diseases such as mesothelioma of the pleura which is a fatal malignant tumor of the membrane lining the cavity of the lung or stomach. Epidemiologic evidence has increasingly shown that all asbestos fiber types, including the most commonly used form of asbestos, chrysotile, causes mesothelioma in humans.

OSHA’s Definition of “Asbestos” on its Official Website.¹¹²

Similarly, *lead* is dangerous to people and their families. Per OSHA’s report:

Lead has been poisoning workers for thousands of years. Lead can damage the central nervous system, cardiovascular system, reproductive system, hematological system, and kidneys. When absorbed into the body in high enough doses, lead can be toxic.

¹¹¹ See, <https://www.cpsc.gov/safety-education/safety-guides/home/asbestos-home>; see also, medical conditions associated with asbestos: https://www.atsdr.cdc.gov/asbestos/health_effects_asbestos.html

¹¹² See, United States Department of Labor, *Asbestos*, available at <https://www.osha.gov/asbestos> (accessed on Mar. 27, 2023.)

In addition, workers' lead exposure can harm their children's development. Short-term (acute) overexposure—as short as days—can cause acute encephalopathy, a condition affecting the brain that develops quickly into seizures, coma, and death from cardiorespiratory arrest.

Short-term occupational exposures of this type are highly unusual but not impossible. Extended, long-term (chronic) overexposure can result in severe damage to the central nervous system, particularly the brain. It can also damage the blood-forming, urinary, and reproductive systems. There is no sharp dividing line between rapidly developing acute effects of lead and chronic effects that take longer to develop.¹¹³

OSHA also documents the adverse effects of lead on people's reproductive health:

REPRODUCTIVE RISKS

Lead is toxic to both male and female reproductive systems. Lead can alter the structure of sperm cells and there is evidence of miscarriage and stillbirth in women exposed to lead or whose partners have been exposed. Children born to parents who were exposed to excess lead levels are more likely to have birth defects, mental retardation, or behavioral disorders or to die during the first year of childhood.

Workers who desire medical advice about reproductive issues related to lead should contact qualified medical personnel to arrange for a job evaluation and medical followup--particularly if they are pregnant or actively seeking to have a child. Employers whose employees may be exposed to lead and who have been contacted by employees with concerns about reproductive issues must make medical examinations and consultations available.¹¹⁴

Even further, according to ZIMAS, the Project Site is located within the *Methane Zone*, with its own health and safety risks to both the Project occupants and the surrounding environment. *See, Exhibit E*. Methane hazards have been acknowledged by the City of Los Angeles, including in Division 71, Sec. 91.7101 through 91.7109, as well as CA Building Code, both of which require specific remedial/mitigation measures.¹¹⁵

Accordingly, the Project may also cause a significant hazard impact due to the demolition hazards, including impacts to human beings and sensitive receptors, air, and water quality, along Thus, under CEQA Guidelines section 15065(a)(1)(4), the City shall make mandatory findings of

¹¹³ See, OSHA Report, *Lead in Construction* (2004) p. 3, available at <https://www.osha.gov/sites/default/files/publications/osha3142.pdf>

¹¹⁴ *Id.* at p. 4.

¹¹⁵ See Final M1.doc (ladbs.org); Methane and Health and Safety | SoCalGas

significance and order that the EIR be revised to thoroughly assess the potential hazards/hazardous materials impact of the Project.

Response to Comment No. 10-9

The comment is correct about the age of the existing buildings, as discussed in the Historic Report (included as Appendix B of the Draft EIR). As stated on pages 306 and 307 of the Initial Study, based on the age of the existing buildings, it is assumed that they contain asbestos containing materials (ACMs). In accordance with existing City, State, and federal rules and regulations, including the federal EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation (40 Code of Federal Regulations 61 Subpart M), the federal regulations under the Occupational Safety and Health Act (29 Code of Federal Regulations Section 1926.1101) California Occupational Safety and Health Administration (CAL-OSHA) regulations (California Code of Regulations, title 8, Sections 341.15, 1529), and SCAQMD Rule 1403, all materials, which are identified as ACM, would be removed by a trained and licensed asbestos abatement contractor, as required by NESHAP and CAL- OSHA. The removal and disposal of ACMs from the Project Site in accordance with existing regulations would ensure that the Project would not create a significant hazard to the public or the environment through accident or upset conditions, and the Project's impact would be less than significant.

As discussed on page 307 of the Initial Study, it is also assumed that the existing buildings contain lead-based paint (LBP). In order to ensure minimal exposure to sensitive receptors and workers, LBP found in the building is required, by state law, to be removed and disposed of by a qualified Department of Health Services lead consultant in accordance with applicable federal, State, and City regulations, including the federal regulations under the Occupational Safety and Health Act (29 Code of Federal Regulations Section 1926 *et seq.*), CAL- OSHA regulations (California Code of Regulations, title 8, Sections 1532.1 and 35001 *et seq.*). The removal and disposal of LBP from the Project Site in accordance with existing regulations would ensure that the Project would not create a significant hazard to the public or the environment through accident or upset conditions, and impacts would be less than significant.

As discussed on Initial Study pages 305 and 306, because of the Project Site's location in a methane zone, a methane survey was conducted in accordance to Los Angeles Department of Building and Safety (LADBS) protocol, which is included in Appendix E-2 of the Initial Study. Methane was not detected in any of the samples analyzed. In addition, no pressure was detected in any of the borings. Based on these results, the Project Site does not appear to be impacted by its location within a methane zone. Therefore, no additional assessment pertaining to methane is recommended. However, the Project would be required to comply with the City's methane mitigation regulations related to development in methane zones, which include requirements for safety, venting, and remediation. Therefore, Project impacts were determined to be less than significant.

Comment No. 10-10***2. The Project Will Have Significant Impacts Due to Unusual Circumstances***

Pursuant to CEQA Guidelines section 15300.2(c), “a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”

The Project qualifies for the unusual circumstances exception under CEQA Guidelines § 15300.2(c) and *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1114-1117. It is undisputed that the Project has unusual circumstances in view of the Project’s demolition of a building that is more than eighty (80) years old and potentially contains lead and asbestos, along with the potential hazard impacts associated with the handling and disposal of the demolition debris.

Even further, according to ZIMAS, the Project is located within the Methane Zone, with its own potential for significant impacts, including on emergency/evacuation patterns and public services. See, **Exhibit E**. As such, the Project may significantly exacerbate the conditions on and around the Project site and cause impacts thereby.

Accordingly, the Project will have a significant effect on the environment due to such unusual circumstances, which, in turn must be subject of thorough evaluation and study in the Project’s EIR. Thus, the EIR must be revised and supplemented to address the Project’s significant effect on the environment due to unusual circumstances.

Response to Comment No. 10-10

The Project is not pursuing a Categorical Exemption from CEQA. Therefore, CEQA Guidelines section 15300.2(c) does not apply to the Project.

Regarding the handling of ACMs and LBP in the existing buildings, as well as the Project Site’s location in a methane zone, refer to the Response to Comment No. 10-9.

Comment No. 10-11**B. The DEIR’s Stated Mitigations Measures Are Insufficient**

A fundamental purpose of an EIR is to identify ways in which a proposed project’s significant environmental impacts can be mitigated or avoided. Pub. Res. Code §§ 21002.1(a), 21061. To implement this statutory purpose, an EIR must describe any feasible mitigation measures that can minimize the project’s significant environmental effects. PRC §§ 21002.1(a), 21100(b)(3); CEQA Guidelines §§ 15121(a), 15126.4(a).

If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the

environment where feasible,”¹¹⁶ that ‘specific overriding economic, legal, social, technology or other benefits of the project outweigh the significant effects on the environment,”¹¹⁷ and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns”. CEQA Guidelines § 15092(b)(2)(A–B). “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. (CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”].) While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project’s environmental review. Moreover, according to CEQA Guidelines, “[w]hen an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.” CEQA Guidelines Section 15096(g)(2).

Response to Comment No. 10-11

The comment summarizes various CEQA legal standards related to mitigation measures, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR, or its alleged insufficiency. Nevertheless, , the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 10-12

Here, the DEIR’s mitigation measures fails to adequately mitigate the Project’s impacts as follows:

i. Noise

MM-NOI-1 provides as follows:

The Project shall use quieter construction noise equipment and install temporary noise barriers along the north, west, and east perimeters of the Project Site to achieve a 8.3 dBA Leq reduction at residences on Cochran Avenue and a 15.2 dBA Leq reduction at residences on Cloverdale Avenue. The supporting structures shall be engineered and erected in order to comply with Los Angeles Municipal

¹¹⁶ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

¹¹⁷ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

Code noise requirements, including those set forth in Chapter XI, Article 2 of the Los Angeles Municipal Code.

(DEIR at p. I-9).

However, the measure fails to specify whether the proposed barriers will also reduce noise levels at elevated sources above ground as the building construction progresses. Moreover, there is no indication that the majority of the temporary noise barriers (i.e., those to be placed along the western, northern, and eastern edges of the property line of the Project Site) will be also moveable to ensure they properly reduce the sound of the construction noise at its source. As noted by the court in AIDS HEALTHCARE FOUNDATION v. CITY OF LOS ANGELES, LASC Case Number: 19STCP05445 (April 5, 2021):

“The City’s response actually concedes the flaw in the efficacy of MM 1- 2 as it is written. Effective mitigation to sensitive receptors requires the noise barrier systems to be moved. The City argues MM 1-2 is effective because ‘the noise barriers are moveable, meaning that they move in concert with any piece of construction equipment to ensure the equipment does not operate with an unobstructed line of sight to a receptor.’ (Opposition Brief 35:15-17.) The City recognizes the barriers must be moveable ‘to shield construction activities, no matter where they occur onsite.’ (Opposition Brief 35:18-19.)

Despite the City’s recognition the noise barriers must be moved throughout the Project during construction to effectively mitigate construction-related noise, MM 1-2 does not require such movement. It is not about wordsmithing—it is about enforceability and efficacy. The City’s attempts to distinguish between ‘Project boundaries’ and ‘property boundaries’ is unpersuasive.²⁴ Such a distinction—if there is one—does not resolve the ambiguity. Nothing in MM 1-2 requires any noise barriers to be moved.^{*25} Accordingly, the court finds substantial evidence does not support the City’s conclusion MM 1-2 is an effective mitigation measure.” (**Exhibit D**, p. 20 [Ruling].)

Absent such specifications, MM-NOI-1 is legally inadequate and cannot support a finding that the Project’s noise impacts will be reduced to the maximum extent feasible.

Response to Comment No. 10-12

As discussed on pages IV.B-29 and IV.B-30 of the Draft EIR (in Section IV.B, Noise), noise levels generally peak during the demolition and grading phases, when heavy-duty equipment like excavators and dozers are used to move large amounts of debris and dirt. During other phases of construction, noise impacts are generally reduced because they are less reliant on using heavy-duty equipment with internal combustion engines, and instead would rely on smaller equipment such as hand tools and pneumatic equipment. These noise sources produce significantly less sound power than diesel-fueled internal combustion engines that are the focus of Mitigation

Measure MM-NOI-1. As such, the elevated sources above ground will both be substantially quieter than ground-based equipment, as well as being largely shielded by the external walls of the proposed building. Mitigation Measure MM-NOI-1 is intended to break the line-of-sight between construction equipment and activities and nearby sensitive receptors. Noise barriers are capable of technically achieving the stated reductions in noise exposure at off-site receptors. The specifics on the installation of barriers and siting of staging areas will require coordination with City Planning and LADBS before issuance of permits to proceed with demolition and construction activities. CEQA provides for these details being worked out later provided there is a clear performance standard, as shown in MM-NOI-1, a reduction of a specific dBA Leq reduction at a given receptor. Shielding upper floors of adjacent sensitive receptors can be technically infeasible depending on the orientation, height, and setback of those structures relative to the construction site. However, Mitigation Measure MM-NOI-1 would place barriers along property lines that would substantially shield exposure at nearby sensitive receptors during construction when equipment operates closer to shared property lines. Further, as stated in the measure, the barriers would be designed to result in a reduction in dBA at a receptor, this would be independent of the location of the equipment as the modeling is based on a worst case scenario exceedance at each sensitive receptor. Based on this worst case, the barriers would achieve the reduction to a less than significant level. As equipment moves toward the center of the Project Site, it would have lesser impacts on adjacent receptors due to noise attenuation from the increased buffer provided by the additional distance from construction activity to a sensitive receptor. Mitigation Measure MM-NOI-1 is effective during the demolition and grading phases when heavy-duty equipment using diesel engines would operate at ground level. As the Project Site is excavated, this equipment will operate below grade, further reducing exposure to adjacent sensitive receptors. During the framing and construction of above-ground levels, noise impacts are generally lower as work relies on the use of pneumatic tools, hand-held equipment, and smaller tools that do not use louder, internal combustion engines.

It should be noted that the analysis contained in Section IV.B, Noise, of the Draft EIR, confirms that with mitigation, noise impacts would be below the threshold of significance identified in the EIR.

Comment No. 10-13

ii. Cultural Resources

CEQA forbids deferred mitigation. Guidelines § 15126.4(a)(1)(B). CEQA allows deferral of details of a mitigation measure only “when it is impractical or infeasible to include those details during the project’s environmental review.” (*Id.*) CEQA further requires: “that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard...” Guidelines § 15126.4(a)(1)(B). Deferring formulation of a Project’s actual mitigation measures to some undefined time after the Project’s approval is improper and cannot be used as a substitute for proper mitigation under CEQA. Impermissible deferral can occur when an EIR

calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms but the agency fails to commit itself to specific performance standards. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281 [city improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management]).

Here, the EIR improperly defers details of the Project's Cultural Resources mitigation measure, MM-CULT-2, as follows:

Planning and implementation of the retention and preservation of the south- and east-facing façades of the Sontag Drug Building and their incorporation into a new one-story building at the same location, shall include a Preservation Plan consisting of procedures and methodologies for shoring, materials and character-defining feature [sic] protection strategies, contingencies if materials or character-defining features are damaged, as well as construction plans and shoring plans.

The Preservation Plan shall be developed by a qualified structural engineer experienced in the preservation of historic buildings in consultation with a preservation architect or other qualified professional who meets the Secretary of the Interior's Professional Qualifications Standards to ensure minimal loss of original materials and character defining features during and after the preservation of the Sontag Drug Building south and east façades and their incorporation in a new one story building. The Preservation Plan shall be submitted to OHR and Planning prior to demolition permits being issued.

(DEIR at pp. I-8 – I-9.)

MM-CULT-2, on its face, defers the preparation of the Preservation Plan until after the CEQA environmental review process for the Project is completed, thereby denying the public and the City's decisionmakers of the opportunity to assess the adequacy and comment upon said program/plan. Additionally, MM-CULT-2 appears to improperly shift the burden of preparation of the Preservation Plan to the applicant (and its designated engineer and architectural consultants), when it is in fact the City's responsibility, as lead agency, to ensure that the preparation and implementation of the Preparation Plan. Further still, MM-CULT-2 is silent regarding the City's obligation to consider and approve the adequacy of the Preservation Plan prior to permitting demolition of the historic property in connection with Project. The City is not permitted to remove itself from the approval of the mitigation process for the Project in this manner, particularly in connection with a previously identified potentially significant impact posed by the Project.

Thus, in the context of MM-CULT-2, the City has failed to meet CEQA's preconditions and requirements concerning mitigation, as the DEIR has failed to show why the Project's Preservation Plan cannot be completed or achieved at this time prior to adoption of the EIR, what impacts the measures will have individually or cumulatively, if those would indeed be feasible, and the specific performance criteria the Applicant will have to meet with regard to the measures. Accordingly, the proposed mitigation measure is improperly deferred as it defers the formulation

of components of the mitigation to a later time, shifts the burden to the Applicant, and further does not explain how the measures will clearly minimize the Project's impacts to cultural/historic resources.

Response to Comment No. 10-13

Draft EIR page II-7 describes how the south and east façades would be preserved in place and incorporated into the Project. As discussed therein, the existing commercial building at 5401 Wilshire Boulevard, a contributor to the Miracle Mile Historic District, would be demolished and two of its façades would be preserved in place and incorporated into the new building at 5401 Wilshire Boulevard to ensure that the building's Streamline Moderne architectural style and character-defining features are preserved. After completing the removal of non-structural elements from the interior of this building, the roof, along with the north and west façades and the building volume would be removed in order to construct the Project's subterranean parking. Exterior-placed steel beams would be placed along the south and east façades tied to interior bracing to secure the façades in place with minimal impact to the integrity of the cast-in-place concrete (as shown on Draft EIR Figure II-26). During the general construction of the Project, the west and north walls of the new building would be created, along with a new roof, approximating the original volume of this building. The east and south façades would be rehabilitated, the east façade would be extended approximately three feet to the north, and the south façade would be extended slightly to the west. As a means to finish the exterior, as identified in II. Project Description of the DEIR the following elements would be reconditioned:

- A continuous band of metal-framed glazed storefront at street level topped by a continuous, projecting plaster band.
- Above the plaster band, overlapping planes and volumes of smooth plaster with rounded corners and continuous cornices with geometrically patterned bands, facets, and fluting.
- The projecting central volume is supported on squat half-columns with horizontal fluting. A flat wall panel with stepped channeling and a square spire rise above the roof parapet just north of the rounded corner.
- The primary entrance located at the corner would consist of a pair of frameless glass doors with metal pulls, sidelights, and transom light.
- The storefront, banding, smooth plaster wall surfaces, and cornices continue onto the east façade.

The commenter misapplies Guidelines Section 15126.4(a)(1)(B) which states: "The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures

that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.” Mitigation Measure CULT-MM-2 includes defined performance standard to “ensure minimal loss of original materials and character defining features during and after the preservation of the Sontag Drug Building south and east façades and their incorporation in a new one story building,” as well as potential actions to achieve the performance standard such as “procedures and methodologies for shoring, materials and character-defining feature protection strategies, contingencies if materials or character-defining features are damaged, as well as construction plans and shoring plans.” The measure also requires that the plan is developed by a professional preservation architect or other qualified professional who meets the Secretary of the Interior’s Professional Qualifications Standards and the plan is submitted to the Planning Department’s experts in the Office of Historic Resources (OHR) and the Department of Building and Safety prior to a demolition permit being issued. Approval of this plan would be a pre-requisite to attaining a demolition permit. While demolition of historic structures is routinely addressed via a regulatory process for building permits associated with entitlement requests, satisfying of Guidelines Section 15126.4(a)(1)(B), the mitigation measure is still imposed on the Project to provide the City greater oversight. Contrary to the commenter’s assertions, the mitigation measure complies with Guidelines Section 15126.4(a)(1)(B),

Comment No. 10-14

V. CONCLUSION

For all of the foregoing reasons, the City must require the revision and recirculation of the DEIR to adequately address the concerns and deficiencies raised herein, such that the Project’s significant environmental impacts are analyzed and mitigated to the maximum extent possible. Absent doing so, any approval of this Project would violate CEQA and subvert the public environmental review process. If the City has any questions or concerns, please do not hesitate to contact this office.

Response to Comment No. 10-14

The comment provides concluding information and general criticism of the Draft EIR, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 11: 660 Cochran

Avi Ryzman, its Manager
5862 West 3rd Street
Los Angeles, CA 90036

Comment No. 11-1

Please allow this letter to serve as the objection of 660 S. Cochran LLC (“Cochran LLC”) to the *Draft Environmental Impact Report for the Mirabel Transit Priority Project* (the “Draft EIR”) as proposed, for what we understand is the construction of a new 42-story mixed-use tower (maximum height of 530 feet) and 3-story parking podium (including 3 subterranean levels) and up to 348 dwelling units, including 29 units set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses (the “Project”). Cochran LLC is the owner of the multi-family residential property located at 660 S. Cochran, Los Angeles, California 90036 (“our property”), directly adjacent and just north of the proposed Project and is located on the corner of Wilshire and Cochran at 5401 Wilshire Boulevard, Los Angeles, California 90025.

Response to Comment No. 11-1

The comment provides introductory information and the commentor’s opposition to the Project, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 11-2

We have reviewed the Draft EIR, and as presented and proposed, Cochran LLC objects to the Project’s construction based on the following issues, including but not limited to:¹¹⁸

Historic Neighborhood Designation

The proposed Project is located within the Miracle Mile Historic District. The current building located at the Project site is the Sontag Drug Building – an Art Deco style architecture building from the 1930s. The Draft EIR states that with the exception of only the east and south facades, the Sontag Drug Building will be demolished to facilitate proposed subterranean parking. The Project developer has failed to consider how to preserve the historical significance and integrity

¹¹⁸ This objection is not intended to be all inclusive of the issues regarding the proposed construction/development of the Project.

of the Sontag Drug Building while simultaneously adding new density and housing where possible.

Response to Comment No. 11-2

As discussed on page II-7 of the Draft EIR, the existing commercial building at 5401 Wilshire Boulevard (the Sontag Drug Building), is a contributor to the Miracle Mile Historic District but is not individually recognized as a protected resource. Under the Project, the Sontag Drug building would be demolished while two of its façades would be preserved in place and incorporated into the new building to ensure that the building's Streamline Moderne architectural style and character-defining features are preserved. As further discussed in Section IV.A (Cultural Resources) and Appendix B of the Draft EIR, with implementation of Mitigation Measures MM-CULT-1 through MM-CULT-3, impacts to the Sontag Drug Building as a contributor to the Miracle Mile Historic District would be less than significant. However, impacts to the Sontag Drug Building as an individual resource would remain significant and unavoidable.

The Draft EIR (in Section V, Alternatives) examined a Preservation Alternative that would retain the Sontag Drug Building entirely and construct 228 residential units rather than the 348 units proposed as part of the Project. While the Preservation Alternative would avoid the Project's significant and unavoidable impact with respect to historical resources (based on the retention of the Sontag Drug Building), this Alternative would not meet the Project objectives to the same extent as the Project, because significantly fewer residential units would be provided.

Comment No. 11-3

Noise

The location of the proposed Project is already highly congested and noisy. Fire Station 61 is located about three blocks down from the Project and our property at 5821 W 3rd Street, Los Angeles, California 90036. There is also a Metro Station being constructed at Wilshire and La Brea, also three blocks east from the Project and our property.

During construction, there will be tremendous noise interruption and disturbances to our property. Such noise is anticipated to come from construction activities, the operation of haul trucks for debris and soil transfer, heavy-duty trucks for material delivery, and related traffic noise. Post-construction, the proposed Project will have a significant continued noise and congestion impacts on the neighborhood and in particular our property, its closest neighbor by its sheer size, adding 3-story parking podium and 3 subterranean levels plus construction of up to 348 dwelling units (or 319 as now proposed). The mass volume of vehicular traffic, never mind pedestrian traffic, will overwhelm this already noise-impacted neighborhood. With such a significant increase in population within such a small area, there will undoubtedly be increased ridesharing use (i.e., Uber, Lyft, Waymo etc.) causing increased noise and congestion, especially given two of the four proposed driveways is located on Cochran Avenue, immediately adjacent to our property. Furthermore, given the number of residential units the Project proposes to construct, those unit

will attract more visitors to those units creating more noise in the immediate area and certainly parking shortages which is already an issue. Below, is Table IV.B-8 (page 31) from the Noise study.

**Table IV.B-8
Construction Noise Impacts at Off-Site Sensitive Receptors (Without Mitigation)**

Sensitive Receptor Location	Distance from Receptor to Project Construction Area (feet) ^a	Estimated Construction Noise Levels by Construction Stage (dBA L _{eq})								Existing Daytime Ambient Noise Level (dBA L _{eq})	Significance Criterion (dBA L _{eq}) ^b	Maximum Noise Exceedance Above Criteria (dBA L _{eq})	Significant Impact Before Mitigation?
		Demolition	Site Prep	Drainage/ Utilities/ Trenching	Grading	Foundations/ Concrete Pour	Building Construction	Paving	Architectural Coatings				
1. Residences – 665 Cochran Ave.	75	74.6	72.8	68.6	74.4	74.3	76.2	77.3	68.6	65.2	70.2	7.1	Yes
2. Residences – 660 Cochran Ave.	5	75.7	73.8	69.3	75.5	75.3	77.3	78.4	69.3	65.2	70.2	8.2	Yes
3. Residences – 661 Cloverdale Ave.	10	74.6	72.6	67.1	74.4	74.2	76.3	77.5	67.1	58.8	63.8	13.7	Yes
4. Residences – 664 Cloverdale Ave.	80	76.1	74.0	68.4	75.9	75.7	77.8	78.9	68.4	58.8	63.8	15.1	Yes
5. Residences – 5353 Wilshire BL	200	66.9	66.5	66.1	66.8	66.8	67.3	67.6	66.1	65.9	70.9	0.0	No
6. Residences – 717 Cochran Ave.	280	62.6	62.4	62.3	62.5	62.5	62.7	62.9	62.3	62.2	67.2	0.0	No

^a Distance is measured from the edge of the Project Site to the habitable sensitive receptor.
^b The applicable threshold of significance is an increase of 5 dBA L_{eq} above ambient noise levels.
Source: DKA Planning, 2024.



The circled property is our property, which is adjacent to the Project's 3-story parking podium.¹¹⁹

¹¹⁹ All charts, rendering and photographs were taken from the items submitted by the Project developer to the City.

Response to Comment No. 11-3

As discussed in Draft EIR Section IV.B (Noise), with implementation of Mitigation Measure MM-NOI-1, Project impacts with respect to construction noise would be less than significant. Additionally, Project impacts with respect to operational noise would be less than significant without mitigation. Pages IV.B-37 and IV.B-38 of the Draft EIR provide an analysis of noise from vehicle trips to and from the Project Site. As discussed therein, the estimated roadway traffic noise levels would be below the applicable significance thresholds, and impacts were determined to be less than significant when compared to existing conditions.

Regarding pedestrian traffic, the comment does not state a specific comment or question regarding the adequacy of the analysis contained in the Draft EIR. Nevertheless, the Project would provide Code-required sidewalk widths and will maintain or increase (via a three-foot dedication on Cochran Avenue) the existing sidewalk widths adjacent to its frontages and retain the existing signalized crosswalks at the site-adjacent intersections along its Wilshire Boulevard frontage at Cochran Avenue and Cloverdale Avenue.

The comment regarding parking shortages in the area does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment regarding parking is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 11-4**Vibrations**

Very troubling, is that *despite being the Project's closest neighbor*, the vibrations from the Project as projected in the Draft EIR, fail to consider the impacts on our property during construction, which will be substantial given the sheer scope of the Project and operationally, once the Project is completed. Yet, despite having a 3-story parking podium constructed ~5 feet from the Cochran Project, the vehicular entrance adjacent to our property, and presumably mechanical systems installed to support the Project, each operating 365 days/year and 24 hrs./day, *no analysis has been performed as to the vibration effect on our property*. Table IV.B- 15 (pg. 42) from the Noise study states "As illustrated in Table IV.B-15, the estimated groundborne vibration levels from construction equipment *could exceed the FTA's threshold of 72 VdB for sensitive uses, including the residential uses north of the Project Site fronting on Cloverdale and Cochran Avenues.*" (Emphasis added). Yet, our property is *not* considered.

Table IV.B-15
Construction Vibration Levels – Human Annoyance (Without Mitigation)

Off-Site Receptor Location	Distance to Project Site (feet)	Vibration Velocity Levels at Off-Site Sensitive Receptors from On-Site Construction Activities (VdB)					Significance Criterion (VdB)	Potentially Significant Impact?
		Large Bulldozer	Caisson Drilling	Loaded Trucks	Jack-hammer	Small Bulldozer		
FTA Reference Vibration Level (25 Feet)	N/A	87	87	86	79	58	--	--
Residences, 664 Cochran Ave.	15	93.7	93.7	92.7	85.7	64.7	72	Yes
Residences, 661 Cloverdale Ave.	20	89.9	89.9	88.9	81.9	60.9	72	Yes
Residences, 665 Cochran Ave.	85	71.1	71.1	70.1	63.1	42.1	72	No
Residences, 664 Cloverdale Ave.	90	70.3	70.3	69.3	62.3	41.3	72	No
Distance to Project Site assumes 10-foot buffer on construction site to ensure equipment maneuverability. Source: DKA Planning 2023.								

Response to Comment No. 11-4

The commenter asserts that vibration impacts to their property were not considered in the Draft EIR, providing Table IV.B-15 as evidence. While the table the commenter provides does not include 660 Cochran, the table includes a typographic error, listing instead 664 Cochran Avenue, part of the Project Site. This address should be listed as 660 Cochran Avenue, and is corrected in Section 3, Additions and Corrections of this Final EIR. Vibration impacts to the building at 660 Cochran have been included in Section IV.B, Noise, of the Draft EIR, under an incorrect address. As shown in Table IV.B-14 of the Draft EIR, construction vibration impacts with respect to building damage at all nearby structures would be less than significant without mitigation (including the building at 660 Cochran, which is listed in Table IV.B-14 as 664 Cochran). As shown in Table IV.B-15, construction vibration impacts with respect to human annoyance would be potentially significant at these same buildings. As further discussed on page IV.B-45, there are no feasible mitigation measures that could reduce the temporary vibration human annoyance impacts at adjacent residences to the north of the Project Site. Therefore, the Draft EIR concluded that construction vibration impacts with respect to human annoyance would be significant and unavoidable.

Comment No. 11-5

Air/Light Interference

The proposed Project contains a mirrored facade which will undoubtedly reflect sunlight and heat to neighboring properties including its closest neighbor, our property. That is likely to cause all the residents of our property, including any elderly and the long-standing residents, to use more energy to cool their units in the summer and heat their units in the winter. Along those lines, because of the sheer height of the proposed Project (~530 ft), sunlight and natural light will be blocked or partially blocked to our property. See rendering above.

Furthermore, due to the size difference of the Project and our property, there will be a significant reduction/blockage in natural airflow and light to and around our property which will negatively impact the beauty and comfort of all of the surrounding low-rise buildings such as our property. Our property is approximately 27 feet tall, and the adjacent buildings are all the same approximate height. The Project developer is proposing to build a *49-foot concrete wall* supporting the 3-story parking podium and various amenities housed thereon with a roof reaching *over 73 feet tall*. The concrete wall, not including the tower itself will eliminate any air and light from the south and west of our property. See rendition above.

Response to Comment No. 11-5

As discussed on pages 187 through 189 of the Initial Study (included as Appendix A-1 of the Draft EIR), for qualifying transit priority projects such as the Project, impacts with respect to aesthetics, including glare, shall not be considered significant impacts on the environment. Therefore, pursuant to Senate Bill (SB) 743 and City Zoning Information File No. 2452, the Project would result in a less than significant impact with respect to glare. In addition, the windows proposed are not mirrored and therefore would not contribute to glare.

The remainder of the comment regarding natural light and airflow does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 11-6

Overbearing parking/fumes

Undoubtably, with the increased traffic, parking garage and units, there will be excess vehicular fumes in and about the Project which could significantly affect the neighboring properties, especially our property which is adjacent to the proposed Project.

Response to Comment No. 11-6

As discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, the Project's air quality impacts during operation, including from vehicles traveling to and from the Project Site, would be less than significant.

Comment No. 11-7

Conclusion

These are just some of the concerns which Cochran LLC has to the proposed Project as presented, and which legitimate concerns Cochran LLC believes were not adequately addressed

by the developer of the Project in the Draft EIR. For those reasons, it is requested that the Draft EIR be denied as currently proposed.

We are happy to make ourselves available for further comment or to discuss these matters further. Thank you in advance for your consideration of Cochran LLC's concerns.

Response to Comment No. 11-7

The comment provides concluding information and the commentor's opposition to the Project, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 12: Alana Nabors

Alana Nabors
alananabors45@gmail.com

Comment No. 12-1

I received a letter about the high rise that is planning to be built in my neighborhood. I was wondering if this project is 100% going to happen?

Response to Comment No. 12-1

The Project is currently going through the environmental review and entitlement process. No decision has been made yet regarding Project approval. All parties who have submitted comments in response to the Draft EIR will receive advance notice of any public hearings on the Project.

Comment No. 12-2

If not I would like to strongly protest the construction of this very large building because of the terrible affect it will have in my livelihood. This project would be going basically right across the street from me.

Response to Comment No. 12-2

The comment provides opposition to the Project, but does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 12-3

I work in nightlife and have irregular hours so therefore my sleep schedule is much later than usual. I'm normally getting into bed around 4-5am and if construction would be starting around 7 am or so I would not be able to get any sleep.

Response to Comment No. 12-3

As discussed on page IV.B-16 of the Draft EIR, LAMC Section 41.40 prohibits construction between the hours of 9:00 P.M. and 7:00 A.M. Monday through Friday, 6:00 P.M. and 8:00 A.M. on Saturday, and at any time on Sunday (i.e., construction is allowed Monday through Friday between 7:00 A.M. to 9:00 P.M.; and Saturdays and National Holidays between 8:00 A.M. to 6:00 P.M.).

Comment No. 12-4

The construction of this building would also take away any remainder of natural light from my apartment (the other high rise on the street is already taking up so much) because of the giant shadow it will cast across my building and other parts of the street.

Response to Comment No. 12-4

As discussed on pages 187 through 189 of the Initial Study (included as Appendix A-1 of the Draft EIR), for qualifying transit priority projects such as the Project, impacts with respect to aesthetics, including shade and shadow, shall not be considered significant impacts on the environment. Nonetheless, the commenter's concerns about shade and shadow are noted for the record and will be forwarded to the decision maker for their consideration.

Comment No. 12-5

Our street is already congested enough as it is and we don't need a new structure adding more traffic/ more humans/ more cars into our neighborhood.

Response to Comment No. 12-5

The Initial Study contains an analysis of Project impacts with respect to traffic and transportation (see Initial Study pages 352 through 354, and the corresponding technical analyses contained in Appendix G of the Initial Study). As demonstrated therein, the Project would result in a net increase of approximately 177 vehicle trips per day, and Project impacts with respect to transportation were determined to be less than significant. Nevertheless, the commentator's opinions are acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 12-6

The amount of pollution in the air from the construction would also be terrible for any people/ pets would live in the area, especially that have asthma or respiratory issues.

Response to Comment No. 12-6

An analysis of Project impacts with respect to air quality is provided on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study. As discussed therein, Project impacts with respect to air quality during construction would be less than significant, including at surrounding sensitive receptors. In addition, the Project would also implement Mitigation Measure 4.2-3 from the City's Housing and Safety Element EIR, which would further ensure that Project impacts with respect to air quality during construction are less than significant.

Comment No. 12-7

The noise would not only negatively affect me and the other people that live in the neighborhood but also all of the animals whose hearing is much more sensitive.

Response to Comment No. 12-7

As discussed in Draft EIR Section IV.B (Noise), with implementation of Mitigation Measure MM-NOI-1, Project impacts with respect to construction noise would be less than significant, and with implementation of Mitigation Measure MM-NOI-2, Project impacts with respect to construction vibration (building damage) would be less than significant. Project impacts with respect to operational noise and vibration would be less than significant without mitigation. However, as discussed on Draft EIR page IV.B-46, there are no feasible mitigation measures that could reduce the temporary vibration human annoyance impacts from both on- and off-site construction activities. Therefore, vibration impacts from on-site and off-site construction activities with respect to human annoyance would be significant and unavoidable. CEQA does not require analysis related to domesticated pets.

Comment No. 12-8

I feel like this project would quite literally force out so many people that live in this neighborhood, due to excessive noise/ pollution/ etc. I STRONGLY protest this new project and hope that my voice is heard as I know MANY/ (if not all) people would live in my neighborhood feel the same way.

Response to Comment No. 12-8

Regarding Project impacts with respect to noise, refer to the Response to Comment No. 12-7. Regarding Project impacts with respect to air quality during construction, refer to the Response to Comment No. 12-6. As also discussed on pages 208 through 216 of the Initial Study, and in the associated technical modeling contained in Appendix A-1 of the Initial Study, the Project's air quality impacts during operation would be less than significant.

The comment also provides the commentor's opposition to the Project, which is acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 13: Gene Bramson

Gene Bramson
GLB Properties
gene@glbproperties.com

Comment No. 13-1

In full agreement with this much needed (housing) project. Agree with the unit mix and the different levels of offerings. There is need at all levels of housing in LA.

Response to Comment No. 13-1

The comment provides support for the Project, which is acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 13-2

I realize as a TOC, limited parking is allowed, just think we also need plenty of extra parking especially in this parking deprived area.

But I would request that if there is available extra parking, that tenants in the adjacent parking deprived properties have a chance to rent spaces even if only overnight on a monthly basis.

Response to Comment No. 13-2

Pursuant to SB 743, parking is not a CEQA concern. The comment, however, is acknowledged for the record, and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 13-3

So a big vote in favor of this well designed and contributor project to the neighborhood.

Gene Bramson
GLB Properties
Los Angeles

I am an owner in the immediate area (within 1-2 blocks) of 5 multi-family properties, a stakeholder.

Response to Comment No. 13-3

The comment provides support for the Project, which is acknowledged for the record, and which will be forwarded to the decision-making bodies for their review and consideration.

LETTER NO. 14: Hana Kawano

Hana Kawano
Board Member of the Miracle Mile Residential Association
805 S. Sierra Bonita Avenue
Los Angeles, CA 90036

Comment No. 14-1

I wish to incorporate by reference, my scoping letter dated October 2, 2023 at 3:51 pm, to include serious environmental concerns with unintended consequences not recognized in that letter. I wish to incorporate the following:

Air Pollution

After construction, GGE and air pollution from all vehicles, including electric, will remain high. Particulate matter air pollution (PM 2.5) consists of particles so tiny, they can penetrate the lungs, enter the blood stream and worsen asthma, heart disease, dementia, diabetes and risk of stroke. Because Miracle Mile is a Naturally Occurring Retirement Community (NORC) it is home to many elderly residents. It also is home of many families with infants and children. The harmful effects of bad air quality will hit these 2 groups hardest, leading to hospitalizations, disability and death. The health impacts from air pollution are irreversible, permanent and as the worst effects will be borne by the very old and very young, it's discriminatory.

Response to Comment No. 14-1

Project impacts with respect to air quality, including from particulate matter, and greenhouse gas (GHG) emissions were analyzed in the Initial Study prepared for the Project, which is included as Appendix A-1 to the Draft EIR. The air quality analysis specifically looked at impacts to sensitive receptors, which include hospitals, schools, residences, playgrounds, childcare centers, athletic fields, and retirement homes. The analysis contained in the Initial Study concluded that Project impacts with respect to both air quality and GHG emissions would be less than significant.

The portion of the comment regarding the Naturally Occurring Retirement Community does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 14-2

Urban Heat Island Effect

By now, all have experienced longer, hotter, more frequent heat waves, which stoke the Urban Heat Island Effect, that occurred after the scoping letter. The Urban Heat Island Effect makes air pollution worse. The Project, combined with the other 7 mega-projects in the area, will result in a hotter and more polluted Miracle Mile It's life-threatening and discriminatory as it hits elderly and low income households harder.

To mitigate, it is more important than ever that the project be required to have facades that prevent heat and light reflection onto the surrounding residential areas.

Response to Comment No. 14-2

Refer to the Response to Comment No. 14-1 regarding Project impacts with respect to air quality and GHG emissions.

The portion of the comment regarding the Urban Heat Island Effect does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Comment No. 14-3

Haul Routes

Construction vehicles and dump trucks must use only major throughfares as their haul routes and avoid the residential side streets

Response to Comment No. 14-3

The proposed haul route is described on pages II-10 and II-11 of the Draft EIR. As discussed therein, the haul route would be subject to Los Angeles Department of Transportation (LADOT) approval and would likely use Wilshire Boulevard and La Brea Avenue to access the I-10 freeway.

Comment No. 14-4

Helipad, Re: Mirabel DEIR LAFD Response

"Recently, the Los Angeles Fire Department (LAFD) modified Fire Prevention Bureau (FPB) Requirement 10. Helicopter landing facilities are still required on all High-Rise buildings in the City. However, FPB's Requirement 10 has been revised to provide two new alternatives to a full FAA-approved helicopter landing facilities" As this modification was not recognized earlier and

there is residential housing within 500 feet, the helipad shall be used for emergency purposes only. Period!

Response to Comment No. 14-4

The correspondence referenced by the commenter refers to a code requirement for helipads, but offers two options for Projects to comply without providing a helipad. The Project, as proposed, does not include a helipad. The comment does not state a specific concern or question regarding the adequacy of the analysis of environmental impacts contained in the Draft EIR. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

3. Revisions, Clarifications, and Corrections

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15132(a), this Section of the Final Environmental Impact Report (EIR) provides changes to the Draft EIR that have been made to revise, clarify, correct, or supplement the environmental impact analysis for the Mirabel Transit Priority Project (the Project). These changes and additions are due to recognition of inadvertent errors or omissions, and to respond to comments received on the Draft EIR during the public review period. The changes described in this Section do not add significant new information to the Draft EIR that would require recirculation of the Draft EIR. More specifically, CEQA requires recirculation of a Draft EIR only when “significant new information” is added to a Draft 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), but before the EIR is certified. Section 15088.5 of the CEQA Guidelines specifically states: “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible alternative) that the project’s proponents have declined to implement. ‘Significant new information’ requiring recirculation includes, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- 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.
- 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 “[re]circulation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR...A decision not recirculate an EIR must be supported by substantial evidence in the administrative record.”

As demonstrated in this Final EIR, the changes presented in this Section do not constitute new significant information warranting recirculation of the Draft EIR as set forth in CEQA Guidelines Section 15088.5. Rather, the Draft EIR is comprehensive and has been prepared in accordance with CEQA.

Changes to the Draft EIR are indicated under the respective EIR section heading, page number, and paragraph. Paragraph reference is to the first full paragraph on the page. Deletions are shown with ~~strike through~~ and additions are shown with **bolded underline**.

Section II. Project Description

The first paragraph on page II-1 is revised as follows:

The Project involves the construction of a 42-story mixed-use tower, comprised of 348 dwelling units, including **28 units set aside for Extremely Low-Income households and one unit** ~~29 units~~ set aside for Very Low-Income households, and 12,821 square feet of ground floor commercial uses. The Project would demolish 38,545 square feet of existing commercial buildings on-site, including the historic building located at 5401 Wilshire Boulevard, which is a designated contributor to the Miracle Mile Historic District. However, the east and south façades of the existing historic commercial building would be preserved in place, rehabilitated, and incorporated into the Project. Parking would be provided in three above-ground and three subterranean levels. The Project would include a total floor area of 476,777 square feet on a 57,374 square foot lot (1.32 acres) for a FAR of 8.31:1.

Table II-2 on page II-10 is revised as follows:

**Table II-2
Estimated Construction Schedule**

Phase	Duration
<u>On-Site Construction Activities</u>	
Demolition	Month 1
Site Preparation	Month 2
Grading	Months 3-7
Drainage/Utilities/Trenching	Month 5
Foundations/Concrete Pour	Months 5-6
Building Construction	Months 6-36
Paving	Months 25-36
Architectural Coatings	Months 8-36
<u>Off-Site Construction Activities (Water Mains)</u>	
<u>Sawcutting and Pavement Work</u>	<u>Month 1</u>
<u>Trenching</u>	<u>Months 2-3</u>
<u>Pipe Installation</u>	<u>Months 4-5</u>
<u>Backfill and Paving</u>	<u>Month 6</u>

Section IV.A. Cultural Resources

The following discussion is added to page IV.A-47, immediately above subsection (iii):

As discussed previously, the Historic Report (included as Appendix B of the Draft EIR) included a reevaluation of the Miracle Mile Historic District (Historic District) which was identified in 1983. The Historic Report reevaluation recommended a minor change to the boundary of the Historic District to include two additional buildings which were contiguous with the commercial frontage along Wilshire Boulevard. This added one contributing building and one non-contributing building as a basis for impacts analysis. However, Historic Resources Group (HRG) has prepared a supplemental memorandum (included as Appendix B of this Final EIR), which contains the following:

- 1) A review of the original Historic District determination from 1983.
- 2) An evaluation of the current integrity of the Historic District using the 1983 boundary.
- 3) Analysis of potential impacts to the Historic District from the Project.

The Project will demolish one building at 5407 Wilshire Boulevard, which is the amalgamation of three separate buildings that were separately determined to be contributors to the Historic District in 1983. Due to their alteration and consolidation as one building, 5407 Wilshire Boulevard is considered today a non-contributing building to the Historic District.

As noted in the Historic Report, the Project will preserve the south- and east-facing facades of the contributing Sontag Drug Building at 5401 Wilshire Boulevard. The two facades will be incorporated into a new one-story building in the same location. The replacement building, while generally the same in size, scale, and massing as the original Sontag Drug Building, will ultimately be a new building containing no original materials or fabric outside of the preserved facades. This will substantially reduce the integrity of the Sontag Building and it will no longer retain its contributing status.

All of the 11 other extant contributing buildings to the Historic District will remain intact and in their original locations and will not be adversely affected by the demolition of 5407 Wilshire Boulevard or the loss of integrity to the Sontag Drug Building. Ultimately, the Historic District would contain 11 contributing buildings and 9 non-contributing buildings after implementation of the Project. Despite the loss of integrity of the contributing Sontag Drug Building, 55-percent of the buildings within the Historic District boundary would remain contributing and the Historic District would continue to reflect its important associations with the commercial development of the Miracle Mile area in Los Angeles during the 1920s and 30s after implementation of the Project.

Therefore, the Project would not involve demolition that results in significant direct impacts to the Historic District.

The supplemental analysis concludes that the Historic District will retain 55-percent contributing properties after implementation of the Project in comparison to the 58-percent contributing properties identified using the reevaluated Historic District in the Historic Report. As was true in the Historic Report and Draft EIR, this represents a majority of the Historic District being retained after implementation of the Project.

Section IV.B. Noise

Table IV.B-7 on page IV.B-29 is revised as follows:

**Table IV.B-7
Construction Assumptions**

Phase	Duration	Notes
<u>On-Site Construction Activities</u>		
Demolition	Month 1	Removal of 850 tons of building debris and 1,300 tons of asphalt/concrete parking lot hauled 30 miles to landfill in 10-cubic yard capacity trucks.
Site Preparation	Month 2	Removal of utilities and other on-site improvements, trees, plants, landscaping, weeds, grubbing
Grading	Months 3-7	Includes initial work to preserve south and east storefront façades at 5401 Wilshire building, including shoring, interior framing, and other activities (e.g., demolition of storefront windows, roof, mezzanine). Approximately 152,032 cubic yards of soil (including swell factor) hauled 30 miles to landfill in 10-cubic yard capacity trucks.
Drainage/Utilities/ Trenching	Month 5	Trenching for utilities, including gas, water, electricity, and telecommunications.
Foundations/Concrete Pour	Months 5-6	Includes assembly of shoring, installation of floor slabs, columns, and walls for three levels of subterranean parking and three levels of above-grade podium concrete deck.
Building Construction	Months 6-36	Framing, welding, installing mechanical, electrical, and plumbing. Floor assembly, interior painting, cabinetry and carpentry, elevator installations, low voltage systems, trash management.
Paving	Months 25-36	Flatwork, including paving of driveways and walkways.
Architectural Coatings	Months 8-36	Application of interior and exterior coatings and sealants.
<u>Off-Site Construction Activities (Water Mains)</u>		
<u>Sawcutting and Pavement Work</u>	<u>Month 1</u>	<u>Sawcut concrete pavement, remove roadway sections, and haul debris.</u>
<u>Trenching</u>	<u>Months 2-3</u>	<u>Excavate trenches, install shoring, and excavation around utilities.</u>
<u>Pipe Installation</u>	<u>Months 4-5</u>	<u>Place aggregate bedding, and install pipe sections and joints</u>
<u>Backfill and Paving</u>	<u>Month 6</u>	<u>After testing, backfill trenching and compacting, and paving of roadway.</u>
Source: Project Applicant. Table: DKA Planning, 20263.		

The following text is added before the last paragraph on page IV.B-30:

In addition, off-site work to upgrade approximately 1,080 feet of water mains on Wilshire Boulevard and Cochran Avenue (1,000 feet on Wilshire Boulevard and 80 feet on Cochran Avenue at Wilshire Boulevard) would also generate noise. While the timing of these improvements is not determined, this analysis assumes work would occur concurrent with Project construction to ensure a conservative analysis. Construction along Wilshire Boulevard would generate temporary increases in ambient noise levels from excavation equipment, haul trucks, pavement saws, compactors, and related construction activities.

However, these impacts would be less than significant because the work would occur within an urbanized corridor that already experiences high existing ambient noise levels associated with heavy traffic volumes and commercial activity. Wilshire Boulevard is a major arterial carrying about 2,011 vehicles during the morning peak hour at Cloverdale Avenue, where engine acceleration, tire noise, braking activity, buses, and heavy-duty trucks result in high noise levels. Installation of the improvements would involve open-trench utility construction activities, including sawcutting, excavation, trench shoring, pipe placement, backfilling, paving, and haul truck activity. These activities would be temporary and would progress incrementally along Wilshire Boulevard rather than occurring simultaneously across the entire alignment. As a result, the duration of peak noise exposure at any one location would be limited. Typical construction equipment associated with utility trenching operations, such as excavators, loaders, generators, and compactors, generate noise levels ranging from approximately 80 to 90 dBA at 50 feet. Given the high ambient noise levels along Wilshire Boulevard, short-term increases in construction noise would not substantially alter the overall acoustical character of the area.

The first paragraph on page IV.B-32 is revised as follows:

The Project would also generate noise at off-site locations from haul trucks moving debris and soil from the Project Site during demolition and grading activities, respectively; vendor trips delivery of materials; concrete mixing trucks; worker commute trips; and other activities. **Hauling of pavement and/or asphalt from the upgrading of water mains on Wilshire Boulevard and Cochran Avenue would contribute incremental hauling trips.**

Table IV.B-14 on page IV.B-41 is revised as follows:

Table IV.B-14
Building Damage Vibration Levels – On-Site Sources

Off-Site Receptor Location	Distance to Project Site (feet)	Vibration Velocity Levels at Off-Site Sensitive Receptors from Construction Equipment (in/sec PPV)					Significance Criterion (PPV)	Potentially Significant Impact?
		Large Bulldozer	Caisson Drilling	Loaded Trucks	Jack hammer	Small Bulldozer		
FTA Reference Vibration Level (25 Feet)	N/A	0.089	0.089	0.076	0.035	0.003	--	--
Residences, 6604 Cochran Ave.	15	0.191	0.191	0.164	0.075	0.006	0.20 ^a	No
Residences, 661 Cloverdale Ave.	20	0.124	0.124	0.106	0.049	0.004	0.20 ^a	No
Commercial Building, Wilshire/Cloverdale	70	0.032	0.032	0.027	0.013	0.001	0.20 ^a	No
^a FTA criterion for Category III (non-engineered timber and masonry buildings) Distance to Project Site assumes 10-foot buffer on construction site to ensure equipment maneuverability. Source: DKA Planning, 2023.								

Table IV.B-15 on page IV.B-42 is revised as follows:

Table IV.B-15
Construction Vibration Levels – Human Annoyance (Without Mitigation)

Off-Site Receptor Location	Distance to Project Site (feet)	Vibration Velocity Levels at Off-Site Sensitive Receptors from On-Site Construction Activities (VdB)					Significance Criterion (VdB)	Potentially Significant Impact?
		Large Bulldozer	Caisson Drilling	Loaded Trucks	Jack-hammer	Small Bulldozer		
FTA Reference Vibration Level (25 Feet)	N/A	87	87	86	79	58	--	--
Residences, 6604 Cochran Ave.	15	93.7	93.7	92.7	85.7	64.7	72	Yes
Residences, 661 Cloverdale Ave.	20	89.9	89.9	88.9	81.9	60.9	72	Yes
Residences, 665 Cochran Ave.	85	71.1	71.1	70.1	63.1	42.1	72	No
Residences, 664 Cloverdale Ave.	90	70.3	70.3	69.3	62.3	41.3	72	No
Distance to Project Site assumes 10-foot buffer on construction site to ensure equipment maneuverability. Source: DKA Planning 2023.								

The following paragraph is added after the first full paragraph on page IV.B-42:

In addition, upgrading of approximately 1,080 feet of water mains on Wilshire Boulevard and Cochran Avenue (1,000 feet on Wilshire Boulevard and 80 feet on Cochran Avenue at Wilshire Boulevard) would have negligible impacts on groundborne vibration, as this work would involve standard excavation equipment and rubber-tired haul trucks rather than high-vibration construction techniques such as impact pile driving or blasting. Potential vibration sources would primarily include jackhammers, pavement breakers, compactors,

and excavators operating intermittently within the trench areas. Typical vibration levels from this type of utility construction are generally well below thresholds associated with structural damage to buildings. Furthermore, the Project area consists predominantly of urban commercial and mixed-use development located adjacent to a heavily trafficked arterial roadway where existing vibration from buses, trucks, and daily roadway activity already occurs. Construction-related vibration would therefore be temporary, localized, and comparable to other routine infrastructure work commonly performed within the Wilshire corridor.

With regard to potentially historic structures along Wilshire Boulevard that are part of the Miracle Mile Historic District, these buildings would not be exposed to groundborne vibration capable of damaging these buildings for two key reasons. First, equipment used for upgrading water mains would generally involve use of equipment with lower vibration potential than deep foundation construction, including excavators, backhoes, jackhammers, and loaded trucks. The highest vibration levels would come from loaded trucks hauling debris away, generating 0.076 in/sec PPV at 25 feet of distance.¹²⁰ Second, the width of Wilshire Boulevard and the sidewalks on both sides creates a buffer that substantially attenuates groundborne vibration. At its closest, the trenching of utility lines along the north side of Wilshire Boulevard would be at least 25 feet from adjacent historic structures at 5359 and 5363 Wilshire Boulevard. This would result in vibration levels of 0.076 in/sec PPV, below the 0.12 in/sec PPV threshold for fragile buildings under FTA guidelines. Trenching along the south side of Wilshire Boulevard would be done even further from historic buildings on the south side of the arterial, resulting in even lower exposure to potential vibration from water main upgrades. Therefore, construction vibration impacts from upgrading the water mains would also be less than significant.

Section VI. Other CEQA Considerations

The discussion on pages VI-11 and VI-12 under “Operation” is revised as follows:

Operational emissions of criteria pollutants would come from area sources and mobile sources. Area sources include natural gas for space heating and water heating, **emergency back-up generators, fire pumps,** gasoline-powered landscaping and maintenance equipment, consumer products such as household cleaners, and architectural coatings for routine maintenance. The CalEEMod program generates estimates of emissions from energy use based on the land use type and size. The Project would also produce long-term air quality emissions primarily from motor vehicles that access the Project Site. As shown in Initial Study Table 6.III-7, the Project would result in a slight increase in pollutant emissions when compared to existing conditions. **When considering a worst-case scenario where both operation of emergency backup generators and fire pumps occur on the same day, overall Project emissions would total 13.4 lb/day**

¹²⁰ Transit Noise and Vibration Assessment Manual, Federal Transit Administration, 2018, 0.076 inches/second PPV is the reference PPV at 25 feet for loaded trucks used in construction vibration assessments.

of net ROG emissions, below the 55 lb/day threshold of significance. NO_x emissions would total 2.0 lb/day, below the 55 lb/day threshold of significance; while CO emissions would total 24.4 lb/day, below the 55 lb/day threshold. For particulate matter, PM₁₀ emission would total 1.5 lb/day, below the 150 lb/day threshold, while PM_{2.5} emissions would total 0.5 lb/day, below the 55 lb/day threshold of significance. Supplemental modeling for emergency back-up generators and fire pumps is included in Appendix C of this Final EIR. Nevertheless, the Project's net emissions would not exceed the SCAQMD's regional or localized significance thresholds. The Project's operational impacts on long-term air pollution would therefore be considered less than significant. Therefore, the operational impacts of the Project on regional and localized air quality are considered less than significant.

Appendix A-1, Initial Study (Section III, Air Quality)

The last paragraph on page 208 is revised as follows:

Construction-related emissions were estimated using the SCAQMD's CalEEMod 2022.1.1.17 **2022.1.1.43** model using assumptions from the Project's developer, including the Project's construction schedule of approximately three years (36 months). **In addition, off-site work to upgrade approximately 1,080 feet of water mains on Wilshire Boulevard and Cochran Avenue (1,000 feet on Wilshire Boulevard and 80 feet on Cochran Avenue at Wilshire Boulevard) would also generate on- and off-site emissions. While the timing of these improvements is not determined, this analysis assumed work would occur concurrent with Project construction to ensure a conservative analysis that is based on a day with the highest level of criteria pollutant emissions.** Table 6.III-5 summarizes the estimated construction schedule that was modeled for air quality impacts (see Appendix A-1 of this Initial Study for the modeling outputs). **Updated modeling outputs are included in Appendix C of this Final EIR.**

Table III-5 on page 209 is revised as follows:

**Table III-5
Estimated Construction Schedule**

Phase	Duration	Notes
<u>On-Site Construction Activities</u>		
Demolition	Month 1	850 tons of building and 1,300 tons of asphalt demolished and hauled in 10-cubic yard capacity trucks up to 30 miles away
Site Preparation	Month 2	Removal of utilities and other on-site improvements
Grading	Months 3-7	152,032 cubic yards of soil export hauled up to 30 miles away in 10-cubic yard capacity trucks
Drainage/Utilities/Trenching	Month 5	Trenching for utilities, including gas, water, electricity, and telecommunications.
Foundations/Concrete Pour	Months 5-6	Foundation work
Building Construction	Months 6-36	Concurrent construction of the tower and podium structures, exterior skin, and buildout
Paving	Months 25-36	Flatwork, including paving of driveways and walkways
Architectural Coatings	Months 8-36	Application of interior and exterior coatings and sealants.
<u>Off-Site Construction Activities (Water Mains)</u>		
<u>Sawcutting and Pavement Work</u>	<u>Month 1</u>	<u>Sawcut concrete pavement, remove roadway sections, haul debris</u>
<u>Trenching</u>	<u>Months 2-3</u>	<u>Excavate trenches, install shoring, excavation around utilities</u>
<u>Pipe Installation</u>	<u>Months 4-5</u>	<u>Place aggregate bedding, install pipe sections and joints</u>
<u>Backfill and Paving</u>	<u>Month 6</u>	<u>After testing, backfill trenching and compacting, paving of roadway</u>
Source: DKA Planning, 2026 ~~2~~ .		

Table III-6 on page 211 is revised as follows:

**Table III-6
Estimated Daily Construction Emissions**

Construction Phase Year	Daily Emissions (Pounds Per Day)					
	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
2026 ~~4~~	3.6 4.0	64.9 37.4	41.8 42.8	0.2	44.7 14.0	6.3 5.9
2027 ~~5~~	4.6 5.0	62.6 62.0	59.9 66.3	0.2	46.9 16.6	6.0 5.9
2028 ~~6~~	2.8 2.6	47.0 15.7	40.4 37.1	<0.1	5.7 5.6	4.7 1.6
2029 ~~7~~	37.3 36.6	47.9 16.3	47.6 43.9	<0.1	7.4 7.3	2.4 2.0
Maximum Regional Total	37.3 36.6	64.9 62.0	59.9 66.3	0.2	46.9 16.6	6.3 5.9
Regional Threshold	75	100	550	150	150	55
Exceed Threshold?	No	No	No	No	No	No
Maximum Localized Total	N/A	15.9 34.0	15.4 39.3	N/A	3.5 3.3	2.2 1.9
Localized Threshold	N/A	74	680	N/A	5	3
Exceed Threshold?	N/A	No	No	N/A	No	No

The construction dates are used for the modeling of air quality emissions in the CalEEMod software. If construction activities commence later than what is assumed in the environmental analysis, the actual emissions would be lower than analyzed because of the increasing penetration of newer equipment with lower certified emission levels. Assumes implementation of SCAQMD Rule 403 (Fugitive Dust Emissions) Source: DKA Planning, 2023~~6~~ based on CalEEMod 2022.1.1.47 **2022.1.1.43** model runs. LST analyses based on 1-acre site with 25-meter distances to receptors in Central Los Angeles source receptor area. Modeling sheets included in Appendix A-4 **C of this Final EIR**.

The third paragraph on page 214 is revised as follows and the following new paragraph is added below it:

As shown in Table 6.III-6, above, during construction of the Project, maximum daily localized unmitigated emissions of NO₂, CO, PM₁₀, and PM_{2.5} from sources on the Project Site would remain below each of the respective LST values. **The assumptions about the concurrent upgrading of water mains on Wilshire Boulevard and Cochran Avenue ensure a conservative analysis that is based on the highest level of criteria pollutant emissions when both Project construction activities and work to upgrade the water mains occurs.** Unmitigated maximum daily localized emissions would not exceed any of the localized standards for receptors that are generally within 25 meters of the Project's construction activities. Therefore, based on SCAQMD guidance, localized emissions of criteria pollutants would not have the potential to expose sensitive receptors to substantial concentrations.

As a result, the Project would not create substantial pollutant concentrations capable of causing acute or chronic adverse health effects in nearby populations. This conclusion is particularly relevant for particulate matter emissions. Elevated concentrations of PM₁₀ and

PM_{2.5} are the criteria pollutants most commonly associated with localized health concerns because inhalable particulates can contribute to respiratory and cardiovascular effects. However, compliance with SCAQMD's LSTs indicates that modeled concentrations would remain below thresholds considered protective of public health, including sensitive individuals such as children, the elderly, and persons with pre-existing respiratory conditions.

Appendix A-1, Initial Study (Section XVII, Transportation)

The bottom paragraph on page 355 is revised as follows:

Less Than Significant Impact. This threshold reviews whether or not a project's elements would have a detrimental effect on emergency access. Vehicular access to the Project Site would be maintained from Cloverdale Avenue and Cochran Avenue. The Project's driveways and internal circulation would be designed to meet all applicable City Building Code and Fire Code requirements regarding site access, including providing adequate emergency vehicle access both during construction as well as after completion of the Project. Compliance with applicable City Building Code and Fire Code requirements, including emergency vehicle access, would be confirmed as part of LAFD's fire/life safety plan review and LAFD's fire/life safety inspection for new construction projects, as set forth in Section 57.118 of the LAMC, and which are required prior to the issuance of a building permit. **In addition, the Project would implement a Construction Work Site Traffic Control Plan, which would include traffic management strategies to ensure adequate and safe access during Project construction activities, including the upgrades to the water lines in Wilshire Boulevard and Cochran Avenue.** The Project also would not include the installation of barriers that could impede emergency vehicle access both during and post-construction. Furthermore, Section 21055 of the CVC exempts drivers of authorized emergency vehicles from adherence to the rules of the road, and Section 21806 of the CVC requires drivers to yield to emergency vehicles. As such, emergency access to the Project Site and surrounding area would be maintained both during and post-construction. Therefore, the Project would not result in inadequate emergency access during construction or operation, and, as such, impacts to emergency access during construction and operation of the Project would be less than significant. No mitigation measures would be required and no further analysis of this issue in the EIR is required.

Appendix A-1, Initial Study (Section XIX, Utilities and Service Systems)

The third paragraph on page 362 is revised as follows:

The Project would also require the construction of new, on-site water distribution lines to serve the new building. Construction impacts associated with the installation of water distribution lines would primarily involve trenching in order to place the water distribution lines below surface and would be limited to on-site water distribution, and minor off-site work associated with connections to the public main. ~~According to the Utility Infrastructure Report (included in Appendix H of this Initial Study), no upgrades to public water mains are anticipated.~~ **As discussed in the updated**

Information of Fire Flow Availability (IFFAR, included in Appendix D of the Final EIR), the Project would be required to install approximately 1,000 feet of 12-inch pipe along Wilshire Boulevard and approximately 80 feet of 8-inch pipe along Cochran Avenue at Wilshire Boulevard, to provide 12,000 gallons per minute (gpm), as required by the Los Angeles Fire Department (LAFD). The installation of this pipe was determined to have less than significant impacts with respect to air quality, noise and vibration, and transportation. Therefore, Project impacts on water infrastructure associated with construction activities would be less than significant.

The last paragraph on page 362 is revised as follows:

Based on fire flow standards set forth in Section 57.507.3 of the LAMC, the Project falls within the Industrial and Commercial land use category, which has a required fire flow of 6,000 gallons to 9,000 per minute (gpm) from four to six adjacent hydrants flowing simultaneously with a residual pressure of 20 pounds per square inch (psi). An Information of Fire Flow Availability Request (IFFAR) was submitted to LADWP regarding available fire hydrant flow, the results of which are included in Exhibit 1 of the Utility Infrastructure Report (which is included as Appendix H of this Initial Study). The IFFAR shows six nearby hydrants flowing simultaneously for a combined 6,400 gpm, which demonstrates that the Project Site currently has adequate fire flow to serve the Project, in compliance with LAMC Section 57.507.3. **However, the LAFD has required a fire flow of 12,000 gpm. Therefore, an updated IFFAR was requested from LADWP, which shows that the Project would be required to install approximately 1,000 feet of 12-inch pipe along Wilshire Boulevard and approximately 80 feet of 8-inch pipe along Cochran Avenue at Wilshire Boulevard, to provide 12,000 gpm. These upgrades would allow the Project to provide the required fire flow, and therefore, this impact would be less than significant.**

4. Mitigation Monitoring Program

1. Introduction

This Mitigation Monitoring Program (“MMP”) has been prepared pursuant to Public Resources Code Section 21081.6, which requires a Lead Agency to adopt a “reporting or monitoring program for changes to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.” In addition, Section 15097(a) of the State CEQA Guidelines requires that a public agency adopt a program for monitoring or reporting mitigation measures and project revisions, which it has required to mitigate or avoid significant environmental effects. This MMP has been prepared in compliance with the requirements of CEQA, Public Resources Code Section 21081.6 and Section 15097 of the State CEQA Guidelines.

The City of Los Angeles is the Lead Agency for the Project and therefore is responsible for administering and implementing the MMP. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity that accepts the delegation; however, until mitigation measures have been completed, the Lead Agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

An Environmental Impact Report (EIR) has been prepared to address the potential environmental impacts of the Project. The evaluation of the Project’s impacts in the EIR takes into consideration the project design features (PDFs) and applies mitigation measures (MMs) needed to avoid or reduce potentially significant environmental impacts. This MMP is designed to monitor implementation of the PDFs and MMs identified for the Project.

2. Purpose

It is the intent of this MMP to:

1. Verify compliance with the project design features and mitigation measures identified in the EIR;
2. Provide a framework to document implementation of the identified project design features and mitigation measures;
3. Provide a record of mitigation requirements;
4. Identify monitoring and enforcing agencies;
5. Establish and clarify administrative procedures for the clearance or project design features and mitigation measures;

6. Establish the frequency and duration of monitoring; and
7. Utilize the existing agency review processes wherever feasible.

3. Organization

As shown on the following pages, each identified project design feature and mitigation measure for the Project is listed and categorized by environmental impact area, with accompanying identification of the following:

- Enforcement Agency: the agency with the power to enforce the PDF or MM.
- Monitoring Agency: the agency to which reports involving feasibility, compliance, implementation, and development are made.
- Monitoring Phase: the phase of the Project during which the PDF or MM shall be monitored.
- Monitoring Frequency : the frequency at which the PDF or MM shall be monitored.
- Action Indicating Compliance: the action by which the Enforcement or Monitoring Agency indicates that compliance with the identified PDF or required MM has been implemented.

4. Administrative Procedures and Enforcement

This MMP shall be enforced throughout all phases of the Project. The Applicant shall be responsible for implementing each PDF and MM and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each PDF and MM has been implemented. The Applicant shall maintain records demonstrating compliance with each PDF and MM. Such records shall be made available to the City upon request.

During the construction phase and prior to the issuance of building permits, the Applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of PDFs and MMs during construction activities consistent with the monitoring phase and frequency set forth in this MMP.

The Construction Monitor shall also prepare documentation of the Applicant's compliance with the PDFs and MMs during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the Applicant and Construction Monitor and be included as part of the Applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the MMs and PDFs within two businesses days if the Applicant does not correct the non-compliance within a reasonable time of notification to the Applicant by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

5. Program Modification

After review and approval of the final MMP by the Lead Agency, minor changes and modifications to the MMP are permitted, but can only be made subject to City approval. The Lead Agency, in conjunction with any appropriate agencies or departments, will determine the adequacy of any proposed change or modification. This flexibility is necessary in light of the nature of the MMP and the need to protect the environment. No changes will be permitted unless the MMP continues to satisfy the requirements of CEQA, as determined by the Lead Agency.

The Project shall be in substantial conformance with the PDFs and MMs contained in this MMP. The enforcing departments or agencies may determine substantial conformance with PDFs and MMs in the MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, a PDF or MM may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project related approval finds that the modification or deletion complies with CEQA, including CEQA Guidelines Sections 15162 and 15164, which could include the preparation of an addendum or subsequent environmental clearance, if necessary, to analyze the impacts from the modifications to or deletion of the PDFs or MMs. Any addendum or subsequent CEQA clearance shall explain why the PDF or MM is no longer needed, not feasible, or the other basis for modifying or deleting the PDF or MM, and that the modification will not result in a new significant impact consistent with the requirements of CEQA. Under this process, the modification or deletion of a PDF or MM shall not, in and of itself, require a modification to any Project discretionary approval unless the Director of Planning also finds that the change to the PDF or MM results in a substantial change to the Project or the non-environmental conditions of approval.

6. Mitigation Monitoring Program

A. Cultural Resources

Project Design Features

None provided.

Mitigation Measures

MM-CULT-1 Prior to any demolition or removal of historic fabric, the Sontag Drug Building shall be documented in accordance with Historic American Building Survey (HABS) guidelines and standards by a qualified historic preservation professional. Documentation shall include photographs of the existing conditions, any historic plans, photos, or drawings and narrative information regarding the historic significance and development history of the site.

- **Enforcement Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources

- **Monitoring Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources
- **Monitoring Phase:** Pre-demolition
- **Monitoring Frequency:** Once at Project plan check prior to issuance of demolition permit
- **Action Indicating Compliance:** Issuance of demolition permit

MM-CULT-2 Planning and implementation of the retention and preservation of the south- and east-facing façades of the Sontag Drug Building and their incorporation into a new one-story building at the same location, shall include a Preservation Plan consisting of procedures and methodologies for shoring, materials and character-defining feature protection strategies, contingencies if materials or character-defining features are damaged, as well as construction plans and shoring plans. The Preservation Plan shall be developed by a qualified structural engineer experienced in the preservation of historic buildings in consultation with a preservation architect or other qualified professional who meets the Secretary of the Interior's Professional Qualifications Standards to ensure minimal loss of original materials and character-defining features during and after the preservation of the Sontag Drug Building south and east façades and their incorporation in a new one-story building. The Preservation Plan shall be submitted to OHR and Planning prior to demolition permits being issued.

- **Enforcement Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources
- **Monitoring Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources
- **Monitoring Phase:** Pre-demolition
- **Monitoring Frequency:** Once, prior to issuance of demolition permit
- **Action Indicating Compliance:** Issuance of demolition permit

MM-CULT-3 The Project shall include an interpretive program located on the Project Site which addresses the commercial history of the site and its component buildings. The interpretive program may include permanent physical displays of photographs and explanatory text that informs the public about the history and original configuration of the buildings as well as the alterations to the Sontag Drug Building.

- **Enforcement Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources

- **Monitoring Agency:** City of Los Angeles Department of City Planning, Office of Historic Resources
- **Monitoring Phase:** Prior to occupancy
- **Monitoring Frequency:** Once, prior to issuance of certificate of occupancy
- **Action Indicating Compliance:** Issuance of certificate of occupancy

B. Noise

Project Design Features

PDF-NOI-1 Project construction will not include the use of impact driven pile systems (i.e., pile drivers).

- **Enforcement Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Phase:** Construction
- **Monitoring Frequency:** Periodic field inspection
- **Action Indicating Compliance:** Field inspection sign-off

PDF-NOI-2 During plan check, the contractor will provide a statement to the City indicating that powered 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). The statement will further indicate that that equipment will be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated.

- **Enforcement Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Phase:** Pre-construction
- **Monitoring Frequency:** Once at Project plan check prior to issuance of grading permit

- **Action Indicating Compliance:** Plan check approval and issuance of grading permit

Mitigation Measures

MM-NOI-1 The Project shall use quieter construction noise equipment and install temporary noise barriers along the north, west, and east perimeters of the Project Site to achieve a 8.3 dBA L_{eq} reduction at residences on Cochran Avenue and a 15.2 dBA L_{eq} reduction at residences on Cloverdale Avenue. The supporting structures shall be engineered and erected in order to comply with Los Angeles Municipal Code noise requirements, including those set forth in Chapter XI, Article 2 of the Los Angeles Municipal Code.

- **Enforcement Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Phase:** Pre-construction; construction
- **Monitoring Frequency:** Once at Project plan check prior to issuance of grading permit; periodic field inspection
- **Action Indicating Compliance:** Plan check approval and issuance of grading permit; field inspection sign-off

MM-NOI-2 Consistent with Mitigation Measure MM-CUL-2 requiring a Preservation Plan, prior to any construction activities involving vibration, the Applicant shall retain the services of a qualified structural engineer or qualified professional building engineer to document the apparent physical condition of the façades' readily visible features (i.e., any cracks or damage). In addition, the structural engineer shall survey the existing foundations and other structural aspects and provide a shoring design to protect the façades from potential damage. Pot holing, ground penetrating radar, or other similar methods of determining the below-grade conditions of the Project Site and the façades may be necessary to establish baseline conditions to prepare the shoring design. The shoring design shall specify threshold limits for vibration-causing activities.

The qualified structural engineer shall hold a valid license to practice structural engineering in the State of California and have extensive demonstrated experience specific to rehabilitating historic buildings. The City of Los Angeles shall determine qualification prior to any work being performed. The qualified structural engineer shall submit to the lead agency a pre-construction survey that establishes baseline conditions to be monitored during construction, prior to issuance of any permits.

Prior to construction activities, the Applicant shall retain the services of a qualified acoustical engineer to review proposed construction equipment and develop and implement a vibration monitoring program capable of documenting the construction-related ground vibration levels at the Project Site and façades during demolition and the grading/excavation phase.

The vibration monitoring system shall continuously measure and store the peak particle velocity (PPV) in in/sec. The system shall also be programmed for two preset velocity levels: a warning level of 0.20 PPV and a regulatory level of 0.25 PPV. The system shall also provide real-time alerts when the vibration levels exceed the warning level.

In the event the warning level (0.20 PPV) is triggered, the contractor shall identify the source of vibration generation, halt construction in the immediate vicinity, and provide technologically-feasible steps to reduce the vibration level, including but not limited to staggering concurrent activities, utilizing lower vibratory techniques, and limiting high vibration generating equipment (i.e., large bulldozer, drill rig, loaded truck) operating within 20 feet of the façades.

In the event the regulatory level (0.25 PPV) is triggered, the contractor shall halt construction activities in the vicinity of the building and visually inspect the façades for any damage (by a qualified structural engineer). Results of the inspection must be logged. The contractor shall identify the source of vibration generation and provide technologically feasible steps to reduce the vibration level. Construction activities may then restart.

At the conclusion of vibration-causing construction, the qualified structural engineer shall issues a follow-up letter describing damage, if any, to the south and east façades and recommendations for repair, if necessary.

- **Enforcement Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Agency:** City of Los Angeles Department of Building and Safety
- **Monitoring Phase:** Pre-construction; construction
- **Monitoring Frequency:** If notified of a violation
- **Action Indicating Compliance:** Field inspection sign-off