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Project No: 22-12694

Planning and Land Use Management (PLUM) Committee
Los Angeles City Council
200 North Spring Street, Room 395
Los Angeles, California 90012
Attn: Candy Rosales, Deputy City Clerk

**Subject: Valor Elementary School Project Final IS-MND (ENV-2002-5866-MND),
Responses to Filed Appeals Dated March 16, 2023**

Dear Honorable Members of the PLUM Committee:

Rincon Consultants, Inc. (Rincon) has prepared responses to the two appeal letters received by the Los Angeles Department of City Planning (City Planning) following the City Planning Commission's (CPC) approval of the Valor Elementary School Project and Mitigated Negative Declaration (MND) on February 23, 2023 and the Letter of Determination published by City Planning on March 2, 2023. The appeal letters were filed within the appeal period for the project on March 16, 2023 by Kevin Carmichael of Adams Broadwell Joseph & Cardozo law firm on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA), and by Charles Johnson, a resident in the project area, who are herein referred to as "appellant(s)". The appellants and the page number on which each appeal letter appears is listed in the following table.

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Each issue commented on by the appellants in their letters has been bracketed and assigned a number. The responses to each comment identify first the number of the appeal letter, and then the number assigned to each issue. Response 1.1, for example, indicates that the response is for the first issue raised in appeal letter 1. CREED LA's appeal letter is included as Attachment 1 to this document. Charles Johnson's appeal letter is included as Attachment 2. Due to the length of attachments to CREED LA's appeal letter, only the main body of their letter has been attached.

Rincon also prepared responses to previous comment letters filed by CREED LA during the public review period for the Valor Elementary School Project MND, which began November 23, 2022 and ended December 13, 2022. The first comment letter was filed on December 14, 2022 and a follow-up comment letter was filed on February 21, 2023. For additional context and information purposes, Rincon's responses to these letters have been attached as Attachment 3 and Attachment 4, respectively. Furthermore, Attachment 5 includes a summarized version of Rincon's response letter included in Attachment 4, which was provided to the CPC as part of the meeting held on February 23, 2023 in which the CPC approved the project.



Appeal Letter 1

Appellant: Kevin Carmichael (Adams Broadwell Joseph & Cardozo)/CREED LA

Date: March 16, 2023

Response 1.1

The appellant states CREED LA is writing to appeal to the CPC's March 2, 2023 determination to approve the Conditional Use Permit (CUP), Site Plan Review (SPR), MND, and Conditions for Approval for the Valor Elementary School Project. The appellant provides a project description and states that the project would have significant, unmitigable impacts related to public health, noise, and public safety requiring preparation of an Environmental Impact Report (EIR).

The comment is an introductory statement and does not yet provide specifics regarding significant impacts related to public health, noise, and public safety that would necessitate preparation of an EIR. The appellant's key concerns are addressed under Responses 1.3 through 1.7.

Response 1.2

The appellant states that CREED LA is an association of individuals that live in the City of Los Angeles and labor organizations, including 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. The appellant states that CREED LA supports the development of commercial, mixed use, and educational projects carefully planned to minimize impacts on public health, climate change, and the environment. The appellant adds that CREED LA would be directly affected by the project's environmental impacts.

The appellant's description of CREED LA as an association of individuals and labor organizations is noted. The appellant does not yet provide specific concerns regarding project impacts discussed in the MND. The appellant's key concerns are addressed under Responses 1.3 through 1.7.

Response 1.3

The appellant states substantial evidence supports the argument that the project may cause a significant, unmitigable cancer risk from exposure to air pollution. The appellant notes that CREED LA's expert determined that the cumulative risk to students and staff will exceed the South Coast Air Quality Management District (SCAQMD) threshold of 100 in one million, resulting in a significant impact. The appellant adds that an EIR ought to be prepared to disclose the analysis of the potentially significant health risk impacts to future students and staff at the project site and require additional mitigation to reduce the project's health risks from air pollution.

The SCAQMD does not have a cumulative risk threshold of 100 in one million for toxic air contaminants (TAC), or any cumulative numeric threshold for TACs. The SCAQMD's project level and cumulatively considerable threshold of *10 in one million* is technically used to evaluate the impacts of the project on the environment. However, since a threshold to evaluate the impacts of the environment on the project has not been adopted by SCAQMD, the 10 in one million threshold is also used as a numeric threshold to assess risk from the environment on the project (such as exposure to freeways and other permitted TAC sources). As detailed in the Health Risk Assessment prepared to the project (and supplemented in the previous response to CREED LA's comments on the project dated December 14, 2022 and February 21, 2022), the risk from Interstate 405 (I-405) is the only known TAC source within 1,000 feet of the project. The 1,000-foot radius for assessing risk has been adopted by numerous air

districts, including the SCAQMD, to evaluate the potential risk from a project on the surrounding environment as well as the effects of the environment on the project in the case of siting sensitive receptors (such as a school) in proximity to TAC sources. As identified in the Health Risk Assessment, the risk from the only TAC source within 1,000 feet of the site is 1.97 in one million, which is well below the SCAQMD's project threshold.

The 413 in one million risk discussed by the appellant is a background risk level that is applied to the entire 91343 zip code in the cited "MATES V" study and is not site specific. As previously stated, the SCAQMD does not have a numeric cumulative threshold for health risk or any other pollutant, and their project level thresholds were designed to indicate risk increases above ambient risk (such as the risk identified in the "MATES V" study). The Bay Area Air Quality Management District (BAAQMD) uses the 100 in one million as a threshold to determine cumulative risk. However, their guidance for quantifying cumulative risk states "A project would have a cumulative significant impact if the aggregated total of all past, present, and foreseeable future sources within a 1,000-foot radius (or beyond where appropriate) from the fence line of a source, or from the location of a receptor, plus the contribution from the project, exceeds the following:

- An excess cancer risk levels of more than 100 in one million..."

The BAAQMD's cumulative risk does not consider ambient background risk of the region, or sub-region/zip code and only focuses on the sources within 1,000-feet of the project site. Even if the project analysis were to incorporate the 100 in one million threshold from the BAAQMD with their analysis criteria, the only source within 1,000-feet of the project site is I-405 and, as identified in the Health Risk Assessment, a result of 1.97 in one million is well below 100 in one million. Therefore, the risk to future students and staff at the site would not exceed thresholds using the appropriate methodology for evaluating potential risk and mitigation is not necessary.

Response 1.4

The appellant points to a previous comment submitted by CREED LA stating that the City is required to consult with the California Department of Toxic Substances Control (DTSC) and prepare a Preliminary Endangerment Assessment (PEA) for the project per the California Education Code. The appellant adds that a charter school must assess whether there has been a release of hazardous waste at a school site as a condition of receiving State funding for school construction projects, which requires consultation with DTSC and an assessment pursuant to California Education Code Chapter 12.5 Section 17078.52. The appellant states that Bright Star School's 2022-2023 operational budget includes a line item for Proposition 1D grants to fund school construction projects. The appellant adds that Bright Star Schools must provide a guarantee that no State funds will be used for project construction, otherwise, the City must conduct the necessary consultation with DTSC prior to project approval.

The appellant incorrectly assumes that Bright Star Schools will be using Charter School Facilities Program (CSFP) funds for the project. To clarify and confirm, Bright Star Schools has not applied for, and will not be using CSFP funds for the construction of the proposed project. Therefore, the project continues to be exempt from the California Education Code and any requirement to consult with DTSC. Notwithstanding, Section IX, *Hazards and Hazardous Materials*, of the MND documents the findings of the Phase I Environmental Site Assessment (ESA), Phase II ESA, and Asbestos Survey, and includes mitigation measures based on the findings of these analyses. Specifically, Mitigation Measure HAZ-1 (Septic Tank Removal) identified in the MND would reduce potential impacts related to the potential encounter and removal of an on-site septic tank to a less-than-significant level. Furthermore, the Asbestos Survey Report concluded that, based on sampling of exterior materials associated with the on-site single-family residence, samples of black penetration mastic located at the northeast portion

of the roof was identified to have asbestos-containing materials (ACMs). These materials could pose hazardous impact to the environment during the construction stage of the project, particularly with adaptive reuse of the residence. Therefore, implementation of Mitigation Measure HAZ-2 identified in the MND would reduce impacts related to removal of ACMs to a less-than-significant level. The project would not result in a significant unmitigable impact associated with hazards and hazardous materials.

Response 1.5

The appellant points to a previous comment submitted by CREED LA stating that the MND fails to provide an adequate baseline noise analysis, resulting in a failure to disclose noise impacts from project construction and operation based on an appropriate recording of ambient noise. The appellant adds that CREED LA's experts determined that the project's construction and operational noise impacts remain significant and unmitigated despite mitigation measures proposed in the MND and the project's Conditions for Approval.

Per the previous response to CREED LA's comments about establishing a baseline noise analysis, capturing ambient noise over a 24-hour period at the most sensitive receiver (where ambient noise levels are lowest) is appropriate to characterize baseline noise and subsequently evaluate a project's noise impacts. This is the most conservative approach to determine project noise impacts. In addition, this measurement can provide context for other nearby receivers, as noise will increase the closer a residence is to the roadway. In other words, if the long-term measurement was conducted near the roadway, it would show higher noise levels that would underestimate the project's operational noise impacts. Therefore, the existing noise impact is appropriately characterized so that the public can have the proper context for noise impacts, and additional measurements are not required.

Moreover, with respect to construction noise, project construction noise levels are compared to Los Angeles Municipal Code (LAMC) Section 112.05 (rather than to ambient noise levels), which limits noise from construction equipment located within 500 feet of a residential zone to 75 dBA between 7:00 a.m. and 10:00 p.m., as measured at a distance of 50 feet from the source, i.e. construction site, unless compliance is technically infeasible. As discussed in Section XIII, *Noise*, of the MND, compliance with the City's Regulatory Compliance Measures (RCMs) would reduce impacts related to construction noise. Specifically, compliance with RCM-1 would reduce construction noise by at least 15 dBA, thereby reducing construction noise levels to 75 dBA L_{max} . Construction noise impacts would be less than significant.

With respect to operational noise, the MND quantifies noise associated with heating, ventilation, and air conditioning (HVAC) units for comparison to ambient noise. As discussed in Section XIII, *Noise*, of the MND, it is anticipated that the closest rooftop-mounted HVAC unit would be installed on the proposed multi-purpose building located approximately 30 feet from the nearest off-site sensitive receivers east of the project site. HVAC equipment would diminish at a rate of at least 6 dBA per doubling of distance (conservatively ignoring other attenuation effects from ground and shielding effects). The nearest sensitive receivers are single-family residences, which are approximately 30 feet from the nearest proposed multi-purpose building to the east. A 2.5-foot-high parapet wall is proposed on the rooftop, which would reduce HVAC noise levels by approximately 5 dBA. At 30 feet, and with the shielding from the proposed parapet wall, HVAC noise would attenuate to approximately 43 dBA or less, which would not exceed the lowest measured hourly L_{eq} of 46 dBA from the 24-hour noise measurement. Residences to the east would not be exposed to excess HVAC noise.

The project would also generate noise associated with student recreational activity from kindergarten through grade four children in the proposed outdoor play areas. However, outdoor noise would be an intermittent and periodic noise source, which would be limited to the daytime during school hours and when staff and students are outdoors (e.g., mornings prior to class start times, study breaks or lunch

breaks throughout the day, afterschool prior to students getting picked up). The project does not include PA systems or bells. According to the Conditions of Approval for the project, Condition #15 states campus hours for the school shall be from 7:00 a.m. to 6:00 p.m., Monday through Friday during normal school months. During the summer months, the school campus shall remain open from 8:00 a.m. to 4:30 p.m. Furthermore, the proposed school would not host athletic events that would occur during the late afternoon/early evening hours. Moreover, an eight-foot CMU wall is proposed along the perimeter of the project, including along the eastern boundary of the site between the project and residences to the east highlighted by the commenter. According to the Federal Highway Administration, any large structure blocking the line of sight will provide an additional 5-dBA reduction in source noise levels at the receiver.¹ At a height of eight feet, the proposed CMU wall would block line of sight of the average person located at the residence to the east and further reduce on-site recreation noise. Since student recreational activities would be limited to daytime hours and there are no proposed PA systems for sports activities, the project would not generate significant noise impacts. Furthermore, the City's Municipal Code would regulate delivery and trash hauling noise associated with the project. For instance, LAMC Section 114.03 prohibits the loading or unloading of any vehicle, operation of any dollies, carts, forklifts, or other wheeled equipment, which causes any impulsive sound, raucous or unnecessary noise within 200 feet of any residential building between 10:00 p.m. and 7:00 a.m. However, noise associated with delivery and trash-hauling trucks would be an intermittent noise source and are already a common occurrence in the project area due to existing residential and commercial uses that make up the developed urban area. Therefore, such services associated with the project would not result in a substantial permanent increase in ambient noise levels without the project. The project would not result in significant impacts from noise.

The MND also acknowledges that, at locations closest to Plummer Street, future classrooms could be exposed to noise levels in the Conditionally Acceptable range when compared to City standards. According to the City, this indicates that "new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning would normally suffice." RCM-4 would require that project designs achieve interior classroom noise levels of 45 dBA L_{eq} or less.

Response 1.6

The appellant restates that the City failed to analyze the project's consistency with the Mission Hills-Panorama City-North Hills Community Plan's public protection policies and support the conclusion that public service impacts would be less than significant. The appellant adds that the City specifically failed to analyze whether consultation with Los Angeles Police Department (LAPD) regarding the project's design and layout would result in changes to the project design or require additional police services to support the project. The appellant concludes an EIR is required for the project.

Select policies in the Mission Hills-Panorama City-North Hills Community Plan (i.e., Policies 8-2.2 and 8-2.3) regulate landscaping around buildings such that it does not impede visibility whereas Policy 8-2.3 regulates adequate lighting around buildings to improve security. According to Section 47610 of the California Education Code, a charter school shall comply with the California Building Standards Code Part 2 (California Building Code) as adopted and enforced by the local building enforcement agency (i.e., Los Angeles Department of Building and Safety [LADBS]). Furthermore, the project plans

¹ Federal Highway Administration. Highway Traffic Noise: Analysis and Abatement Guidance (FHWA-HEP-10-025). https://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/analysis_and_abatement_guidance/rev_guidance.pdf.

are the subject of review and appropriate conditions per LAMC Section 16.05, which states that the purpose of site plan review is to “promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City’s environmental review process, or on surrounding properties by reason of inadequate site planning or improvements.”

In further satisfaction of public protection and public service review, with respect to security and per Condition #22 of the Conditions of Approval for the project, an Emergency Procedures Plan shall be established identifying guidelines and procedures to be utilized in the event of fire, medical urgency, earthquake, or other emergencies to the satisfaction of the LAPD and Los Angeles Fire Department (LAFD) prior to the issuance of a certificate of occupancy. Furthermore, a security plan shall be developed in consultation with the LAPD, outlining security features to be provided in conjunction with the operation of the school, prior to the issuance of a certificate of occupancy. The Mission Community Police Station Commanding Officer shall also be provided with a diagram of the site indicating access routes and any additional information to facilitate police response.

Response 1.7

The appellant states the MND fails to accurately disclose and mitigate significant impacts and therefore fails to meet LAMC Section 12.24(E) to obtain a CUP for development of a public school in the RA-1 zone. The appellant states CREED LA demonstrated that the project 1) will adversely affect public health due to the project’s proximity to I-405 and the unmitigated impacts to future students and school staff; 2) will adversely affect adjacent properties due to unmitigated noise impacts; and 3) does not comply with the applicable community plan by failing to consult with LAPD prior to project approval. The appellant concludes the CPC abused its discretion by approving the project despite substantial evidence supporting significant impacts to public health, welfare, and safety.

A school is a permitted land use under the RA-1 zone with approval of a CUP, which is included as part of project entitlements. With respect to Section 12.24.E. of the LAMC, and prior to approval of a CUP, the City must find, as it did here, that (1) the project will enhance the build environment in the surrounding neighborhood or will perform a function/service that is essential or beneficial to the community, city or region; (2) the project’s location, size, height, operations and other features will be compatible with and not adversely affect or degrade the public health, welfare, and safety of surrounding neighborhood; and (3) the project conforms with the purpose, intent, and provisions of the General Plan and any other applicable plan. The project involves construction of a charter school serving kindergarten through grade four students on a mostly undeveloped lot. Furthermore, analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level and impacts would not degrade the public health, welfare, and safety of the neighborhood.

The commenter’s key concerns, including those related to health risks from I-405, project noise impacts, and consultation with the LAPD for project design, are addressed under Responses 1.3 through 1.6. Refer to Responses 1.3 and 1.4 for a discussion of the project’s impacts related to health risk and hazards. Refer to Response 1.5 for a discussion of the project’s impacts related to operational noise. As discussed in Section XIII, *Noise*, of the MND, although construction noise could exceed the 75 dBA L_{max} threshold at nearby residences since construction activity could occur within 50 feet of these sensitive receivers, compliance with the City’s RCMs would reduce impacts related to construction noise. Specifically, compliance with RCM-1 would reduce construction noise by at least 15 dBA, thereby reducing construction noise levels to 75 dBA L_{max} . Therefore, construction noise



impacts would be less than significant. Refer to Response 1.6 for a discussion of the project's design with respect to welfare and safety.

Response 1.8

The appellant concludes that the CPC's approval of the CUP, Site Plan Review, MND, and Conditions for Approval for the Valor Elementary School Project violates CEQA and urges the City Council to grant CREED LA's appeal and require an EIR for the project.

Mitigation measures have been identified for potentially significant impacts disclosed in the MND based on substantial evidence, including all investigations, reports, and associated project modeling included in the reports prepared for the project (e.g., Air Quality and Greenhouse Gas Study, Health Risk Assessment, Noise and Vibration Study). The analyses determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level. The commenter's additional concerns, including those related to public health, noise, and public safety, are addressed under Responses 1.3 through 1.7. Therefore, preparation of an EIR is unwarranted.



Appeal Letter 2

Appellant: Charles Johnson

Date: March 16, 2023

Response 2.1

The appellant summarizes the reason for the appeal, stating the MND cites data from 20 years ago for a separate site, the Mission Mile Sepulveda project is left out of the traffic study, the site's proximity to I-405 and Sepulveda Boulevard, and the site's location directly underneath a flight path for the Van Nuys Airport. The appellant requests that the CPC's decision be reversed until an EIR is prepared for the project,

The appellant does not yet provide details regarding their summarized concerns that would necessitate preparation of an EIR. The appellant's key concerns are addressed under Responses 2.3 through 2.9.

Response 2.2

The appellant states the decision to approve the project under an MND rather than an EIR places students, staff, and nearby residents at risk of health and safety hazards. The appellant questions who would be liable if the MND, identified mitigation measures, and Conditions for Approval are not sufficient to mitigate the effects of traffic, pollution, and/or the safety of students walking to school. The appellant adds that the Expedited Processing paid for by Bright Star Schools for the project can result in long term costs to the safety and health of students, staff, and residents and requested that the CPC's decision be reversed until an EIR is reviewed by the public and City.

The appellant's concerns related to traffic, pollution, and safety are addressed under Responses 2.3 through 2.8. Also, refer to Responses 1.3, 1.4, and 1.6 for a discussion of the project's impacts related to health risk, hazards, and safety in the context of the project's location and design and CREED LA's specific concerns associated with these topics. Furthermore, the Expedited Processing selected and paid for by Bright Star Schools had no effect on the level of effort, analysis, and coordination associated with the environmental review documented in the MND. Rather, the Expedited Processing provided an opportunity for additional resources to be dedicated to the entitlement application and CEQA analysis such that the thorough review would occur in a compressed timeframe. The conclusions of the MND are supported by various technical analyses and field surveys, including, but not limited to, those in the Air Quality and Greenhouse Gas Study, Health Risk Assessment, Phase I and Phase II ESA, Limited Asbestos Survey, Noise and Vibration Study, and Transportation Assessment. Mitigation measures have been identified for potentially significant impacts disclosed in the MND based on this substantial evidence. Furthermore, the analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level and preparation of an EIR is not warranted.

Response 2.3

The appellant provides additional information associated with their specific concerns, starting with the project's 440-foot distance from I-405 and potential health concerns. The appellant cites the Los Angeles City Planning Zoning Information 2427 Advisory Notice, which advises against locating schools within 1,000 feet of a freeway. The appellant adds that Section 17213 of the California Education Code states the school district shall not approve a project involving acquisition of a school site within 500 feet of a freeway or other busy traffic corridor unless an analysis based on modeling can

determine the location would not pose significant health risks to pupils. The appellant also notes that studies have reported health effects associated with smaller traffic volumes, with one study showing effects at volumes as low as 10,000 annual average daily traffic in an area.

Refer to Responses 1.3 for a discussion of the project's impacts related to health risk in the context of the project's proximity to I-405 and CREED LA's specific concerns associated with this topic. While the City's Advisory Notice advises against locating sensitive uses within 1,000 feet of a freeway, the Notice simultaneously anticipates such development by recommending additional assessments analyzing health risk for uses in proximity to a freeway. In the event a sensitive use (such as a school) is sited within 1,000 feet of a freeway, it suggests that project applicants conduct a site-specific health risk assessment, improve indoor air quality with minimum efficiency reporting value (MERV)-Rated or high-efficiency particulate air (HEPA) filtration equipment, and further reduce exposure to TACs through various project design strategies. The project site is located approximately 440 feet east of I-405, a primary source of DPM with truck traffic traveling on the I-405 mainline. The project would install MERV 13 filters, which remove approximately 90 percent of DPM from the intake air. An operational Health Risk Assessment was prepared for the project, which evaluated the potential health risk to on-site receptors due to TAC emissions from nearby roadways sources (i.e., I-405). As detailed in the Health Risk Assessment prepared for the project, the risk from I-405 is the only known TAC source within 1,000 feet of the project. The 1,000-foot radius for assessing risk has been adopted by numerous air districts, including the SCAQMD, to evaluate the potential risk from a project on the surrounding environment as well as the effects of the environment on the project in the case of siting sensitive receptors (such as a school) in proximity to TAC sources. As discussed in Section III, *Air Quality*, of the MND, results of the modeling and analysis were compared to SCAQMD thresholds for a cancer risk threshold of 10 in one million, and a Hazard Index significance threshold of 1.0. As determined in the Health Risk Assessment and MND, the maximum exposed individual receptor and worker (MEIR/MEIW) would not exceed SCAQMD's cancer risk and hazard index thresholds.

Response 2.4

The appellant restates the finding in the MND that carbon monoxide (CO) emissions would be less than significant at Sepulveda Boulevard and Plummer Street intersection based on the comparison that the project would generate an increase of 1,232 average daily trips (ADT) for a total of 21,432 daily trips, which is below the 100,000 vehicle count on the Wilshire Boulevard/Veteran Avenue intersection – a busy intersection already below the CO standard. The appellant states that the MND did not address that even though the project's ADT would be increased by over six percent at the Sepulveda Boulevard/Plummer Street intersection, the air at this location appears to be just as bad or worse than at an intersection with five times the ADT. The appellant adds that the asthma rate in the project site's census tract is higher than 86 percent of census tracts in California and that the asthma rate whereas the Wilshire Boulevard/Veteran Avenue intersection is three percent higher than census tracts in California, noting that the area near this intersection has the benefit of ocean marine air, more green space, and less population than the project site. The appellant questions the guarantees that the project would not impact health and safety of the students.

A CO hotspot is a localized concentration of CO that is above a CO ambient air quality standard. The entire South Coast Air Basin (SCAB) is in conformance with State and federal CO standards, and most air quality monitoring stations no longer report CO levels. The West San Fernando Valley station is the closest station that report ambient CO concentrations. In 2021, this station reported CO concentrations of 2.6 parts per million (ppm) for the maximum 1-hour and 1.9 ppm for the maximum 8-hour metrics, respectively. These are well below the respective 1-hour and 8-hour thresholds of 20 ppm and 9 ppm, respectively. Given the ambient concentrations, which include mobile as well as stationary sources, a project in SCAB would need to emit concentrations over four times the hourly or

8-hour maximum ambient emissions before project emissions would exceed the applicable standards. The 2003 Air Quality Management Plan (Table 4-10 of Appendix V) shows that peak modeled concentrations due to vehicle emissions at the Wilshire Boulevard and Veteran Avenue intersection was 4.6 ppm for 1-hour average and 3.2 ppm for the 8-hour average for 100,000 vehicles per day. Also, this modeling was conducted in 2003 and CO concentrations from vehicles have decreased substantially since that time due to increased vehicle technology. However, ignoring the increased emissions efficiencies of vehicles, a 1,232 daily increase in trips that result in a maximum 21,423 daily trips at the most impacted intersection would not result in CO concentrations nearly as high as those seen at the Wilshire Boulevard and Veteran Avenue intersection. Regardless, even adding the full emissions concentrations of 4.6 ppm and 3.2 ppm to the ambient concentrations near the project site, CO concentrations would only reach 7.2 ppm and 5.4 ppm respectively for the 1-hour and 8-hour averaging times, which would remain well below the 20 ppm and 9 ppm respective thresholds. Therefore, as identified in the MND, the minimal traffic increase of the project would not emit the levels of CO necessary to result in a localized hot spot.

Response 2.5

The appellant states the flight path for jets flying north out of Van Nuys Airport appears to go directly over the portion of I-405 near the site. The appellant cites online articles identifying Van Nuys Airport as the busiest general aviation airport in the country and that the increasing jet pollution from the Van Nuys Airport has been linked to cardiovascular and respiratory conditions.

Health risk to students and faculty on the project site were analyzed consistent with current guidance from the SCAQMD. The guidance for health risk from off-site sources uses a 1,000-foot radius to determine the potential source impacts. The Van Nuys Airport is located approximately 2.3 miles from the site and, therefore, emissions from the airport would not be anticipated to significantly impact the project site and would not contribute substantially to health concerns for the site. In addition, the appellant states that the flight path for jets is roughly over I-405, which is 500 feet from the project site. The 1,000-foot radius to determine the potential source impacts is also applied in the vertical direction. Using the same webtrak.emsbk.com website referenced by the appellant, planes approaching Van Nuys Airport do not reach 1,000 feet in altitude until just before or after they reach the airport boundary. Similarly with planes departing Van Nuys Airport, planes are well within high altitudes by the time they reach the project vicinity. Therefore, the flights over I-405 would not be anticipated to contribute substantially to pollutant concentrations at the site. Furthermore, the comment asserts that increased cardiovascular and respiratory conditions are specifically linked to the airport. The dispersion of pollutants increases with distance and as such, the 1,000-foot distance is used to determine sources that would directly impact receptors. As the site is greater than 1,000 feet from the freeway, and aircraft are more than 1,000 feet above the I-405 or the project site while approaching or leaving the airport, the proximity of the project site to the airport and jet traffic would not result in significant impacts as the project site is well outside the horizontal and vertical 1,000-foot radius.

Response 2.6

The appellant states the Mission Mile Sepulveda project involves widening the median along Sepulveda Boulevard to allow for a bicycle lane, which would likely require removal of one or two traffic lanes. The appellant adds that the loss of one or two traffic lanes where the ADT is currently 20,000 should be factored into the traffic study prepared for the project.

The appellant references a street project (Mission Mile Sepulveda) by the City of Los Angeles which may reduce the number of through travel lanes on Sepulveda Boulevard in the area of the school project. Any environmental review required for the Mission Mile Sepulveda project, including its effects

related to traffic flow, will be conducted by the street project's sponsor, the City of Los Angeles. Furthermore, the Los Angeles Department of Transportation's (LADOT) transportation analysis guidelines document (Table 2.3-1) states that the "reduction in number of through lanes" on city streets is considered to have a less than significant environmental effect to transportation because it is not likely to lead to a substantial or measurable increase in vehicles traveled (i.e., vehicle miles traveled). With respect to the Transportation Assessment prepared for the school project, the number of through travel lanes on Sepulveda Boulevard is only considered within the "non-CEQA" portion of the report, and therefore does not affect the environmental (CEQA) analysis prepared for the school project. Furthermore, per the LADOT requirements, the Transportation Assessment evaluates conditions at the study intersections coinciding with the opening of the school (estimated at year 2024). LADOT will be responsible for evaluating and implementing intersection features (length of turn lanes, traffic signal timing, etc.) coinciding with the Mission Mile Sepulveda project, which is estimated at year 2028 or later based on the street project's website. As such, no changes are required to the Transportation Assessment prepared for the project in relation to the Mission Mile Sepulveda project.

Response 2.7

The appellant calls out a couple of streets surrounding the Project, including the aqueduct, that do not have sidewalks on both sides making it unsafe for students to walk to and from the proposed school site. The appellant also points out that charter schools do not offer bus service for their students. The appellant describes specifically that Orion Avenue from Nordhoff Street through Lassen Street and Langdon Avenue from Nordhoff Street are dangerous routes due to speeding problems in that area and lack of sidewalks. The appellant states the only safe route is along Sepulveda Boulevard to Plummer Street and within less than a mile there are six motels where crime is rampant.

Project plans are the subject of review and appropriate conditions per Section 16.05 of the LAMC, which states that the purpose of site plan review is to "promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements." As discussed in Section XVII, *Transportation*, of the MND, the project would include a pathway connecting the project site to the existing sidewalk provided along the project site's Plummer Street frontage, and signalized crossings are provided within convenient walking distance to the project site along Plummer Street. The project would also make improvements to the sidewalk along the site's Plummer Street frontage, including at the site's access point, to enhance the pedestrian experience, and reduce the potential for vehicle/pedestrian conflicts at the proposed driveway.

Furthermore, per Condition #22 of the Conditions of Approval for the project, students shall not leave the campus unescorted at any time during the school day, including at lunch time. Since the project is an elementary school for transitional kindergarten to grade four, all students would be accompanied by a parent or guardian before and after school hours, whether walking or being driven to the school.

Response 2.8

The appellant states the parking lot is not large enough to allow for enough cars to queue on-site to keep traffic from neighboring streets, to allow for a parked car in the lot to get out of a parking space, or to accommodate parents and visitors once the school reaches maximum enrollment. The appellant questions how the Los Angeles Fire Department (LAFD) or LAPD would drive onto the site if there were

an emergency during pick up or drop off, stating a hook and ladder vehicle would not be able to turn around in a tight parking lot.

The new access driveway would be located approximately 150 feet east of the Orion Avenue/Plummer Street intersection and would provide access to the on-site parking lot and drop-off/pick-up area. Furthermore, the driveway would be designed to meet City standards to ensure adequate maneuvering by vehicles entering and exiting the project site to prevent traffic from neighboring streets. Per LAMC Section 12.21.A.4.f, the project would be required to provide one parking space per classroom, for a total of 28 parking spaces. The project's proposed parking lot consists of 49 surface-level parking spaces including 17 standard, 21 compact, nine clean air spaces, and two American Disabilities Act (ADA) spaces that would be located along the southern and western portions of the site. Therefore, the parking lot provides almost twice the required parking. Additionally, CPC conditions require the school to secure off-site parking for any special event where more than 50 vehicles are anticipated.

The Transportation Assessment prepared for the school project provides a detailed on-site vehicle queuing analysis. Based on the analysis, a peak onsite vehicle queue of 10 vehicles is forecast related to student drop-off and pick-up operations. As further detailed in the analysis, the site can accommodate approximately 33 vehicles queued on-site, which is expected to more than sufficiently accommodate all queued vehicles on-site. The long driveway leading in and out of the School also has a by-pass lane at the pick-up and drop-off area to avoid grid-lock on site. In preparing the approved Site Plan, the School met with and received the approval of the Fire Department. Going forward, in conjunction with its permitting process, the school project is required to have its site plan further approved by City departments. The project would not result in inadequate emergency access because it is subject to the LAFD review and acceptance of site plans, and structures prior to occupancy to ensure that required fire protection safety features, including adequate driveway access to buildings and adequate emergency access are implemented. LAFD review's includes confirming appropriate maneuvering area is provided to accommodate the apparatus that may be needed at the school in the case of a fire or other emergency.

Response 2.9

The appellant states that all but 11 trees will be preserved and that the MND should address whether the applicant will install artificial turf or living grass on the playground and asks how long the site will be bare of living greenery since it would take 10 years for the planted trees to grow. The commentor also states the project would remove an opportunity for open green space that would serve the underserved community. The appellant adds that the project removes the opportunity for open green space that would help offset the extreme pollution in the area, which would benefit the health and safety of children and adults.

With respect to on-site greenery, the play areas would include artificial turf whereas the rest of the project site would include various trees and drought-tolerant landscaping. As discussed in the Arborist Report prepared for the project and in Section IV, *Biological Resources*, of the MND, a total of 56 trees are located within the site and an additional two street trees are located at the northern boundary of the site along Plummer Street. Of the 56 on-site trees, four trees are dead and would be removed along with an additional 41 trees consisting of 9 protected native trees and 32 non-protected significant trees. Although the project would remove 41 on-site trees/shrubs, including a few protected native trees/shrubs, the project would replace all removed protected native trees or shrubs on a 1:4 ratio and all removed non-protected significant trees on a 1:1 ratio. The project would retain 13 existing trees on the site, including 12 non-protected significant trees (two of which are street trees) and one protected native tree. The MND includes Mitigation Measures BIO-2a and BIO-2b, which detail avoidance and minimization measures for protected and non-protected significant trees and additional measures for replacement of protected and non-protected significant trees (e.g., proper tree

size, planting, root care, and pruning). In the context of replacement of trees, Mitigation Measure BIO-2b identifies the appropriate size for new trees:

BIO-2b. Measures for Replacement of Protected and Non-Protected Significant Trees

In accordance with the City's Protected Tree Ordinance, the Board of Public Works may require the following for the removal of a protected tree. The following is assumed to apply to protected and non-protected significant trees:

1. Replacement with at least four specimens of a protected variety (i.e., 1:4 ratio). Each replacement tree shall be at least a 15-gallon, or larger specimen, measuring one inch or more in diameter one foot above the base, and be not less than seven feet in height measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.
2. Replacement with trees of a lesser size or of a different protected species to be planted as replacement trees, if replacement trees of the size and species otherwise required pursuant to the City's Protected Tree Ordinance are not available. In such event, a greater number of replacement trees may be required.
3. Relocation of a protected or non-protected significant tree to another location on the property, provided that the environmental conditions of said new location are favorable to the survival of the tree and there is a reasonable probability that the tree will survive. In addition, the City Planning Department policy requires mitigation at a 1:1 ratio for removal of the non-protected significant trees. The Board of Public Works may charge an in-lieu fee for removal of street trees, per LAMC Section 62.171 and 62.177.

As such, replacement trees would be at least a 15-gallon, or larger tree, measuring one inch or more in diameter one foot above the base, and would not be less than seven feet in height measured from the base. Replacement trees, therefore, would already have been growing for some time prior to being planted on-site and would provide immediate greenery to the site.

Response 2.10

The appellant restates that, due to the Expedited Processing, the MND does not fully address or consider important factors which could impact the project far worse than the MND investigates. The appellant also states the project should have to go through a more thorough environmental process and held to more accountability as a project with Los Angeles Unified School District (LAUSD). The appellant adds that a better review of the project is needed to evaluate health and safety impacts of students, staff, and nearby residents.

The Expedited Processing selected by Bright Star Schools had no effect on the level of effort, analysis, and coordination associated with the environmental review documented in the MND. Rather, the Expedited Processing provided an opportunity for additional resources to be dedicated to the entitlement application and CEQA analysis such that the thorough review would occur in a compressed timeframe. The conclusions of the MND are supported by various technical analyses and field surveys, including, but not limited to, those in the Air Quality and Greenhouse Gas Study, Health Risk Assessment, Phase I and Phase II ESA, Limited Asbestos Survey, Noise and Vibration Study, and Transportation Assessment. Mitigation measures have been identified for potentially significant impacts disclosed in the MND based on this substantial evidence. Furthermore, the analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level. The commenter's additional key concerns, including those related to public health and public safety, are addressed under Responses 2.3 through 2.9.



Conclusion

Comments included in both appeal letters submitted by CREED LA and Charles Johnson for the Valor Elementary School Project are addressed in this document and do not raise any concerns regarding significant impacts that have not been identified and mitigated or would otherwise substantially change the conclusions of the final MND originally approved by the CPC on February 23, 2023.

If you have any questions regarding this letter, please contact Vanessa Villanueva at (213) 444-3482 or villanueva@rinconconsultants.com.

Sincerely,

Rincon Consultants, Inc.

A handwritten signature in black ink that reads "Vanessa Villanueva". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Vanessa Villanueva
Senior Environmental Planner

A handwritten signature in black ink that reads "Deanna Hansen". The signature is cursive and somewhat stylized, with the first name and last name clearly distinguishable.

Deanna Hansen
Vice President/Principal

Attachments

- Attachment 1 CREED LA Appeal Letter
- Attachment 2 Charles Johnson Appeal Letter
- Attachment 3 Responses to CREED LA Comment Letter Dated December 14, 2022
- Attachment 4 Responses to CREED LA Comment Letter Dated February 21, 2023
- Attachment 5 Responses to CREED LA Comment Letter Dated February 21, 2023 – Summary

Attachment 1

CREED LA Appeal Letter

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March 16, 2023

Via Email and Electronic Submission through Online Portal

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City of Los Angeles
C/o Appeals Clerk
200 N Spring St, Room 360
Los Angeles, CA 90012
Email: clerk.cps@lacity.org

Esther Ahn, City Planner
Email: esther.ahn@lacity.org

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<https://plncts.lacity.org/oas>

Re: Appeal to the Los Angeles City Council of the March 2, 2023, City Planning Commission Determination in the Valor Elementary School Project CPC-2022-5865-CU-SPR; ENV-2022-5866-MND

Dear Honorable Mayor Bass, City Council Members and Ms. Ahn:

On behalf of Coalition for Responsible Equitable Economic Development (“CREED LA”) we are writing to appeal the City Planning Commission’s March 2, 2023 determination approving the Conditional Use Permit (“CUP”) and Site Plan Review (“SPR”) for the Valor Elementary School Project, CPC-2022-5865-CU-SPR; ENV-2022-5866-MND (“Project”), including the City Planning Commission’s adoption of the Project’s Mitigated Negative Declaration (“MND”), and adopting Conditions of Approval.¹

¹ City of Los Angeles, Letter of Determination, 15526 and 15544 West Plummer Street, Case No. CPC-2022-5865-CU-SPR (March 2, 2023) available at <https://planning.lacity.org/pdiscaseinfo/document/MjI1MQ0/fe3b456d-e5a5-4f0e-9fa7-879f1ff43502/pdd>
L6420-012j

The Project proposes to construct a one and two-story, 26.5-foot-tall, elementary school building with 28 classrooms, totaling 23,538 square-feet. for grades transitional kindergarten (“TK”) through 4; a 3,182 square-foot multi-purpose room, administrative spaces, corridors, storage spaces, and covered outdoor dining, and a surface parking lot with an ingress/egress driveway off Plummer Street.² The elementary school building would have a total building area of 34,755 sf and would accommodate a maximum enrollment of 552 students. The Project would also include 30,726 sf of open space and landscaping, including two play areas totaling 13,060 square-feet.

The Project site located at 15526-15544 Plummer Street, Los Angeles, CA 91343, on Assessor Parcel Numbers (“APN”) 265-601-5007 and 265-601-5008, which are approximately 1.30 acres in size, and 0.76 acre in size respectively. The 1.30-acre parcel is currently undeveloped and covered with grasses, shrubs, and various mature trees, and the 0.76-acre parcel is currently developed with a one-story single-family residence with similar vegetation as the larger parcel. The site contains 56 trees/shrubs (including nine protected native trees/shrubs and 32 non-protected significant trees), and two street trees.

Pursuant to the City of Los Angeles (“City”) appeal procedures, we have provided an electronic copy of this Justification for Appeal letter, the Appeal Application (Form CP-7769), and the original Determination Letter. We have also paid the required appeal fee of \$158 via the Department of City Planning Online Application Portal.

The reasons for this appeal include that the City Planning Commission abused its discretion and violated the California Environmental Quality Act (“CEQA”) when it approved the Project’s CUP and SPR for the Project, and in adopting the MND, Findings, and Modified Conditions of Approval in violation of CEQA and land use laws. CEQA requires that the potential impacts of this Project be evaluated in an environmental impact report (“EIR”), not in an MND, because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to public health, noise, and public safety that are not adequately disclosed or mitigated by the MND.

² MND, p .1.
L6420-012j

Our December 14, 2022, and February 21, 2023, comment letters on the Project are attached hereto and incorporated by reference.³ The specific reasons for this appeal are set forth in detail in those letters and summarized below. In short, substantial evidence supports a fair argument that that Project will cause: (1) a significant, unmitigated cancer risk from air pollution emissions to future students and staff, (2) a significant, unmitigated impact from noise, and (3) a potentially significant, unmitigated impact to public safety. Additionally, the City failed to consult with the Department of Toxic Substances Control and prepare a preliminary endangerment assessment in violation of California law.

1.1

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 proceed in a manner that minimizes public and worker health and safety risks, avoids, or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the Los Angeles region.

1.2

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

³ See **Exhibit 1**: Letter from Kevin Carmichael to Esther Ahn re Comments on the Mitigated Negative Declaration for the Valor Elementary School Project (ENV-2022-5866-MND) (December 14, 2022); and **Exhibit 2**: Letter from Kevin Carmichael to Los Angeles City Planning Commission re: Agenda Item 7: Valor Elementary School Project, Case No. CPC-2022-5865-CU-SPR, CEQA No. ENV-2022-5866-MND (February 21, 2023).
L6420-012j

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 educational 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.

1.2

II. REASONS FOR APPEAL

A. **There is Substantial Evidence Demonstrating that the Project May Cause a Significant, Unmitigated Cancer Risk from Exposure to Air Pollution**

The MND concludes that the health risk posed to future students and staff at the Project site from exposure to high air pollution concentrations, including diesel particulate matter (“DPM”) emissions, would be less than significant. We previously explained that the MND’s conclusion is unsupported and that the City failed to analyze the background risk from air pollution in the Project area.

Substantial evidence supports a fair argument that development of the Project will place children and staff in an area of high air pollution concentrations. CREED LA’s expert, Dr. James Clark, found that the cumulative cancer risk from air pollutants in the area of the Project is 413 in 1,000,000. DPM accounts for approximately 65 percent of that risk, or 268 in 1,000,000, while the 145 in 1,000,000 comes from benzene, formaldehyde and other gasses which will not be treated with the MERV filters proposed as mitigation for the Project. Assuming that the MERV 13 filters at the site would reduce the cancer risk from DPM by 90 percent, the cumulative risk to students and staff will still exceed the SCAQMD threshold of 100 in 1,000,000, resulting in a significant impact.

1.3

The City must prepare an EIR that includes disclosure and analysis of the potentially significant health risk impacts to future students and staff at the Project site and require additional mitigation to reduce the Project’s health risks from air pollution.

B. The City Failed to Perform a Preliminary Endangerment Assessment

CREED LA previously presented substantial evidence supporting a fair argument that the City is required to consult with the Department of Toxic Substances Control (“DTSC”) and prepare a Preliminary Endangerment Assessment for the Project. The Applicant failed to comply with this requirement, and the City Planning Commission failed to require the Applicant to provide evidence demonstrating compliance. As a result, the Project fails to comply with both the Education Code and CEQA because the Project may result in significant, unmitigated health risk to students and teachers.⁴

As a condition of receiving state funding for school construction projects pursuant to California Education Code Chapter 12.5 section 17078.52, a charter school must complete the three-step process outlined in Education Code § 17213.1 and assess whether there has been a release of hazardous waste at a school site.⁵ As explained in our prior comments, the process requires consultation with DTSC and to enter into an Environmental Oversight Agreement with DTSC, then contract with a qualified environmental consultant to prepare an assessment according to DTSC guidelines.⁶

The Applicant asserts that consultation with DTSC is not required because no Charter Schools Facilities Program (“CSFP”) funds would be used for the construction of the Project⁷, despite the fact that the Applicant’s 2022-2023 operational budget includes a line item for Proposition 1D grants to fund school construction projects, noting that \$26,971,711 in assets are restricted for construction.⁸ The Applicant must provide a guarantee that no State funds will be used for Project construction, otherwise, the City must conduct the necessary consultation with DTSC prior to Project approval.

1.4

⁴ PRC § 21002.1(c) (projects must comply with other laws).

⁵ Ed. Code, §§ 17078.52 and 17213.1 *see also* DTSC, Environmental Assessments For Charter School Sites Fact Sheet available at <https://dtsc.ca.gov/environmental-assessments-for-charter-school-sites-fact-sheet/>

⁶ Ed. Code §17213.1(a)(4)(B).

⁷ City Planning Commission, February 23, 2023, Agenda Item 7, Day of Submissions, pdf. p. 66 available at <https://planning.lacity.org/dcpapi/meetings/document/addtldoc/64833>

⁸ Bright Star Schools, 2022-2023 Budget Report on the Financial Statement (“Auditor’s Report”) (June 30, 2022) pp. 7 and 11. Available at https://brightstarschools.org/files/galleries/2022_Audited_Financials.pdf

C. The Project May Result in a Significant, Unmitigated Impact from Noise

We previously provided substantial evidence showing the MND's failure to provide an adequate baseline noise analysis, resulting in a failure to disclose the noise impacts from construction and operation of the Project. This remains a significant, unmitigated impact that the City has failed to disclose.

1.5

Additionally, CREED LA's experts determined that the Project's construction and operational noise impacts remain significant and unmitigated notwithstanding the mitigation measures proposed in the MND and the Project's conditions of approval. The City failed to resolve these issues before the City Planning Commission approved the Project.

D. The Project May Result in a Significant, Unmitigated Public Safety Impact

We previously provided substantial evidence showing the City failed to proceed in the manner required by law by failing to analyze consistency with the Mission Hills-Panorama City-North Hills Community Plan's public protection policies and lacks substantial evidence to support its conclusion that the Project's public services impacts would be less than significant. In particular, the City failed to analyze whether consultation with LAPD regarding the Project's design and layout will result in changes to the Project design or require additional police services to support the Project. A CEQA document must consider the effect of changes to the environment that can result from the expansion of services.⁹ The City Planning Commission failed to require this analysis before approving the Project. The City Council must correct this error by requiring an EIR for the Project.

1.6

E. The City Planning Commission Erred in Making the Required Findings to Approve the Project

The Project requires a CUP to allow development of a public school in the RA-1 zone pursuant to LAMC § 12.24.¹⁰ The MND fails to accurately disclose and mitigate significant impacts, as discussed in our comments to the City. Therefore,

1.7

⁹ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.

¹⁰ LAMC § 12.24(U)(24).
L6420-012j

the Project fails to meet the LAMC requirements to obtain a CUP. LAMC § 12.24(E) requires the following findings be made to approve the CUP:

- (1) that the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- (2) that the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and
- (3) that the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

CREED LA demonstrated that the Project **will** adversely affect public health due to the Project's proximity to I-405 and the unmitigated impacts to future students and school staff, **will** adversely affect adjacent properties due to unmitigated noise impacts and, and **does not** comply with the applicable community plan by failing to consult with LAPD prior to Project approval.

The City Planning Commission abused its discretion by making Finding No. Two and approving the Project despite substantial evidence in the record supporting a fair argument that the Project would adversely affect the surrounding neighborhood and affect public health, welfare, and safety.

III. CONCLUSION

As a result of these errors, the City Planning Commission's adoption of the MND, Findings, and Modified Conditions of Approval, and its approval of the Project's Conditional Use Permit and Site Plan Review violated CEQA and must be overturned.

1.7

1.8

March 16, 2023
Page 8

We urge the City Council to grant CREED LA's appeal and order the preparation of an EIR for the Project. Thank you for your attention to this important matter.

↑ 1.8

Sincerely,



Kevin Carmichael

KTC:lj1

Attachment 2

Charles Johnson Appeal Letter

5. JUSTIFICATION/REASON FOR APPEAL -ATTACHMENT

RE: CPC-2022-5865-CU-SPR, ENV-2022-5866

The following required reasons will be addressed below:

- THE REASON FOR THE APPEAL
- HOW ARE YOU AGGRIEVED BY THE DECISION
- SPECIFICALLY THE POINTS AT ISSUE
- WHY DO YOU BELIEVE THE DECISION MAKER ERRED OR ABUSED THE DISCRETION

THE REASON FOR THE APPEAL

The elementary school project has been expedited to the detriment of a thorough evaluation of the site and acceptable mitigation efforts for the health and safety of students, staff, and residents. Yes, the Applicant paid for Expedited Processing, but that should not allow potential health and safety hazards to be addressed in a sub standard way or to move so quickly that others are not addressed at all. Data from 20 years ago for an unrelated site is used to come to a conclusion without considering current data on the project site, the Mission Mile Sepulveda project is completely left out of the traffic impact study, its close proximity to the busiest highway in the United States(405 freeway), the longest street in Los Angeles (Sepulveda Boulevard) as well as being almost directly underneath a flight path for the busiest general aviation airport in the country (Van Nuys Airport). The decision made at the February 23, 2023 meeting City Planning hearing for the above referenced project. needs to be reversed until a **full EIR** can be completed and only then should the entire project be reviewed and vetted by the City and the public and a determination be made.

2.1

HOW ARE YOU AGGRIEVED BYTHE DECISION

This decision to allow the project without a full EIR and accept the submitted MND without careful scrutiny puts the students, staff of the school and residents in this area at risk of additional health and safety hazards that this project may bring. If this decision is allowed to stand and the project moves forward. Who will be liable if the MND and conditions of approval are not sufficient to mitigate the effects of pollution (asthma, carcinogens, heart disease, lung disease) that this project will add to this area and or the safety of young children walking to school? What if the Applicant/Consultants are wrong and the additional traffic only compounds the gridlock in the area, children are not safe walking to school and existing lung/health problems get worse and new cases increase?

SPECIFICALLY THE POINTS AT ISSUE.

The anticipation of a new school facility is certainly exciting for Valor Academy Elementary, so we understand the eagerness to fast forward this project. However, building a facility where hundreds of children will spend a large portion of their formative years is serious business and every step needs to be carefully considered. Sure, expediting such a project can be cost effective in the immediate future, but it can end up costing more in the long run, not just in dollars, but in safety and health as well.

Due to time constraints, documents related to this project were not able to be reviewed fully, but we feel strongly that the decision by City Planning should be reversed and a full EIR be conducted and reviewed by the public and City Planning.before a final determination is made.

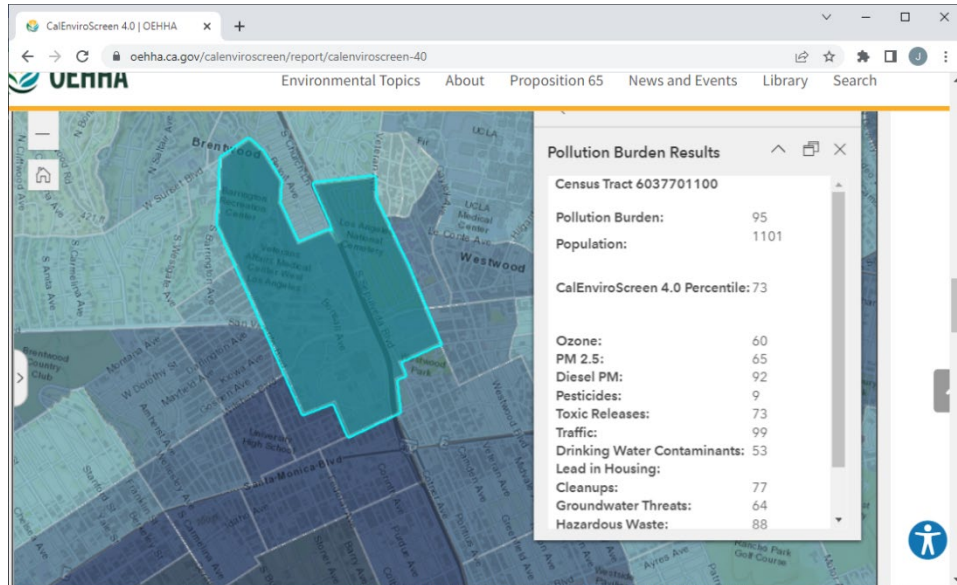
2.2

The elementary school project has been expedited to the detriment of a h evaluation of the site and acceptable mitigation efforts for the health and safety of students, staff, and residents. Data from 20 years ago for an unrelated site is used to come to a conclusion without considering current data on the project site, the Mission Mile Sepulveda project is completely left out of the traffic impact study, its close proximity to the busiest highway in the United States and the longest street in Los Angeles.

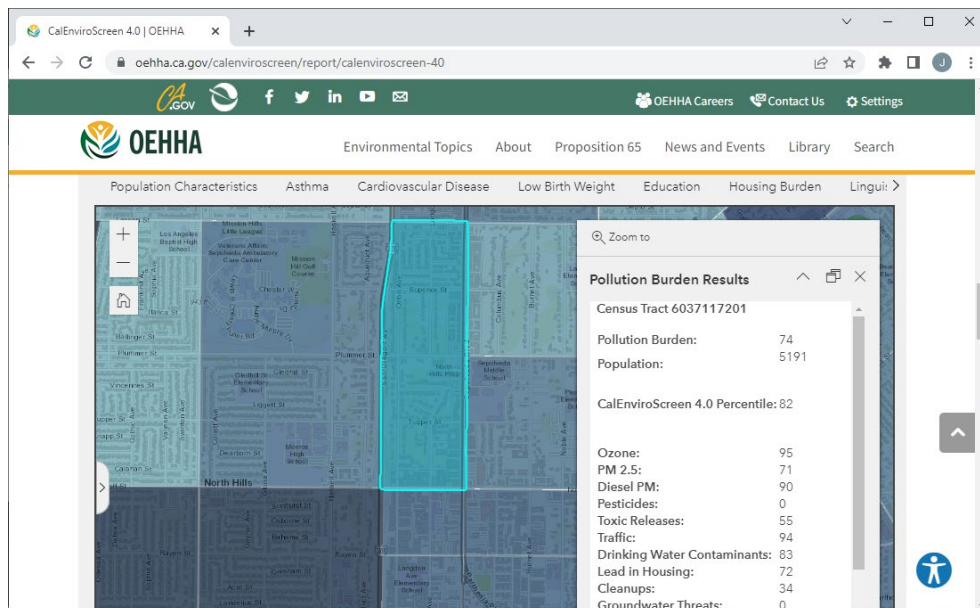
1. The **project is 440 feet from the 405 freeway** (Valor Elementary School Project City of Los Angeles Initial Study/Mitigated Negative Declaration November 2022, **No. ENV-2022-5866** page 14)
 - a. City, State and Federal advises against locating schools near freeways, if for whatever reason a school operator still wants to do so, evaluations should be made carefully and to ensure that every aspect is considered. Who will be liable if the MND ends up not being sufficient to counter health, safety and traffic concerns?
 - i. **Los Angeles City Planning ZI 2427 Advisory Notice**, which **advises against locating schools** (daycare facilities, senior care facilities also) **within 1000 feet of a freeway**.
 - ii. **The State of California Education Code 17213** (“The governing board of a school district **shall not approve a project involving the acquisition of a school site** by a school district, unless all of the following occur:...”) (C)2(c) (For a school site with a boundary that is **within 500 feet of the edge of the closest traffic lane of a freeway** or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.
 - iii. **EPA School Siting Guidelines**, 8.2. Nearby Highways and Other Transportation Facilities (Including Goods Movement) Page 118 “). A few studies have reported health effects associated with smaller traffic volumes, with one study showing effects at volumes as low as 10,000 annual average daily traffic in an area”
2. Valor Elementary School Project City of Los Angeles Initial Study/Mitigated Negative Declaration November 2022, **No. ENV-2022-5866** , page 45/146, using data from **SCAQMD’s AQMD 2003** for the intersection of **Wilshire Boulevard and Veteran Avenue**, Applicant/Consultant came to the conclusion that CO emissions would be less than significant at Sepulveda Boulevard and Plummer Street because operation of the Project would cause the ADT at this intersection to increase by 1,232 for a total of 21,432 daily trips are below the 100,000-vehicle count on the Wilshire Boulevard/Veteran Avenue intersection, which was already below the CO standards. **However, what is not addressed in the MND is WHY according to the California Office of Environmental Health Hazard Assessment (OEHHA) shows Pollution Burden Results in the census tract for the Project site for Ozone, PM.2.5, and Diesel PM comparable or above what is shown for the census tract that Wilshire and Veteran.**



The **ADT** of the Project would be increased by over 6% at Sepulveda and Plummer Street, yet the air appears to as bad or worse than at an intersection with five times the ADT.

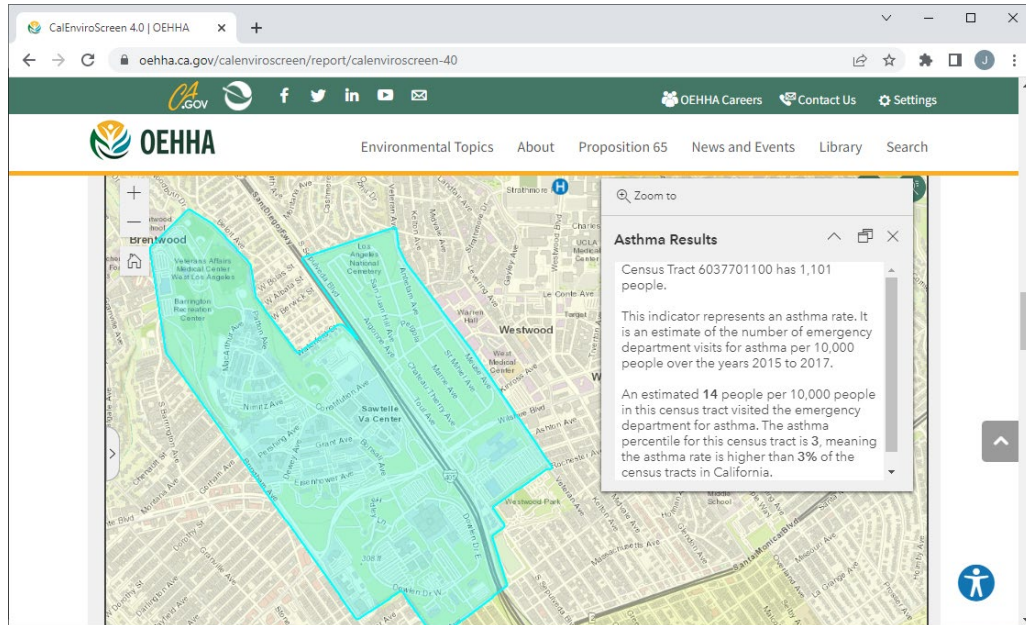


Pollution Burden Results: Wilshire & Veteran ADT 100,000, Ozone 60, PM 2.5 65, Diesel PM 92



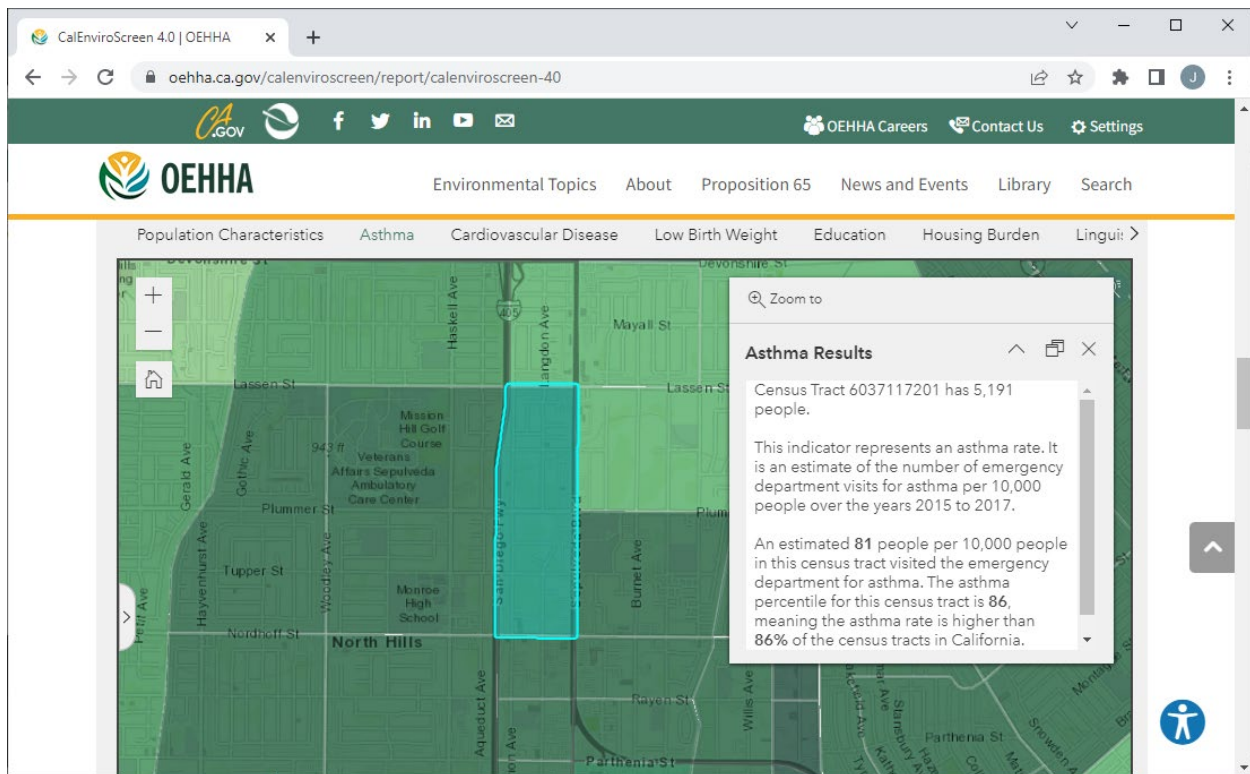
Pollution Burden Results: Project site (Orion and Plummer), Sepulveda and Plummer ADT 20,000, Ozone 95, PM 2.5 71, Diesel PM 90

The **asthma** rate in the Project site's census tract is higher than 86% of census tracts in California, **Wilshire** and **Veteran's** asthma rate is 3% higher than census tracts in California. See attached screenshots.



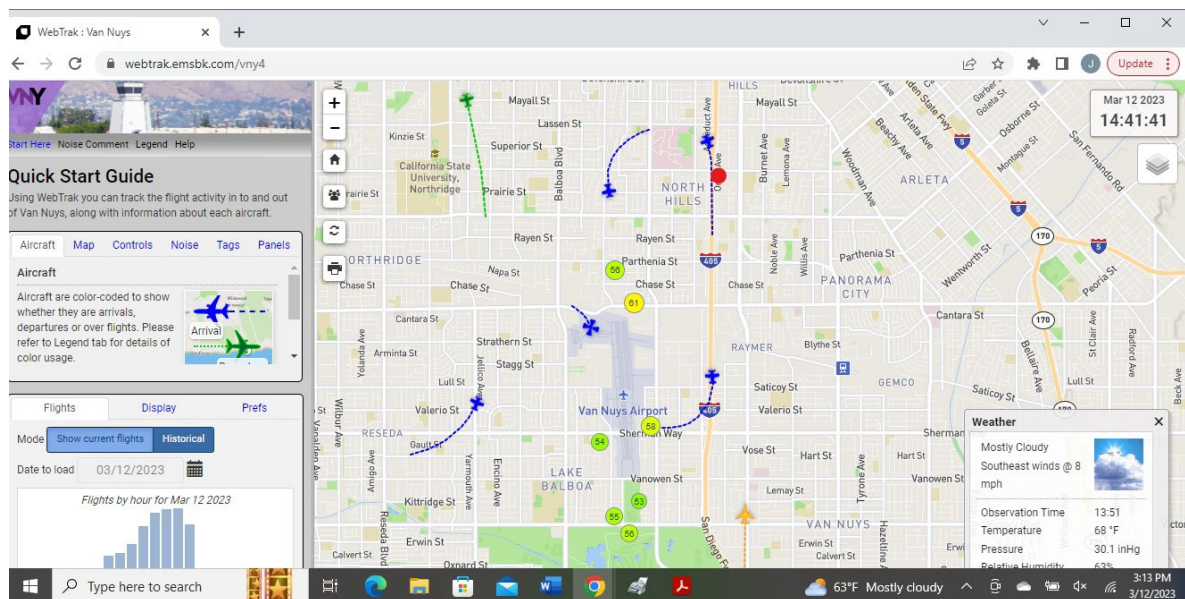
Asthma Results: Wilshire & Veteran ADT 100,000

The Wilshire and Veteran intersection has the benefit of ocean marine air and being surrounded by open green spaces, the population of that particular tract is one fifth of the Project site. The tract that the Project site sits in the San Fernando Valley, where the pollution appears to have no where else to go, even with the winds. **What needs to be considered is that the pollution is as bad or in some ways worse than other areas with more ADT and how an increase of 6% of ADT will proportionately affect the area, the formulas used to determine “no significant impact” cannot be solely relied upon because of what OEHH results show.** The students will be in classrooms with filtered air, but they need to go outside to play, possibly to walk to and from and residents will be living in whatever impact will actually occur, **what are the guarantees that this will not impact anyone’s health or safety?**



Asthma Rate Results: Project site (Orion and Plummer), Sepulveda and Plummer ADT 20,000

3. Flight path for jets flying north out of Van Nuys airport appear to go directly over the portion of the 405 that the project is less than 500 feet from.



<https://webtrak.emsbk.com/vny4> Red dot approximates Project location (added to screenshot)

- a. In 2020, General Aviation News lists Van Nuys Airport as the busiest general aviation airport in the country. <https://generalaviationnews.com/2020/02/03/top-10-busiest-general-aviation-airports/>

- b. October 23, 2022 Insider referencing complaints about Van Nuys Airport, “The amount of ultrafine particles emitted from the jets is growing, and they have been linked to different cardiovascular and respiratory conditions, the Los Angeles Times reported.”
<https://www.businessinsider.com/people-living-los-angeles-airport-private-jets-complaining-about-fumes-2022-10>
 - c.
- 4. **Mission Mile Sepulveda Project** to help mitigate the dangerous speeding that takes place along Sepulveda Boulevard will widen the median to allow for a possible bicycle lane, in order to do this one or two traffic lanes will likely be removed to accommodate for the widening of the median. The loss of one or two traffic lanes along the street where the ADT is currently 20,000 needs to be factored in to the traffic study as traffic on this street is sure to slow down and drive vehicles onto the 405 or Langdon and Orion (which many already do avoid Sepulveda).
- 5. **DANGERS FOR STUDENTS WALKING TO AND FROM THE PROPOSED SCHOOL SITE**
 - a. Charter Schools do not offer bus service for their students. The options for transporting children to school are automobile, walking and public transportation.
 - b. Orion from Nordhoff through Lassen
 - i. Orion is used by many as a shortcut to get to the 405 on ramp at Nordhoff and speeding is a problem.
 - ii. Orion at Vincennes is the site of numerous accidents as the road suddenly narrows, surprising speeders (no sidewalk endangering pedestrians further)
 - iii. Much of Orion does not have sidewalks on both sides of the street, there are portions that have no sidewalks at all.
 - 1. Langdon from Nordhoff through Lassen
 - c. Langdon is used by many as an alternative to Sepulveda Boulevard between Lassen and Plummer, speeding is a major problem despite speed humps and stop signs that residents petitioned for, nonresidents regularly race over speed humps and blow through stop signs.
 - i. Langdon from Nordhoff does not directly connect to Plummer, students will either need to walk up Tupper to Orion and then to Plummer or go up Vincennes to Orion then to Plummer.
 - 1. Tupper from Sepulveda to Orion
 - a. Much of Tupper does not have sidewalks on both sides of the street.
 - 2. Vincennes from Langdon to Orion
 - a. No sidewalks on Vincennes
 - b. Vincennes curves, drivers may not see children walking in the street as they round the curve.
 - d. Aqueduct from Nordhoff to Plummer
 - i. From Nordhoff to Chase, Aqueduct does not have sidewalks on both sides of the street.
 - e. **There is no one side where the sidewalks are placed on the streets above, children will have to cross the street to use the sidewalk on one side of the street and then cross again to get to the sidewalk on the other side on the way to the proposed site using one of these routes. Let’s face it, particularly when it’s raining or hot, most people**

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will opt to take the shortest route to walk to their destination, especially on a day to day basis.

- f. **The only route that allows children to safely walk on continuous sidewalk is to walk on Sepulveda (from the north or south) and on Plummer (from the east or west).**
 - i. Within the distance of less than a mile, there are **six motels between Nordhoff and Plummer** along the west side of Sepulveda Boulevard (the side adjacent to the proposed school site) One of these sites has had so much crime that it was called **"Vortex of Violent Crime"** by then City Attorney Mike Feurer.
 1. <https://ktla.com/news/local-news/20-year-old-man-found-shot-to-death-inside-motel-room-in-north-hills/>
 2. <https://patch.com/california/los-angeles/man-shot-death-dispute-outside-motel-north-hills>
 3. <https://www.dailynews.com/2021/11/19/north-hills-motel-where-4-have-died-should-be-declared-a-public-nuisance-says-city-attorney/>
 4. <https://mynews1a.com/crime/2015/03/04/man-suspected-killing-teenage-girl-north-hills-motel-arrested/>
6. **The parking lot is not large enough to allow for enough cars to queue on site to keep traffic from neighboring streets.** Despite the formulas used by applicant/consultant to come to the conclusion that there will be no queuing on the street, we have all seen the lines of cars waiting for pick up and drop offs outside of parking lots. There is not enough room for a parked car to be able to get out of a parking space. **What happens if there is an emergency during pick up or drop off? How will LAFD or LAPD be able to drive on to the site?**
7. **A hook and ladder will not be able to turn around in such a tight parking lot.**
8. As of February 2023,, 44 Staff listed on website, 49 parking spaces accommodates the current staff not including any staff or volunteers not listed, or for parents, current enrollment is under 400 students. Once at the 552 maximum students, and additional staff hired to accommodate them, there will not be enough parking for even a few parents or visitors.
9. **Applicant says that they will plant trees along the walls but they will take 10 years to grow in, so what happens in the meantime?** All but 11 fully grown trees will be preserved (out of 56 trees/shrubs), at Valor Academy Middle School, they have installed artificial turf on their play area, will they be installing artificial turf for their playground (which will increase the heat and also release chemicals in the heat) or will they install living (grass of some sort) turf? This also was not addressed. How long will this site be bare of living greenery
10. **The project site removes an opportunity for sorely needed open green space for this underserved community. Open green space will help to off set some of the extreme pollution in this area which is what is most needed for the health and safety of children and adults.**

WHY YOU BELIEVE THE DECISION MAKER ERRED OR ABUSED THIER DISCRETION

Because this was an expedited application, the full scope of possible environmental issues and possible impacts were not explored or investigated. The MND did not fully address or consider

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important factors which could make the impact of the project far worse than the MND and determination letter implies. One of the decision makers when discussing the length of time the school will be allowed to have summer school session, said that if LAUSD is allowed to have summer school all summer, then Valor should be able to also, whatever LAUSD is allowed, Valor should be allowed also. I believe that the other side of that should be that whatever LAUSD is required to do to build a new school facility and operate, so should every other school. LAUSD would have had to go through a more thorough environmental process and is held to much more accountability.

Los Angeles' Green New Deal targets 0% greenhouse gas emissions by 2050, however that is decades away and we hope that is achieved much sooner but in the meantime we also hope that you will decide to slow this process down to take a good look at this site with relevant data so that the decision on whether this is an truly appropriate site to put a school and will not affect the health and safety of students, staff and residents of the area.

Thank you for your consideration,

Charles Johnson and Neighbors

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Attachment 3

Responses to CREED LA Comment Letter Dated December 14, 2022



Rincon Consultants, Inc.

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February 9, 2023
Project No. 22-12694

Elijah Sugay
Vice President, Finance & Facilities
Bright Star Schools
600 South La Fayette Park Place, Suite 302
Los Angeles, California 90057

**Subject: Valor Elementary School Project Final IS-MND (ENV-2022-5866-MND),
Responses to CREED LA Comment Letter Dated December 14, 2022**

Dear Mr. Sugay:

Rincon Consultants, Inc. (Rincon) has prepared responses to the comment letter provided by Kevin Carmichael of Adams Broadwell Joseph & Cardozo law firm on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA). The comment letter was received by the City on December 14, 2022 in relation to the 20-day public review period for the Valor Elementary School Project Mitigated Negative Declaration (MND), which began November 23, 2022 and ended December 13, 2022.

Each separate issue raised by the commenter in their letter has been bracketed and assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue. Response 1, for example, indicates that the response is for the first issue raised in the comment Letter. CREED LA's comment letter is included as Attachment 1 to this document. Due to the length of attachments to CREED LA's original letter, only the main body of their letter has been attached.

Responses to Comments

Response 1

The commenter notes that comments are submitted on behalf of CREED LA for the project MND and provides a description of the project. The commenter states that, based upon their review of the MND, the MND fails to disclose the extent of the project's potentially significant impacts on air quality, public health, hazards, public services, and noise, requiring preparation and circulation of an Environmental Impact Report (EIR). The commenter notes that comments from an environmental health, air quality, and greenhouse gas (GHG) expert and noise expert are attached to their letter for the City's reference and requests that the City respond to them as well.

According to Public Resources Code Section 21092.5 and California Environmental Quality Act (CEQA) Guidelines Section 15073(e), written responses to comments on a MND is not required by CEQA; however, responses may be provided at the discretion of the Lead Agency. The commenter does not yet provide specifics regarding how they believe that the MND fails to disclose potentially significant impacts related to air quality, public health, hazards, public services, and noise necessitating preparation



of an EIR. At the discretion of the Lead Agency, the commenter's key concerns issued in the main body of their letter are addressed under Responses 4 through 10.

Response 2

The commenter states that CREED LA is an association of individuals that live in the City of Los Angeles and labor organizations, including 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. The commenter states that CREED LA supports the development of commercial, mixed use, and educational projects carefully planned to minimize impacts on public health, climate change, and the environment.

The commenter's description of CREED LA as an association of individuals and labor organizations is noted. The commenter does not yet provide specific concerns regarding the impacts disclosed in the MND. The commenter's key concerns are addressed under Responses 4 through 10.

Response 3

The commenter provides a description of the purpose of CEQA as a tool that fosters informed decision-making and states that CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR "except in certain limited circumstances". The commenter states that an MND is inadequate whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur, even with mitigation measures.

The commenter has not accurately stated the "fair argument" standard or when the preparation of an EIR, rather than an MND, is required by CEQA. To clarify the circumstances in which an MND is prepared under CEQA, as outlined in CEQA Guidelines Sections 15064, 15070 and 15369.5, a Mitigated Negative Declaration is prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed MND and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole of the record before the Lead Agency that the project, as revised, may have a significant effect on the environment.

With respect to the proposed project, mitigation measures have been identified for potentially significant impacts disclosed in the MND based on substantial evidence, including all investigations and associated project modeling in the Air Quality and Greenhouse Gas Study, Health Risk Assessment, Arborist Report, Cultural Resources Assessment Report, Phase I and Phase II Environmental Site Assessment (ESA), Asbestos Survey, Noise and Vibration Study, and Transportation Assessment. The analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level. The commenter does not yet provide specific concerns regarding the impacts disclosed in the MND. The commenter's key concerns are addressed under Responses 4 through 10.

Response 4

The commenter states that substantial evidence supports the argument that the project may result in significant unmitigable health risk impacts and adds that the City lacks substantial evidence to rely on an MND. The commenter's specific concerns related to this topic are summarized and addressed under Responses 4.1 through 4.3.



Response 4.1

The commenter acknowledges that a Phase I ESA and Phase II ESA were prepared for the project but adds that the City failed to conduct a Preliminary Endangerment Assessment (PEA) per the California Education Code. The commenter states that the California Education Code outlines a three-step process in assessing whether there has been a release of hazardous waste at a school site, in which Step 2 requires consultation with the Department of Toxic Substances Control (DTSC). The commenter states that the City failed to consult with DTSC in violation of the California Education Code and therefore must retract the MND to prepare a PEA for the project.

According to Section 47610 of the California Education Code, a charter school shall comply with Part 26.8 (Charter Schools) of the California Education Code and all provisions in its charter but is otherwise exempt from the laws governing school districts. As a privately funded charter school, the project is therefore exempt from Section 17213.1(a) of the California Education Code relied upon by the commenter. DTSC review in this case is optional. Nonetheless, Section IX, *Hazards and Hazardous Materials*, of the MND documents the findings of the Phase I ESA, Phase II ESA, and Asbestos Survey.

As discussed in the Phase I ESA Report (Appendix F to the MND), the historical land uses of the site include previous agricultural uses and currently contains residential uses (i.e., single-family home). Furthermore, records indicate that the site included unapproved/non-permitted auto storage/repairing activities, which typically utilize petroleum products and other hazardous substances. The Phase I ESA recommended additional shallow soil sampling to further assess the identified Recognized Environmental Conditions (REC) associated with the site, which were documented as part of the Phase II ESA. According to the Phase II ESA Report, and based on the results of soil samplings, no concentrations of Title 22 metals, organochlorine pesticides (OCP), total petroleum hydrocarbons (TPH), and volatile organic compounds (VOC) in the soil were found above their respective regulatory agency health-risk based screening levels and no further action was determined with respect to the previously identified REC. The Phase I ESA also noted the potential presence of an underground septic tank based on an interview with the current Site tenant; however, the location of the tank is unknown. The Phase I ESA concluded that, based on the presumed domestic sewer usage of the septic tank, it is not considered a REC. Nonetheless, the septic tank, if present on-site, could be encountered during project construction and grading activities. Therefore, Mitigation Measure HAZ-1 (Septic Tank Removal) identified in the MND would reduce potential impacts related to the potential encounter and removal of an on-site septic tank to a less than significant level. Furthermore, the Asbestos Survey Report concluded that, based on sampling of exterior materials associated with the on-site single-family residence, samples of black penetration mastic located at the northeast portion of the roof was identified to have asbestos-containing materials (ACMs). These materials could pose hazardous to the environment during the construction stage of the project, particularly with adaptive reuse of the residence. Therefore, implementation of Mitigation Measure HAZ-2 (Asbestos-Containing Materials) identified in the MND would reduce impacts related to removal of ACMs to a less than significant level. The project would not result in a significant unmitigable impact associated with hazards and hazardous materials.

Response 4.2

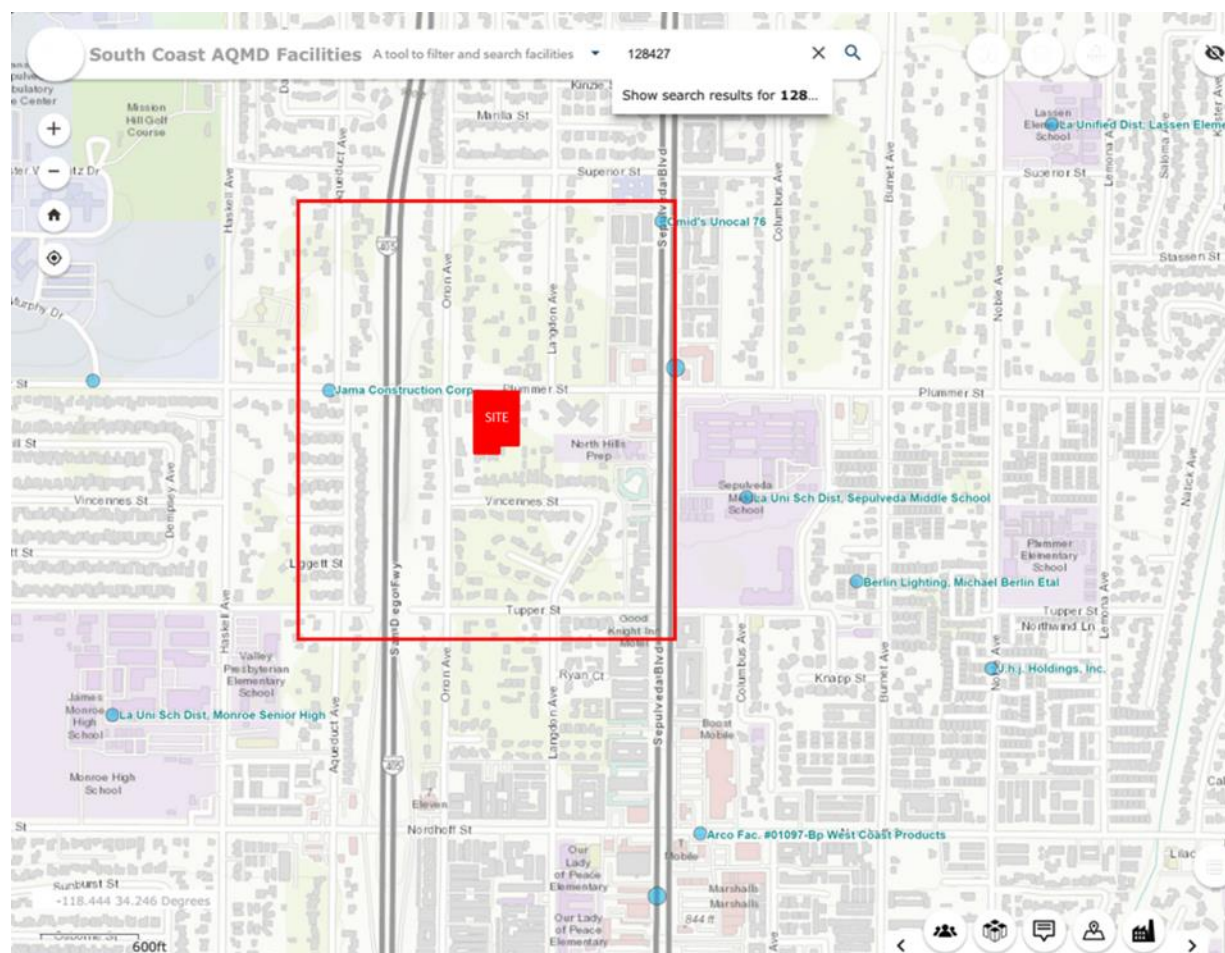
The commenter states that the MND fails to disclose the potential health impacts of placing schoolchildren next to existing sources of pollution that emit toxic air contaminants (TAC), diesel exhaust, and particulate matter (PM) permitted by the South Coast Air Quality Management District (SCAQMD). The commenter refers to the SCAQMD's Facility Information Detail (FIND) database which



identified six different permitted sites within a 0.5-mile radius from the site. The commenter concludes that the MND ignores these sources and fails as an informational document.

The commenter identifies six permitted facilities within a 0.5-mile radius of the project site. SCAQMD's FIND database identifies facilities that have permitted operations, notices of violation, emissions inventories, transportation plans, and Rule 22 registrations/approvals. Not all of these fall under categories that will emit TACs or present a potential health risk to on-site students and staff. In addition, the California Air Resources Board (CARB) has an Air Quality and Land Use Handbook (Handbook) that provides recommendations on siting new sensitive land uses near sources of TACs, including those identified in the FIND database. CARB's Handbook recommends a distance of 1,000 feet between identified pollutant-emitting land uses and sensitive receptors such as the proposed school. Therefore, this discussion includes only those facilities identified within 1,000 feet of the project site. The FIND database shows three facilities within 1,000 feet of the project site, shown in the following figure.

FINDs Database Results Within 1,000 Feet of the Site



As discussed herein, none of these facilities poses a potential impact risk to students and staff at the proposed project site:



- **Facility ID: 62563** – JAMA Construction (15700 Plummer Street) – The FIND information shows an application for VOC contaminated soil handling based on Rule 1166 from 1988. However, the site is approximately 800 feet from the site and the application was canceled. There is no active work onsite and no active permit for VOC handling. Therefore, this site results in no potential impacts to the project site.
- **Facility ID: 128427** – Carl’s Jr. (9505 Sepulveda Boulevard) – The facility has an active permit to operate a Natural Gas Charbroiler. This facility is located approximately 700 feet from the project site. Given the active permit to operate, and the fact that this is not a source of DPM or PM, and the distance from the site, this facility would present no significant impact to site.
- **Facility ID 92991** – Omid’s Unocal 76 (addressed as 88300 Sepulveda Boulevard, Sepulveda California however address is not locatable) – Reported as an “Oil/Gas Field” Services facility but has no active permits, equipment, emissions, or compliance issues. The mapped location in the FIND database is a residential development area. CARB’s Handbook recommends a 300-foot separation between land uses and large gas stations of 3.6 million gallons or greater. There are no gasoline stations (Unocal 76 or other) within 300 feet of the project site. Therefore, this facility would not be a potential risk to the students on-site.

Response 4.3

The commenter states that the MND omits an analysis of several sources of pollution and that the project’s health risk impacts must be accurately disclosed, analyzed, and mitigated in an EIR. The commenter states that the input files for the Health Risk Assessment (HRA) were not originally included in the attachments to the HRA and adds that the same input parameters used in the HRA resulted in concentrations of TACs at the site from Interstate 405 (I-405) that were 1.5 times higher than those presented in the HRA. The commenter states that the AERMOD analysis relies on source terms from a model that is not commonly used to assess emission from freeways and adds that modeling calculations of ground-level concentrations of diesel particulate matter (DPM) fail to account for building downwash, ignoring the effect of building elevations. The commenter requests an updated HRA that accounts for elevation differences and properly identifies inputs and methodology.

AERMOD files associated with the HRA were provided to the commenter on December 12, 2022 based on their request to review the files. The methodology used by Rincon is a typical methodology applied when using the HARP2 modeling program to determine risk. By unitizing emission rates in AERMOD and inputting the emissions per pollutant in HARP2, the HARP2 modeling program quantifies the risk associated with the actual emission rates for the traffic on the freeway.

As discussed in the HRA (Appendix B to the MND), building downwash is only applicable to point or flare sources in AERMOD where the sources are located adjacent to, on, or in real close vicinity to a building. In the case of a freeway, the source is a volume-line source which precludes the necessity use of building downwash. Mobile Source Air Toxic (MSAT) spreadsheet calculations are available and are attached to this letter for review.

There are several differences in modeling between what was conducted by Rincon and in the analysis referenced by the commenter. These are:

1. Rincon used “Urban” dispersion coefficient while the analysis referenced by the commenter used “Rural” with a non-urban transition which can lead to overly conservative concentrations for low-level sources.
2. Rincon used a “Flat & Elevated” terrain while the commenter’s model only used flat.



3. Rincon did not specify a pollutant type while the commenter assigned DPM as the pollutant.
4. Rincon modeled for 1-hour and period whereas the commenter only used period for the averaging time.

These differences can result in the differences in concentrations that were noted between the two modeling scenarios.

Modeling files associated with the HRA (i.e., AERMOD, CalEEMod, EMFAC, and HARP2) were also provided to SCAQMD on December 8, 2022 upon their request to review all modeling and emission calculation files. As of December 21, 2022, SCAQMD has responded that they will not be further commenting on the project.

Response 5

The commenter states that the MND's noise analysis fails to accurately disclose the project's potentially significant noise impacts and fails to mitigate these impacts. The commenter's specific concerns related to this topic are summarized and addressed under Responses 5.1 through 5.4. As in the MND and its underlying technical reports, the responses reference RCMs (Regulatory Compliance Measures), which are the existing requirements and standard conditions based on local, State, or federal regulations and laws that serve to offset or prevent specific impacts. RCMs are not included as mitigation measures in the environmental clearance document because the project is required to comply with RCMs through State and local regulations.

Response 5.1

The commenter states that the noise measurements conducted as part of the noise analysis may not be representative of the loudest times of day because the noise environment is affected by transportation sources that can change by the hour throughout the day. The commenter states that the long-term noise measurement conducted for the analysis was taken at the back of the site where it is partially shielded from nearby streets at does not capture traffic patterns at residences close to Plummer Street, adding that the short-term 15-minute measurement noise level at location ST 1 is 10 dB higher than the long-term noise measurement noise level at the same time frame. The commenter states that the noise measurements are not representative of the noise environment and existing baseline noise conditions should be characterized by multiple measurements at different times over several days. The commenter adds that the higher baseline noise levels at the residences on Plummer Street would result in a noise environment that exceeds the normally acceptable CNEL noise levels for single-family homes per the City's Land Use and Noise Compatibility Matrix.

As discussed in Section XIII, *Noise*, of the MND, to characterize ambient noise levels at and near the site, two 15-minute noise level measurements were collected by Rincon on May 25, 2022 between 8:57 a.m. and 9:31 a.m. using an Extech (Model 407780A) ANSI Type 2 integrating sound level meter. The commenter incorrectly identifies that a 14-hour measurement was conducted; a 24-hour noise level measurement was collected between May 25, 2022 and May 26, 2022. Determining baseline noise levels through a 24-hour measurement is an industry standard technique that accurately captures the noise environment throughout the day, evening, and nighttime. Transportation noise is relatively consistent from day to day, and thus capturing more than one day's worth of measurements does not yield valuable data for determining a baseline.

The short-term noise measurement (ST) 1 is located at the northern property line of the site facing Plummer Street and ST 2 is located along Orion Avenue adjacent to single-family residences. The long-



term noise measurement (LT) 1 is located near the southern property line of the site. The location for LT 1 was chosen to determine the lowest ambient noise level at the sensitive receivers near the project site to provide the most conservative analysis. In other words, if the long-term measurement was conducted near the roadway, it would show higher noise levels in line with ST 1 that would underestimate the project's operational noise. For example, the HVAC noise levels from the project site were compared to the lowest hourly measured noise level of 46 dBA; if the LT 1 measurement was close to the roadway, HVAC noise levels would have been compared to a higher value, thus underestimating the project's noise impacts. ST 1 and ST 2 short-term measurements are provided for additional context, but the more conservative LT 1 is used for the impact analysis.

The commenter also states that a higher baseline would result in a noise environment that exceeds the normally acceptable CNEL level for single-family homes. However, the proposed project is for a school, not for single-family homes. The City's Land Use and Noise Compatibility Matrix is used to determine the appropriate siting of specific land uses as a planning tool for development, not to determine impacts on existing sensitive receivers. As discussed in Section XIII, *Noise*, ambient noise up to 60 CNEL is normally acceptable and noise up to 70 CNEL is conditionally acceptable for a school use. The project is anticipated to be within the "conditionally acceptable" range for school uses at the project site. RCM-4 (Interior Noise Reduction) would require that future classrooms are designed for an interior noise environment of 45 dBA L_{eq} or less, and impacts would be less than significant.

Response 5.2

The commenter states that, while the noise analysis modeled construction noise levels at 50 feet per the Los Angeles Municipal Code (LAMC) threshold, construction work could occur as near as six feet from residences adjacent to the site, resulting in higher dBA L_{max} noise levels. The commenter states that, based on model calculations for a residence located six feet from construction activity, construction of the project would result in a 30+ dBA increase over the City's threshold.

Pursuant to LAMC Section 112.05, in which construction noise in a residential zone shall not exceed 75 dBA L_{max} between 7:00 a.m. and 10:00 p.m. at a distance of 50 feet, construction noise was modeled at a distance of 50 feet from the nearest residential receivers. The use of a distance of 50 feet is appropriate as it is how violations are determined within the LAMC and also consistent with City impact analysis for construction noise. If the City did not want to take into account a 50 feet distance, it would have written the LAMC to specify an exceedance of 75 dBA L_{max} at any distance. At a distance of 50 feet per the City's threshold, a grader, excavator and concrete saw would generate a noise level of 90 dBA L_{max} . Therefore, as discussed in Section XIII, *Noise*, of the MND construction noise could exceed the threshold of 75 dBA L_{max} . The approximate 75 dBA L_{max} noise contour for project construction is estimated at 150 feet (i.e., if construction occurs at a distance of 150 feet or greater from a sensitive receptor, it would not exceed the threshold). Therefore, if construction occurs within 150 feet of sensitive receivers, noise levels from construction may exceed the City's construction noise limit.

The nearest sensitive receivers include single-family residences adjacent to the east, south, and west of the project boundary. Other sensitive receivers include single-family residences approximately 130 feet to the north across Plummer Street, as well as Plummer Village Senior Community approximately 215 feet to the east. At nearby residences, construction noise could exceed the 75 dBA L_{max} threshold since construction activity could occur within 50 feet of these sensitive receptors if uncontrolled. Construction noise at the Plummer Village Senior Community, approximately 215 feet to the east of the project boundary, is not estimated to exceed the 75 dBA L_{max} threshold.



Compliance with the City's RCMs would reduce impacts related to construction noise. In particular, compliance with RCM-1 (Adherence to Existing Noise Standards) would reduce construction noise by at least 15 dBA, thereby reducing construction noise levels to 75 dBA L_{max} . Therefore, with RCM-1, this impact would be less than significant.

Response 5.3

The commenter states that the 12-foot noise barrier included as Mitigation Measure N-1 to reduce construction noise would result in a 15 dBA reduction and would not be sufficient to reduce impacts at nearby receivers to a less than significant level. The commenter adds that this error is the result of the City's reliance on the incorrect interpretation of the LAMC noise standards.

As discussed under Response 5.2, the LAMC was correctly interpreted per its wording and typical City construction noise analysis, and the commenter's assertion that the wrong threshold was used and thus the mitigation is not adequate is not correct. Compliance with the City's RCMs would reduce impacts related to construction noise. In particular, compliance with RCM-1 would reduce construction noise by at least 15 dBA, thereby reducing construction noise levels to 75 dBA L_{max} . Therefore, with RCM-1, this impact would be less than significant.

Response 5.4

The commenter states that the MND does not provide a quantitative analysis for noise from on-site operations (i.e., activities in play area, trash-hauling, pick-up/drop-off activities along the driveway, and traffic noise). The commenter adds that these activities would result in an increase of 5 dB or more over the ambient, resulting in a significant impact.

The LAMC would regulate operational noise associated with the project. As discussed in Section XIII, *Noise*, of the MND the primary on-site noise source associated with operation of the project would consist of student recreational activity in the proposed outdoor play areas. Outdoor noise would be an intermittent and periodic noise source, which would be limited to the daytime during school hours and when staff and students are outdoors (e.g., mornings prior to class start times, study breaks or lunch breaks throughout the day, afterschool prior to students getting picked up). The new elementary school would serve traditional kindergarten through grade four. Campus hours of operation for Valor Elementary School would be from 7:15 a.m. to 6:00 p.m., Monday through Friday during normal school months. During the summer months, the school campus would be closed. The proposed school would not host athletic events that would occur during the late afternoon/early evening hours. No lighting is proposed for the proposed playfields and a limited number of special events are proposed throughout the school years. Noise from sources such as trash hauling are typical of the existing environment and are also short-term and intermittent. Additionally, there would be no PA system proposed for recreational activities. Since student recreational activities would be limited to daytime hours and there are no proposed PA systems for sports activities, impacts would be less than significant.

Response 6

The commenter states that the MND's energy use analysis fails to quantify and adequately assess the project's energy consumption impacts during project construction. The commenter adds that the energy use analysis does not analyze electricity use from the existing power grid despite the requirement under Mitigation Measure AQ-1 which states that "electricity shall be supplied to the site from the existing power grid to support the electric construction equipment". The commenter concludes that the MND



lacks evidence to conclude that construction related impacts to energy consumption would be less than significant.

The use of electricity during construction is intermittent and temporary depending on the equipment used on-site during any given day. Mitigation Measure AQ-1 (Construction Emissions Reduction) eliminates the use of diesel generators to supply electricity to any electric equipment that may be used as part of the construction activities. The mitigation measure also indicates that Tier IV or alternative (including electric) equipment would be used, however conservatively assumes all equipment would be Tier IV as the exact nature of the equipment is unknown. Since the construction fleet has not been specifically identified and electric equipment that may be used is unknown at this time, quantifying electrical use from construction activities would be speculative. In addition, there is currently a single-family home on the project site that would be renovated for use as part of the project. The home would not be actively used during construction and therefore the electrical use from that home, which is currently part of the daily/annual consumption assumptions for Los Angeles Department of Water and Power (LADWP) demand calculations, would not be taken from the existing electric supply. Any construction activities for the site, from temporary use of electric equipment for a project of this size, would be similar or less than that of the daily usage of a single-family home. Therefore, electrical usage from construction activities would not be anticipated to result in any additional energy needs than already anticipated by LADWP for the existing demand.

Response 7

The commenter states that the MND does not analyze the project's burden on police protection services. The commenter highlights Policies 8-2.2 and 8-2.3 of the Mission Hills-Panorama City-North Hills Community Plan, which require consultation with the Los Angeles Police Department (LAPD) as part of the project's land use review process to review project landscaping and lighting. The commenter states that the MND does not confirm that compliance with the Community Plan policies has been completed and adds that any changes to the plans required by LAPD which would result in changes to the energy, GHG, and biological resources impacts.

Policy 8-2.2 regulates landscaping around buildings such that it does not impede visibility whereas Policy 8-2.3 regulates adequate lighting around buildings to improve security. According to Section 47610 of the California Education Code, a charter school shall comply with the California Building Standards Code Part 2 (California Building Code) as adopted and enforced by the local building enforcement agency (i.e., Los Angeles Department of Building and Safety [LADBS]). Further, the project plans are the subject of review and appropriate conditions per Section 16.05 of the LAMC, which states that the purpose of site plan review is to "promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements."

Response 8

The commenter states that the project would result in the removal of nine protected native trees and 32 non-protected significant trees and adds that eight of the protected trees are Southern California black walnut trees. The commenter states that it is not clear whether the California Department of Fish and



Wildlife (CDFW) was consulted as a trustee agency for the project since the MND was not submitted to the State Clearinghouse (SCH). The commenter states that the lead agency must consult with CDFW and obtain written findings from CDFW on the impact of the project on the continued existence of any State-listed endangered or threatened species. The commenter provides an example of mitigation measures from another project (James Street Four (4) Single-Family Residences; Case Number: ENV-2018-1130-MND) that required the removal of 11 southern California black walnut trees and did include consultation with CDFW.

The MND was submitted to the SCH (i.e., SCH #2022110530) but was determined by the City, based on City CEQA thresholds, to not require review from State agencies per CEQA Guidelines Section 15205 and Section 15206 and was, therefore, circulated for a 20-day public review period. The California black walnut tree is not a State-listed or threatened species necessitating consultation with CDFW. Further, the black walnut is not tracked in the California Natural Diversity Database. According to the most recent January 2023 CDFW update to its listing of special plants, the southern California black walnut is described as "apparently secure; at fairly low risk of extinction or elimination due to an extensive range and/or many populations or occurrences, but with possible cause for some concern as a result of local recent declines, threats, or other factors." That the CDFW has had occasion to comment on the removal of black walnut trees in unrelated projects under materially different facts, such as in the James Street Four (4) Single-Family Residences project discussed by the commenter, does not create a mandate for CDFW review here. It must also be recognized that in those instances where the CDFW has had the opportunity to comment on the California black walnut, such as in the James Street project, the CDFW recommended replacement in the same 1:4 mitigation ratio as recommended in this MND.

As discussed in Section IV, *Biological Resources*, of the MND, no special-status species, or sensitive natural communities, have a potential to occur on-site due to the lack of suitable habitat for wildlife (chaparral, grassland, coastal scrub, etc.) on-site and in the surrounding area. In addition, with respect to tree preservation, the City has a tree preservation policy that protects all valley oak (*Quercus lobata*), California live oak (*Quercus agrifolia*), other native oak species, southern California black walnut (*Juglans californica*), western sycamore (*Platanus racemosa*), and California bay (*Umbellularia californica*) trees (Ordinance 177404, 2006). Scrub oak (*Quercus dumosa*) is excluded from this tree ordinance. As discussed in the Arborist Report (Appendix C to the MND) and the MND, a total of 56 trees are located within the site and an additional two street trees are located at the northern boundary of the site along Plummer Street. Of the 56 on-site trees, four trees are dead and would be removed along with an additional 41 trees consisting of nine protected native trees and 32 non-protected significant trees. The southern California black walnut is protected by the City's tree ordinance. Consistent with that ordinance, the project would replace all removed protected native trees or shrubs on a 1:4 ratio and all removed non-protected significant trees on a 1:1 ratio. This replacement ratio will be maintained even though the existing southern California black walnut trees are currently located on a disturbed site in an urban environment and are not in native undisturbed woodland. The project would additionally retain 13 existing trees on the site, including 12 non-protected significant trees (two of which are street trees) and one protected native tree. Accordingly, with implementation of Mitigation Measure BIO-2a (Avoidance and Minimization Measures for Protected and Non-Protected Significant Trees) and BIO-2b (Measures for Replacement of Protected and Non-Protected Significant Trees), impacts to non-protected significant trees and protected native trees would be less than significant.



Response 9

The commenter states that, based on their letter, the MND fails to disclose and mitigate impacts and, therefore, the Conditional Use Permit (CUP) to allow development of a public school in the RA-1 zone cannot be approved by the City per Section 12.24.E. of the LAMC. The commenter states that the project will adversely affect public health due to its proximity to I-405, will adversely affect adjacent properties due to unmitigated noise impacts, and does not comply with Community Plan policies due to lack of consultation with the LAPD.

A school is a permitted use under the RA-1 zone with approval of a Conditional Use Permit, which is included as part of project entitlements. With respect to Section 12.24.E. of the LAMC, and prior to approval of a CUP, the City must find that (1) the project will enhance the build environment in the surrounding neighborhood or will perform a function/service that is essential or beneficial to the community, city or region; (2) the project's location, size, height, operations and other features will be compatible with and not adversely affect or degrade the public health, welfare, and safety of surrounding neighborhood; and (3) the project conforms with the purpose, intent, and provisions of the General plan and any other applicable plan. The analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level. The commenter's additional key concerns, including those related to health risks and police protection, are addressed under Responses 4 through 10. The project would not result in significant impacts such that the CUP cannot be approved by the City.

Response 10

The commenter states that the MND's air quality analysis ignores that the project site is in Census Tract 6037117201, a designated disadvantaged community under Senate Bill 535. The commenter states that the Tract is in the top 10th percentile of communities impacted by DPM, the top 6th percentile of communities impacted by traffic, and the top 5th percentile of communities impacted by ozone in the State of California. The commenter adds that, given the project's location in a disadvantaged community burdened by exposure to harmful air contaminants, the project cannot be found to not impact the public health, welfare, and safety of students and staff on-site. The commenter requests that the City reanalyze the air quality and health impacts in an EIR and include a statement of overriding considerations to justify the use of the site.

The impacts from the project on the community is the focus of the analysis under CEQA. Nonetheless, there are known impacts from the community that have the potential to impact on-site students and staff. The project site is in the South Coast Air Basin (SCAB), which is under the jurisdiction of the SCAQMD. As the local air quality management agency, the SCAQMD is required to monitor air pollutant levels to ensure that State and federal air quality standards are met and, if they are not met, to develop strategies to meet the standards. The SCAQMD is in nonattainment for the federal standards for ozone and PM_{2.5} and the state standards for ozone, PM₁₀, and PM_{2.5}. Areas of the SCAB located in Los Angeles County are also in nonattainment for lead. The SCAB is designated unclassifiable or in attainment for all other federal and state standards. With respect to the pollutants that are in attainment these pollutant concentrations throughout the basin are below the ambient air quality standards which were established by the State and federal government to protect health and safety of the population.

With respect to the pollutants where the basin is not in attainment, the SCAQMD has implemented the AQMP which has numerous strategies that are intended to reduce ambient pollution within the Basin and will help to reduce air pollution in disadvantaged areas such as where the project site is located.



Some of the main concerns raised by the commentor are DPM and traffic as well as ozone. Ozone precursors, emissions from traffic, as well as DPM will be reduced throughout the Basin with the transition from fossil fuel vehicles to electric vehicles as well as the elimination of natural gas in residential and some non-residential land uses. These will all help to reduce pollution exposure to the basin entirely, as well as the students and staff of the project site.

With respect to TAC emissions and specifically pollutant exposure from the proximity to the freeway, as discussed under Responses 4.2 and 4.3, the project would not be substantially adversely impacted by its proximity to the few identified source facilities in the SCAQMD's FIND database, nor from its proximity to the freeway. While located in a disadvantaged community, the project would not expose on-site students and staff to significant impacts.

Response 11

The commenter states that for the reasons included in their letter, the MND is inadequate under CEQA and substantial evidence supports the "fair argument" that the project has multiple significant, unmitigated impacts. The commenter states that the City may not lawfully approve the project until it prepares and circulates an EIR.

Refer to Response 1 for a description of the circumstances in which an MND is prepared under CEQA, and as outlined under CEQA Guidelines Sections 15064, 15070 and 15369.5. With respect to the proposed project, mitigation measures have been identified for potentially significant impacts disclosed in the MND based on substantial evidence, including all investigations and associated project modeling in the Air Quality and Greenhouse Gas Study, Health Risk Assessment, Arborist Report, Cultural Resources Assessment Report, Phase I and Phase II ESA, Asbestos Survey, Noise and Vibration Study, and Transportation Assessment. The analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level. The commenter's additional key concerns, including those related to health risks and police protection, are addressed under Responses 4 through 10. Therefore, preparation of an EIR is unwarranted.

Conclusion

Comments provided on behalf of CREED LA are addressed in this letter and do not raise any concerns regarding significant impacts that have not been identified and mitigated or would otherwise substantially change the conclusions of the MND.

Sincerely,
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- Attachment 1 CREED LA Comment Letter**
- Attachment 2 MSAT Spreadsheet Calculations**



Attachment 1

CREED LA Comment Letter

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December 14, 2022

Via Email and Overnight Mail

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Re: Comments on the Mitigated Negative Declaration for the Valor Elementary School Project (ENV-2022-5866-MND)

Dear Ms. Ahn:

On behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we respectfully submit these comments on the City of Los Angeles' ("City") Mitigated Negative Declaration¹ ("MND") prepared for the Valor Elementary School Project (ENV-2022-5866-MND) ("Project") proposed by Bright Star Schools ("Applicant") and prepared pursuant to the California Environmental Quality Act ("CEQA")² by the City of Los Angeles ("City").

The Project proposes to construct a one and two-story, 26.5-foot-tall, elementary school building with 28 classrooms, totaling 23,538 square-feet. for grades transitional kindergarten ("TK") through 4; a 3,182 square-foot multi-purpose room, administrative spaces, corridors, storage spaces, and covered outdoor dining, and a surface parking lot with an ingress/egress driveway off Plummer Street.³ The elementary school building would have a total building area of 34,755 sf and would accommodate a maximum enrollment of 552 students. The Project would also include 30,726 sf of open space and landscaping, including two play areas totaling 13,060 square-feet.

¹ City of Los Angeles, Mitigated Negative Declaration, Valor Elementary School Project ("MND") Case No: ENV-2022-5866-MND (November 2022) available at <https://planning.lacity.org/odocument/4665dfef-ecad-42b5-80b6-575ca5e17851/ENV-2022-5866.pdf>

² Public Resources Code § 21000 *et seq.*; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 *et seq.*

³ MND, p. 1.
L6402-005j

The Project site located at 15526-15544 Plummer Street, Los Angeles, CA 91343, on Assessor Parcel Numbers (“APN”) 265-601-5007 and 265-601-5008, which are approximately 1.30 acres in size, and 0.76 acre in size respectively. The 1.30-acre parcel is currently undeveloped and covered with grasses, shrubs, and various mature trees, and the 0.76-acre parcel is currently developed with a one-story single-family residence with similar vegetation as the larger parcel. The site contains 56 trees/shrubs (including nine protected native trees/shrubs and 32 non-protected significant trees), and two street trees.

Our review of the MND demonstrates that the MND fails to comply with CEQA. As explained more fully below, the MND fails to accurately disclose the extent of the Project’s potentially significant impacts on air quality, public health, hazards, public services, and noise. There is more than a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. The City may not approve the Project until the City prepares an Environmental Impact Report (“EIR”) that adequately analyzes the Project’s potentially significant impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts. As a result of these deficiencies, the City also cannot make the requisite findings to approve the Project under the City’s municipal code.⁴

These comments were prepared with the assistance of environmental health, air quality, and GHG expert Dr. James Clark, Ph.D., and noise expert Ani Toncheva of Wilson Ihrig. Comments and curriculum vitae of Dr. Clark are attached to this letter as Attachment A.⁵ Ms. Toncheva’s comments and curriculum vitae are included as Attachment B.⁶ Attachments A and B are fully incorporated herein and submitted to the City herewith. Therefore, the City must separately respond to the technical comments in Attachments A and B.

For the reasons discussed herein, and in the attached expert comments, CREED LA urges the City to remedy the deficiencies in the MND by preparing a legally adequate EIR and recirculating it for public review and comment.⁷

⁴ Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

⁵ **Attachment A:** Comments on Valor Elementary School Project (December 13, 2022) (“Clark Comments”).

⁶ **Attachment B:** Comments on Valor Elementary School Project (December 14, 2022) (“Toncheva Comments”).

⁷ 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.

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 proceed in a manner that minimizes public and worker health and safety risks, avoids, or mitigates environmental and public service impacts, and fosters long-term sustainable construction and development opportunities. The association includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State of California, along with their members, their families, and other individuals who live and work in the Los Angeles region.

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 educational 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.

II. AN EIR IS REQUIRED

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.⁸ “CEQA’s fundamental goal [is] fostering informed decision-making.”⁹ “The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind.”¹⁰

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.¹¹ The EIR is the very heart of CEQA.¹² The EIR acts like an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.”¹³ The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project’s significant environmental effects through implementing feasible mitigation measures.¹⁴ The EIR also serves “to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action.”¹⁵ Thus, an EIR “protects not only the environment but also informed self-government.”¹⁶

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.”¹⁷ The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project’s significant environmental effects through implementing feasible mitigation measures.¹⁸ In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process” by allowing the agency to dispense with the duty to

⁸ 14 Cal. Code Regs. (“CEQA Guidelines”) § 15002, subd. (a)(1).

⁹ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.

¹⁰ *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.

¹¹ See, e.g., Pub. Resources Code, § 21100.

¹² *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.

¹³ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.

¹⁴ Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).

¹⁵ *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.

¹⁶ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

¹⁷ Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.

¹⁸ Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).

prepare an EIR, negative declarations are allowed only in cases where there is not even a “fair argument” that the project will have a significant environmental effect.¹⁹

Under the fair argument standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.²⁰ The phrase “significant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”²¹ In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated negative declaration.²² A mitigated negative declaration, however, is subject to the fair argument standard. Thus, an MND is inadequate, and an EIR is required, whenever substantial evidence in the record supports a “fair argument” that significant impacts may occur, even with the imposition of mitigation measures.

The “fair argument” standard is an exceptionally “low threshold” favoring environmental review in an EIR rather than a negative declaration.²³ The “fair argument” standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.²⁴ As a matter of law, substantial evidence includes both expert and lay opinion.²⁵ Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.²⁶ Under the “fair argument” standard, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

3 cont.

¹⁹ *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.

²⁰ Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

²¹ Pub. Resources Code, § 21068.

²² Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).

²³ *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

²⁴ CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th at 931.

²⁵ Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).

²⁶ *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.

III. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT IMPACTS REQUIRING AN EIR AND THE CITY LACKS SUBSTANTIAL EVIDENCE TO RELY ON AN MND

4

A. There is a Fair Argument that the Project May Result in Significant, Unmitigated Health Risk Impacts

1. The City Failed to Proceed in the Manner Required by Law By Failing to Conduct a Preliminary Endangerment Assessment Pursuant to the California Education Code.

The MND includes a Phase I environmental site assessment (“ESA”) report that identifies several recognized environmental conditions (“REC”) and concludes that a Phase II ESA be completed for the site.²⁷ While a Phase II ESA was completed for the Project site, the City failed to conduct a Preliminary Endangerment Assessment as required under the California Education Code.²⁸

The Education Code outlines a three-step process in assessing whether there has been a release of hazardous waste at a school site consisting of Step 1. Phase I ESA, Step 2. PEA, and Step 3. Response action.²⁹ The PEA required by Step 2 requires consultation with the Department of Toxic Substances Control (“DTSC”) and to enter into an Environmental Oversight Agreement with DTSC, then contract with a qualified environmental consultant to prepare an assessment according to DTSC guidelines.³⁰ Here, the City failed to consult with DTSC in violation of the Education Code. Additionally, based on the results of the Phase I completed for the Project, there is a fair argument that if the City had consulted with DTSC, a PEA would be required. The City must retract the MND and proceed with consultation with DTSC to prepare a PEA for the Project.

4.1

2. The MND Fails to Disclose and Analyze the Potentially Significant Health Risk to Students and Staff from Air Emissions Released from Adjacent Sites

The MND fails to disclose the potential health impacts of placing schoolchildren next to existing sources of pollution located adjacent to the Project

4.2

²⁷ MND, Appendix F, p. v.

²⁸ Ed. Code §17213.1(a)(4)(B).

²⁹ See Ed. Code §§17213.1(a), 17213.1(a)(4), 17213.1(a)(7)

³⁰ Ed. Code §17213.1(a)(4)(B).

site. Dr. Clark found that there are a number of sources that emit toxic air contaminants including VOCs, diesel exhaust, and particulate matter permitted by the South Coast Air Quality Management District (“SCAQMD”) surrounding the Project site.³¹ According to the SCAQMD’s Facility Information Detail (“FIND”) website, there are at least 6 different permitted sites within ½ mile of the Project Site as seen in Figure 5 of Dr. Clark’s comments.³² The MND completely ignores these potential sources of pollution in its air quality analysis and as such fails as an informational document under CEQA.

4.2 cont.

3. There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Health Risks from Exposure to Freeway Emissions

The MND’s statement that that health risks are less than significant is unsupported because the MND omits an analysis of several sources of pollution, resulting in underestimated emissions calculations. Dr. Clark reviewed the additional sources, and concludes that, when considered with the other emissions identified in the MND, the resulting health impacts on schoolchildren may be significant. The Project’s health risk impacts must be accurately disclosed, analyzed, and mitigated in an EIR.

4.3

An agency must support its findings of a project’s potential environmental impacts with concrete evidence, with “sufficient information to foster informed public participation and to enable the decision makers to consider the environmental factors necessary to make a reasoned decision.”³³ A project’s health risks “must be ‘clearly identified’ and the discussion must include ‘relevant specifics’ about the environmental changes attributable to the Project and their associated health outcomes.”³⁴

Dr. Clark found that the MND’s health risk analysis is little more than a screening assessment of impacts based on unverifiable data. Additionally, he found the Project will result in a significant health risk to the students and staff at the Project site.

³¹ Clark Comments, p. 7.

³² Clark Comments, p. 7.

³³ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.

³⁴ *Id.* at 518.

First, Dr. Clark notes that the input files for the Project's HRA were not included in the attachments to the HRA.³⁵ The Project's HRA states:

TAC emissions associated with vehicle traffic on I-405 were estimated based on the methodology and spreadsheet developed by the UC Davis-Caltrans Air Quality Project, Estimating Mobile Source Air Toxics Emissions [MSAT]: A Step-By-Step Project Analysis Methodology (2006). This spreadsheet was designed to estimate the total amount of the six pollutants of concern discussed in Section 2.2, Toxic Air Contaminants, based on total organic gases emission factors and diesel particulate emission factors from EMFAC2021... The spreadsheet outputs from the UC Davis-Caltrans MSAT model and composite emission rates are contained in Appendix A.³⁶

However, these spreadsheets were not included with the HRA and as such act as a black-box precluding analysis of the sufficiency of the HRA by preventing validation of the HRA model inputs.³⁷

Dr. Clark used the same input parameters listed in the AERMOD input file utilized in the HRA for the Project and found that I-405 produces concentrations of TACs at the Project Site that are 1.5 times higher than presented in the HRA, resulting in a significant, unmitigated impact.³⁸

Additionally, while reviewing the AERMOD model inputs used in the HRA, Dr. Clark found that the AERMOD analysis relies on source terms from a model that is not commonly used to assess emissions from freeways and excludes components in the analysis including the actual assumed emission rate of each chemical of concern ("COC") from each class of vehicle moving along I-405. By using an uncommon methodology and omitting the spreadsheets necessary to verify the HRA, the City fails to adequately analyze the Project's health risk impacts.

Finally, according to Dr. Clark, analyses of health risks from I-405 emissions feature a critical flaw leading to inaccurate estimations of Project emissions. The MND's AERMOD modeling calculations of ground-level concentrations of DPM fail to account for building downwash, which occurs when the wind flows over and around buildings and impacts the dispersion of pollution from nearby sources.³⁹ The

4.3 cont.

³⁵ Clark Comments, p. 8.

³⁶ MND, Appendix B, PDF p. 12.

³⁷ Clark Comments, p. 9.

³⁸ Clark Comments, p. 9.

³⁹ Clark Comments, p. 31.

MND's air quality analysis fails to explain why building elevations were not considered in the HRA. An updated HRA that accounts for elevation differences must be prepared and included in an EIR.

4.3 cont.

The City must prepare a new HRA that properly identifies the inputs and methodology used to calculate the operational health risk of the Project.

B. The City Lacks Substantial Evidence to Support the MND's Conclusion that Noise Impacts Would Be Less Than Significant with Mitigation

The CEQA Guidelines require an MND to consider "whether a project would result in...[g]eneration of a substantial temporary or periodic increase in ambient noise levels in the vicinity of the project . . ." ⁴⁰ The MND's noise analysis fails to accurately disclose the Project's potentially significant noise impacts and fails to mitigate them. Ms. Toncheva concludes that the Project's construction and operational noise impacts remain significant and unmitigated notwithstanding the mitigation measures proposed in the MND. Ms. Toncheva's comments provide substantial evidence supporting a fair argument that an EIR is required to accurately disclose and mitigate these impacts.

5

1. The MND Fails to Establish an Adequate Baseline to Measure Project Noise Impacts.

CEQA directs a lead agency to find that a Project would result in a significant impact if the Project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. ⁴¹ In order to establish a baseline to measure noise impacts it is common practice to conduct measurements of ambient noise at locations surrounding a proposed project. Here, the MND's noise impact analysis is based on two measurements of only 15 minutes each ⁴² and one 14-hour long-term measurement on May 25th and 26th. ⁴³ Ms. Toncheva explains that the limited data collected to evaluate the Project's noise impacts may not be representative of the loudest times of day because the noise environment is affected by transportation sources that can change from hour to hour and day to day. ⁴⁴ Ms. Toncheva states

5.1

⁴⁰ CEQA Guidelines, Appendix G, Sec. XII(d).

⁴¹ CEQA Guidelines, Appendix G.

⁴² MND, p. 102.

⁴³ MND, p. 103.

⁴⁴ Toncheva Comments, p. 1.

that best practices call for documentation of the existing condition with measurements at different times over several days.⁴⁵ Furthermore, the long-term noise measurement purports to document these changes, but the measurement was taken from the back of the project site where it is partially shielded from both nearby streets and does not capture traffic patterns at residences close to Plummer Street.⁴⁶ Ms. Toncheva found that the short-term Leq at location ST-1 is more than 10 dB higher than the same time frame at LT-1.⁴⁷ Therefore, the long term measurement taken for the Project's noise analysis are not representative of the noise environment surrounding the Project.

5.1 cont.

Ms. Toncheva states in her comments that higher baseline noise levels at the residences on Plummer Street would result in a noise environment that exceeds the normally acceptable CNEL levels for single-family homes per the Land Use and Noise Compatibility Matrix.⁴⁸ The City must prepare an updated baseline analysis that incorporates noise measurements taken at locations surrounding the Project site over a multi-day period in order to properly establish the baseline used in the noise analysis.

2. The MND Fails to Analyze Impacts to All Relevant Noise-Sensitive Receptors

The MND fails to accurately analyze the severity of construction noise impacts on sensitive receptors because it relies on incorrect distances between on-site noise sources and off-site receptors. Ms. Toncheva explains that this error is due to the MND's failure to properly acknowledge how construction sites operate in the MND's selection of where to measure noise levels in relation to sensitive receptors.

5.2

The construction noise calculations use a minimum receptor distance of 50 feet, per the cited LAMC threshold. However, multiple phases of ongoing construction activity, including grading work, may be as close as 6 feet from the adjacent residences, resulting in higher Lmax levels (108 dB).⁴⁹

⁴⁵ Toncheva Comments, p. 1.

⁴⁶ Toncheva Comments, p. 1.

⁴⁷ Toncheva Comments, p. 1.

⁴⁸ Toncheva Comments, p. 1. *see also* MND, p. 105.

⁴⁹ Toncheva Comments, p. 2.

Ms. Toncheva modeled the Project's construction noise at 15516 Plummer Street, which is a single-family residence adjacent to the project site and 6 feet east of the project boundary, using the Federal Highway Administration's ("FHWA") Roadway Construction Noise Model ("RCNM") and found that the Project would result in a 30+ dBA increase over the MND noise threshold during construction⁵⁰

5.2 cont.

Given this failure of analysis the MND failed to accurately assess the severity of the Project's noise impacts on all sensitive receptors, and fails to adequately mitigate them. The City must prepare an EIR to accurately analyze and mitigate these impacts.

3. Mitigation Measures Fail to Reduce Noise Impacts Below Levels of Significance

The MND concludes that noise impacts will be less than significant with implementation of mitigation measure RCM-1, which requires that a barrier be erected during construction.⁵¹ However, this measure is less effective than asserted in the MND. Ms. Toncheva notes that the 12-foot barrier would result in a dBA reduction of 15, which will not be enough to reduce the impacts to nearby sensitive receptors to non-significant levels.⁵²

5.3

Ms. Toncheva found that the mitigation offered by the MND is wholly insufficient. She explains that a reduction of even 15 dBA (the maximum reduction that mitigation measure RCM-1 would provide) is inadequate to mitigate noise impacts at the nearby residences of the Project.⁵³ Ms. Toncheva explains that these errors were the result of the City's reliance on the incorrect interpretation of Municipal Code noise standards, as discussed above. As a result, the noise mitigation proposed in the MND will be ineffective to reduce noise impacts below levels of significance and is not adequate to support a finding of no significant impact with mitigation.

4. The MND Fails to Analyze Operational Noise Impacts

The MND does not provide a quantitative analysis for noise from on-site operations such as activity in the play area, trash-hauling, or traffic noise and other activity during pick up/drop off along the driveway directly adjacent to residences.

5.4

⁵⁰ Toncheva Comments, p. 3.

⁵¹ MND, pp. 108-109.

⁵² Toncheva Comments, p. 2.

⁵³ Toncheva Comments, p. 2.

Ms. Toncheva notes that these activities may result in an increase of 5 dB or more over the ambient, resulting in a significant impact. The City must conduct a quantified noise analysis to determine if additional mitigation measures are necessary to reduce the Projects potentially significant operational noise impacts.

5.4 cont.

C. The MND Fails to Analyze and Mitigate the Project's Potentially Significant Energy Impacts

The MND is inadequate as an environmental document because it fails to properly disclose, analyze, and mitigate the Project's potentially significant impacts on energy use. The City cannot approve the Project until an EIR is prepared and circulated to resolve these issues and comply with CEQA's requirements. Namely, the City's construction energy analysis fails to quantify and adequately assess the Project's energy consumption impacts during Project construction.

The MND states that Project construction energy use would result through the consumption of gasoline and diesel fuel. The energy use analysis does not analyze electricity use from the existing power grid despite the requirement under mitigation measure AQ-1 which stipulates that "[e]lectricity shall be supplied to the site from the existing power grid to support the electric construction equipment."⁵⁴ Electricity use from the existing power grid is not included or analyzed in the Project's construction energy use analysis. As a result, the MND lacks substantial evidence to conclude that construction-phase impact related to energy consumption would be less than significant.⁵⁵

The City must revise the construction energy use analysis to include the expected electricity use and include the results of the analysis in an EIR.

D. The MND Fails to Account for the Public Services That Will Be Needed to Support the Project

An MND must consider the effect of changes to the environment that can result from the expansion of services.⁵⁶ Here, the MND states that the Project would not place an unanticipated burden on police protection services.⁵⁷ However, the MND fails to include any information or analysis on how this conclusion was reached.

⁵⁴ MND, p. 48.

⁵⁵ MND, p. 63.

⁵⁶ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.

⁵⁷ MND, p. 116.

Additionally, the Project is within the Mission Hills-Panorama City-North Hills Community Plan (“Community Plan”) Area which includes goals and objectives to ensure proper police protection of new developments.⁵⁸ The Community Plan includes the following policies and related programs that are applicable to the Project:

- 8-2.2 Ensure that landscaping around buildings be placed so as not to impede visibility.
 - Program: Discretionary land use reviews and approvals by the Department of City Planning with consultation from the Los Angeles Police Department.
- 8-2.3 Ensure adequate lighting around residential, commercial, and industrial buildings in order to improve security.
 - Program: Discretionary land use reviews and approvals by the Department of City Planning with consultation from the Los Angeles Police Department.⁵⁹

Policies 8-2.2 and 8-2.3 both include a program requirement that consultation be completed with LAPD as part of a project’s land use review process in order to ensure the safety of the future occupants of a project, in this case children and teachers primarily. However, the MND does not include any analysis of the Project’s conformance with the Community Plan and provides no evidence that the required consultation has been completed. Instead, the MND states that the “Project would comply with all applicable regulations required by the LAPD during the plan check process.”⁶⁰

This approach improperly defers required analysis of the Project’s potential impacts to public services that may be uncovered during LAPD’s review of the Project and defers mitigation measures that may be required through consultation with LAPD. As a result, the MND fails to demonstrate consistency with mandatory public protection policies in the Community Plan, in violation of CEQA and land use law.

⁵⁸ City of Los Angeles, Mission Hills-Panorama City-North Hills Community Plan (1999) p. III-16, available at https://planning.lacity.org/odocument/fee68461-843f-48da-92e9-49a01d1f09e3/Mission_Hills-Panorama_City-North_Hills_Community_Plan.pdf

⁵⁹ Community Plan, p. III-16.

⁶⁰ MND, p. 116.

For example, LAPD's review of the project may find that additional lighting is necessary for the Project to protect the students and staff, this would in turn increase the Project's energy use and GHG impacts. Similarly, consultation with LAPD may require alteration to the Project's landscaping plan changing the number of protected trees and shrubs to be replaced resulting in nonconformance with the City's tree protection policies.⁶¹ The MND is silent on these issues.

Given the massively significant impacts that crime, violence, and shootings at schools have wreaked on American children and their families in recent years, it is incumbent on the City to take every feasible step to ensure that schools are built safely and in compliance with all Police Department land use policies. The MND's failure to demonstrate compliance with Policies 8-2.2 and 8-2.3 is inexcusable.

The City failed to proceed in the manner required by law by failing analyze consistency with the Community Plan's public protection policies and lacks substantial evidence to support its conclusion that the Project's public services impacts would be less than significant. The City must complete the required consultation with LAPD and analyze the environmental impacts of any required Project design changes to the Project in an EIR.

E. The MND Fails to Mitigate Potentially Significant Impacts to Protected Species and Failed to Consult with Responsible Wildlife Agencies

The MND states that the Project would result in the removal of 9 protected native trees and 32 non-protected significant trees.⁶² Eight of the protected trees to be removed are Southern California black walnut trees [*Juglans californica*] which are listed by the California Department of Fish and Wildlife in the California Natural Diversity Database ("CNDDB") on the Special Vascular Plants, Bryophytes, And Lichens List⁶³ and recognized by the United States Department of Agriculture as "severely threatened by urbanization. According to the USDA, the Nature Conservancy, in cooperation with the state of California, is giving high priority to acquiring vegetative/habitat data on the woodland and is listed as one of

⁶¹ "[P]rotected tree/shrub removals would be replaced at a 1:4 ratio by planting 36 trees on-site. Non-protected tree removals would be replaced at a 1:1 ratio by planting 32 trees on-site." MND, p. 20

⁶² MND, p. 54.

⁶³ California Department of Fish and Wildlife, Biogeographic Data Branch, California Natural Diversity Database, Special Vascular Plants, Bryophytes, And Lichens List (October 2022) available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>
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7 cont.

8

California's rare and imperiled natural communities.⁶⁴ CDFW regularly provides comments on projects that deal with removal of South Coast black walnut. However, it is not clear whether the CDFW was consulted as a trustee agency for this Project.

Under CEQA, a project that affects the habitat of an endangered, rare, or threatened species is considered to be a project of statewide significance that requires state agency review of a CEQA document prepared for the project.⁶⁵ In addition, when preparing its CEQA document, the lead agency must consult with CDFW and obtain written findings from CDFW on the impact of the project on the continued existence of any State-listed endangered or threatened species.⁶⁶

The CDFW regularly provides substantive comments and recommendations to the City regarding the removal of South Coast black walnut trees. For example, a recent City of Los Angeles project, The James Street Four (4) Single-Family Residences, Case Number: ENV-2018-1130-MND⁶⁷, which required the removal of 11 Southern California Black Walnut trees did include consultation with the CDFW resulting in the following recommended mitigation measures:

- Mitigation Measure #2: CDFW recommends the City work with a certified arborist familiar with Southern California black walnut tree life history to update the Protected Tree Report and Tree Locations on Project Landscaping Plan for 434, 438, and 442 West James Street. Specifically, CDFW recommends modifying the plans to reflect a total of 20 replacement Southern California black walnut trees appropriately spaced to accommodate growth horizontally, vertically, and laterally below ground. CDFW also recommends that each landscaping plan and/or Protected Tree Report be updated to disclose/provide planting instructions specifying appropriate spacing between each replacement tree.⁶⁸

8 cont.

⁶⁴ U.S.D.A., Fire Effects Information System, Index of Species Information, *Juglans californica*, available at <https://www.fs.usda.gov/database/feis/plants/tree/jugcal/all.html>

⁶⁵ 14 CCR § 15206(b)(5). "A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by Section 15380 of this Chapter."

⁶⁶ PRC § 21104.2.

⁶⁷ City of Los Angeles, James Street Four (4) Single-Family Residences MND, SCH 2020100088 (October 6, 2020) available at <https://ceqanet.opr.ca.gov/2020100088/2>

⁶⁸ California Department of Fish and Wildlife, Letter re James Street Four (4) Single-Family Residences, MND, SCH #2020100088, City of Los Angeles, Los Angeles County (November 9, 2020) p. 3. available at https://files.ceqanet.opr.ca.gov/265078-2/attachment/cjEnN_Le0w7OINF2hj_LUpX0DG-Af32QhutP1XGnwh8DFEvrYlyXncLOILCv5RJD4GRhuEoXopL13p0
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- Mitigation Measure #3: CDFW recommends that trees planted for mitigation be monitored, maintained, and inspected as described in the Protected Tree Report. CDFW recommends long-term monitoring, maintenance, and inspection until all planted trees survive to produce reproductive structures (i.e., catkins).⁶⁹
- Mitigation Measure #4: If the City observes changes, stress, or failure of planted Southern California black walnut trees, as recommended in the Protected Tree Report, CDFW recommends consulting with a certified arborist or tree specialist to assess the tree and provide specific recommendations. There should be no net loss of Southern California black walnut trees. If any replacement trees fail, CDFW recommends City replace those trees until a minimum of 20 total trees survive to produce catkins.⁷⁰

8 cont.

The City failed to submit the MND to the State Clearinghouse (“SCH”) and consult with CDFW as a trustee agency, as required under CEQA. When questioned by the California Office of Planning and Research why the Project was not submitted to the SCH, the City’s internal email exchange shows that they determined that the Project was not affected by CCR §§ 15205 and 15206.⁷¹ The City has violated CEQA by failing to submit the MND to the SCH and failing to consult with CDFW.

IV. THE CITY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT’S LOCAL LAND USE PERMITS

A. The City Cannot Approve the Project’s Conditional Use Permit

The Project seeks approval of a Conditional Use Permit to allow development of a public school in the RA-1 zone (“CUP”) pursuant to LAMC § 12.24.⁷² The MND fails to accurately disclose and mitigate significant impacts, as discussed herein. Therefore, the Project currently fails to meet the LAMC requirements to obtain a CUP. LAMC § 12.24(E) requires the following findings be made to approve the CUP:

- (1) that the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;

⁶⁹ *Id.*, at p. 4

⁷⁰ *Ibid.*

⁷¹ **Exhibit C:** Email from Maria Reyes, City of Los Angeles to Esther Ahn, City of Los Angeles, re: SCH Number (New SCH Number), (November 22, 2022).

⁷² LAMC § 12.24(U)(24).
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- (2) that the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and
- (3) that the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

9 cont.

The Project as analyzed above **will** adversely affect public health due to the Project's proximity to I-405 and the unmitigated impacts to future students and school staff, **will** adversely affect adjacent properties due to unmitigated noise impacts and, and **does not** comply with the applicable community plan by failing to consult with LAPD prior to Project approval.

Additionally, the MND's analysis of air quality ignores substantial evidence that the Census Tract 6037117201, which contains the Project site, is a designated disadvantaged community under Senate Bill 535.⁷³

Census tract 6037117201 is in the top 10th percentile of communities impacted by diesel particulate matter, the top 6th percentile of communities impacted by traffic, and the top 5th percentile of communities impacted by ozone in the State of California.⁷⁴ The City must reanalyze the air quality and health risk impacts of the Project and consider the public well-being of this already burdened community in an EIR. Given the Project's location in a region with one of the nation's worst records for air quality, in a disadvantaged community already overly burdened by exposure to harmful air contaminants, it is impossible to find that the Project is consistent with the Municipal Code. The Project cannot be found to not adversely affect the public health, welfare and safety of students and staff present at the Project site. The City must prepare an EIR that includes a statement of overriding considerations to justify the use of the Project site.

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⁷³ California Office of Environmental Health Hazard Assessment, SB 535 Disadvantaged Communities (2022) available at <https://oehha.ca.gov/calenviroscreen/sb535>

⁷⁴ Clark Comments, p. 4.
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V. CONCLUSION

For the reasons discussed above, the MND for the Project remains wholly inadequate under CEQA. There is substantial evidence supporting a fair argument that the Project has numerous potentially significant, unmitigated impacts. The City must prepare and circulate an EIR to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. Until the City prepares an EIR, the City may not lawfully approve the Project.

11

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

Sincerely,



Kevin Carmichael

KTC:lj1



Attachment 2
MSAT Spreadsheet Calculations

Emissions Calculations - I-405

AADT	AADT per direction	Caltrans Truck %	Number daily trucks	Diesel Truck *	Gas Truck *	LD Vehicles	LD Diesel **	All Gas
194,000	97,000	6.40%	6,211	1,603	4,608	90,789	168	95,229

Source: Caltrans Traffic Data Branch, 2020 AADT and Truck Traffic 2020

* "Translation Factors" (the fractions below identify % of trucks that are diesel-powered; they translate Caltrans truck data into an estimate of diesel vehicles)

Diesel Proportion: 25.8%

Non-Diesel Proportion: 74.2%

Translation Factors Source: UC Davis-Caltrans Air Quality Project, Project-Level Mobile Source Air Toxics Analysis

** Light Duty Diesel proportion based on vehicle miles traveled for LDA, LDT1, and LDT2 for Year 2024, South Coast AQMD, EMFAC2021.

Speed (miles/hour)	Truck Diesel Vehicles		Light Duty Diesel Vehicles		All Gas Vehicles
	hot stabilized exhaust PM (grams/mile)	hot stabilized exhaust TOG (grams/mile)	hot stabilized exhaust PM (grams/mile)	hot stabilized exhaust TOG (grams/mile)	hot stabilized exhaust TOG (grams/mile)
65 mph for trucks (TOG), 65 mph for trucks (PM), 65 mph for light duty (TOG), 65 for light duty (PM), 65 for gas (TOG)	0.0271	0.0304	0.0181	0.0288	0.0239

Source: EMFAC2021 Emissions Database

Mobile Source Air Toxics (MSAT) Speciation Factors Based on Proportion In TOG

Analysis Year	Diesel					Non-Diesel				
	Hot Stabilized Exhaust					Hot Stabilized Exhaust				
	benzene	1,3-butadiene	Acetaldehyde	Acrolein	Formaldehyde	benzene	1,3-butadiene	Acetaldehyde	Acrolein	Formaldehyde
2024	0.007320	0.002292	0.034383	0.006088	0.082668	0.034539	0.002295	0.009056	0.000602	0.014238
Total Daily Emissions, g/mi	0.39	0.12	1.84	0.00	4.43	78.52	5.22	20.59	1.37	32.37

Speciation Source: U.S. Environmental Protection Agency Motor Vehicle Emission Simulator (MOVES2014a).

Derivation of Emission Rates for I-405 Sources

Freeway width, one way						
		80.7 feet		24.6 m		5 lanes
Each direction segment at						
		6680.4 feet long		2036.2 m		
Emissions						
I-405 North	Diesel PM	Benzene	1,3-Butadiene	Acetaldehyde	Acrolein	Formaldehyde
grams/mi/day **	46.6	78.92	5.34	22.43	1.37	36.80
lbs/hour/segment	0.005412	0.009172	0.000621	0.002607	0.000159	0.004277
lbs/day/segment	0.129878	0.220126	0.014896	0.062571	0.0038184	0.102644
lbs/year/segment ***	47.405630	80.346104	5.437052	22.838255	1.393719	37.464893
Freeway width, one way						
		80.7 feet		24.6 m		5 lanes
Each direction segment at						
		6676.5 feet long		2035 m		
Emissions						
I-405 South	Diesel PM	Benzene	1,3-Butadiene	Acetaldehyde	Acrolein	Formaldehyde
grams/mi/day **	46.6	78.92	5.34	22.43	1.37	36.80
lbs/hour/segment	0.005408	0.00917	0.000620	0.00261	0.000159	0.00427
lbs/day/segment	0.1298	0.2200	0.0149	0.0625	0.0038	0.1026
lbs/year/segment ***	47.377692	80.298753	5.433848	22.824796	1.392898	37.442814
** Total emissions per mile calculated using the above speciation factors.						
*** Based on 365 day/year						
HARP ID:	9901	71432	106990	75070	107028	50000

Emissions Calculations - I-405
Source: EMFAC2021 (v1.0.2) Emission Rates
Region Type: County
Region: Los Angeles
Calendar Year: 2024
Season: Annual
Vehicle Classification: EMFAC202x Categories
Units: miles/day for CVMT and EVMT, g/mile for RUNEX, PMBW and PMTWT, mph for Speed, kWh/mile for Energy Consumption, gallon/mile for Fuel Consumption. PHEV calculated based on total VMT.

Region	Calendar	Vehicle C	Model Yea	Speed	Fuel	Total VMT	CVMT	EVMT	Nox_RUN	PM2.5_RU	PM10_RUNEX	Weighted PM10	CO2_RUNEX	CH4_RUN	N2O_RUN	ROG_RUN	TOG_RUN	Weighted TOG	CO_RUNEX	Sox_RUNEX	NH3_RUN	PM10_PMI	PM2.5_PM	Fuel Cons	Energy Co
Heavy Duty Truck																									
Los Angeles	2024	All Other B	Acquireate	65	Diesel	7683.217053	7683.217	0	1.914505	0.054333	0.056789962	0.000414281	1117.470561	0.003458	0.176058	0.074446	0.084751	0.000618254	0.233258649	0.010581778	0.201006	0.041585	0.014555	0.110036	0
Los Angeles	2024	LHD1	Aggregate	65	Diesel	161519.3527	161519.4	0	1.17584	0.016533	0.017280193	0.002650045	454.80658	0.003024	0.071655	0.065108	0.074121	0.011366963	0.203649328	0.004309523	0.183324	0.078	0.0273	0.044784	0
Los Angeles	2024	LHD2	Aggregate	65	Diesel	71542.48291	71542.48	0	1.021768	0.016345	0.017084089	0.001160475	536.1238873	0.002882	0.084467	0.062053	0.070644	0.004798636	0.17126518	0.005080046	0.187589	0.091	0.03185	0.052792	0
Los Angeles	2024	MDV	Aggregate	65	Diesel	18143.89778	18143.9	0	0.105583	0.007401	0.007735524	0.00013326	445.2665326	0.000549	0.070152	0.011811	0.013446	0.000231632	0.178207416	0.004219127	0.00301	0.002548	0.000892	0.0043845	0
Los Angeles	2024	MH	Acquireate	65	Diesel	5066.484392	5066.484	0	0.065132	0.013383	0.108057376	0.000519806	949.0087603	0.002313	0.149517	0.049807	0.056702	0.000272762	0.008992324	0.156305	0.004158	0.014555	0.093448	0	
Los Angeles	2024	Motor Coa	Aggregate	65	Diesel	12529.05992	12529.06	0	1.746991	0.033709	0.035233645	0.000419137	1778.845035	0.000691	0.280258	0.014866	0.016524	0.00020133	0.056944445	0.016844599	0.22	0.069327	0.024264	0.175161	0
Los Angeles	2024	SBUS	Aggregate	65	Diesel	974.1402427	974.1402	0	6.989466	0.036966	0.041166934	3.807595E-05	1060.714717	0.002696	0.170267	0.05804	0.066074	6.11128E-05	0.010233722	0.069073	0.041585	0.014555	0.108417	0	
Los Angeles	2024	T6 CAIRP	Aggregate	65	Diesel	164.212637	164.2123	0	0.43117	0.009118	0.009630037	1.48587E-06	1147.943488	0.000464	0.180859	0.009992	0.011376	1.77362E-06	0.035559139	0.00870338	0.218554	0.041585	0.014555	0.113037	0
Los Angeles	2024	T6 CAIRP	Acquireate	65	Diesel	225.4378994	225.4379	0	0.398511	0.007708	0.008058882	1.72454E-06	1148.014973	0.000339	0.18087	0.007288	0.008297	1.77587E-06	0.02926429	0.010871015	0.219686	0.041585	0.014555	0.113044	0
Los Angeles	2024	T6 CAIRP	Aggregate	65	Diesel	587.2065086	587.2065	0	0.359637	0.007945	0.008304705	4.63015E-06	1128.792438	0.000381	0.177842	0.008203	0.009339	5.2066E-06	0.030689911	0.010688989	0.218962	0.041585	0.014555	0.111151	0
Los Angeles	2024	T6 CAIRP	Aggregate	65	Diesel	3697.25346	3697.253	0	0.418189	0.007781	0.008133015	2.85503E-05	1061.397138	0.000311	0.167224	0.006701	0.007629	2.67798E-05	0.029274411	0.010050796	0.22	0.041585	0.014555	0.104515	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	10755.7969	10755.8	0	1.452196	0.027339	0.028575532	0.000291821	1127.730919	0.001894	0.177674	0.040773	0.046417	0.000474028	0.010678937	0.205487	0.041585	0.014555	0.111047	0	
Los Angeles	2024	T6 Instate	Acquireate	65	Diesel	11125.1402	11125.14	0	0.718614	0.013321	0.013923138	0.00014707	1148.375639	0.000744	0.180927	0.016023	0.018241	0.000192678	0.052176588	0.010874431	0.216384	0.041585	0.014555	0.113079	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	34002.43097	34002.43	0	0.840372	0.015161	0.018484346	0.000511587	1140.300086	0.000893	0.179655	0.019227	0.021889	0.000706696	0.01079798	0.215126	0.041585	0.014555	0.112284	0	
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	13643.11663	13643.12	0	0.797101	0.01114	0.011643976	0.000150833	1132.82655	0.000454	0.178859	0.009776	0.011129	0.00014416	0.039770033	0.01072719	0.219972	0.041585	0.014555	0.115458	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	16527.17779	16527.18	0	0.131097	0.025158	0.026295208	0.000412625	1140.126364	0.001685	0.179627	0.036282	0.041305	0.000648154	0.0101674991	0.010796315	0.208608	0.041585	0.014555	0.112267	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	38263.75755	38263.76	0	0.616927	0.010751	0.011237586	0.000408264	1157.241421	0.000545	0.182324	0.011727	0.01335	0.000485009	0.040104224	0.010958384	0.218378	0.041585	0.014555	0.113952	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	34002.80998	34002.81	0	0.862245	0.016244	0.016978181	0.000548133	1149.664249	0.00096	0.18113	0.020675	0.023536	0.000759862	0.064364833	0.010886633	0.214727	0.041585	0.014555	0.113206	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	17083.09804	17083.1	0	0.769574	0.011265	0.011774449	0.00019098	1133.64791	0.00048	0.178607	0.010335	0.011765	0.000190829	0.039776495	0.010734968	0.219889	0.041585	0.014555	0.111629	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	562.1629443	562.1629	0	0.585667	0.010971	0.01146663	6.12038E-06	1150.577192	0.000549	0.181274	0.011826	0.013463	7.18585E-06	0.041006562	0.010895278	0.218196	0.041585	0.014555	0.113296	0
Los Angeles	2024	T6 Instate	Aggregate	65	Diesel	8293.837623	8293.838	0	0.856116	0.011755	0.012286238	0.000179837	1140.300086	0.000893	0.179655	0.019227	0.021889	0.000706696	0.01079798	0.215126	0.041585	0.014555	0.112284	0	
Los Angeles	2024	T6 OOS C	Acquireate	65	Diesel	94.18752716	94.18753	0	0.507062	0.010685	0.011167843	9.98719E-07	1141.878268	0.000596	0.179903	0.012826	0.014602	1.30581E-06	0.042259442	0.010812304	0.217486	0.041585	0.014555	0.11244	0
Los Angeles	2024	T6 OOS C	Aggregate	65	Diesel	129.2083501	129.2084	0	0.414868	0.007997	0.008358722	1.02544E-06	1143.103246	0.000366	0.180096	0.00789	0.008982	1.01019E-06	0.030558552	0.010824504	0.219451	0.041585	0.014555	0.11256	0
Los Angeles	2024	T6 OOS C	Aggregate	65	Diesel	337.6251155	337.6251	0	0.409898	0.009031	0.009439422	3.02594E-06	1120.922788	0.00047	0.176602	0.010125	0.011527	3.69502E-06	0.035489627	0.010614469	0.218192	0.041585	0.014555	0.110376	0
Los Angeles	2024	T6 OOS C	Aggregate	65	Diesel	2454.954423	2454.954	0	0.429863	0.007836	0.008190445	1.90911E-05	1054.336078	0.00031	0.166111	0.006683	0.007608	1.77336E-05	0.029410497	0.009983932	0.22	0.041585	0.014555	0.103819	0
Los Angeles	2024	T6 Public C	Aggregate	65	Diesel	2185.454021	2185.454	0	0.3151178	0.020035	0.020940934	4.34528E-05	1088.628173	0.000997	0.171514	0.021463	0.024434	5.07013E-05	0.074908094	0.010308658	0.151383	0.041585	0.014555	0.107196	0
Los Angeles	2024	T6 Public C	Aggregate	65	Diesel	1499.396301	1499.396	0	0.3167169	0.019524	0.020406618	2.90514E-05	1104.514496	0.000975	0.174017	0.020988	0.023893	3.4015E-05	0.07422468	0.014505992	0.144935	0.041585	0.014555	0.10876	0
Los Angeles	2024	T6 Public C	Aggregate	65	Diesel	1823.243723	1823.244	0	5.24776	0.029746	0.031990989	5.38219E-05	1093.442639	0.001795	0.172722	0.038646	0.043995	7.6161E-05	0.103688768	0.010354248	0.121516	0.041585	0.014555	0.10767	0
Los Angeles	2024	T6 Public C	Aggregate	65	Diesel	10076.98981	10077	0	4.266071	0.026527	0.027726527	0.000265281	1100.089738	0.001467	0.173316	0.031593	0.035966	0.000344113	0.092106287	0.010417003	0.136959	0.041585	0.014555	0.108523	0
Los Angeles	2024	T6 Utility C	Acquireate	65	Diesel	2266.769667	2266.77	0	0.456034	0.007103	0.007424504	1.59792E-05	1104.407261	0.000314	0.174	0.006761	0.007697	1.6566E-05	0.026284854	0.010458076	0.22	0.041585	0.014555	0.10875	0
Los Angeles	2024	T6 Utility C	Aggregate	65	Diesel	426.2686258	426.2686	0	0.468352	0.006848	0.00715734	2.89678E-06	1099.35477	0.000284	0.173204	0.006117	0.006964	2.81841E-06	0.026319164	0.010410232	0.22	0.041585	0.014555	0.108525	0
Los Angeles	2024	T6 Utility C	Aggregate	65	Diesel	591.813256	591.8133	0	0.380419	0.006172	0.006450835	3.62477E-06	1104.927066	0.000239	0.174082	0.005155	0.005869	3.29774E-06	0.024223502	0.010462999	0.22	0.041585	0.014555	0.108801	0
Los Angeles	2024	T7 CAIRP	Aggregate	65	Diesel	111913.3397	111913.3	0	1.524395	0.036727	0.037917753	0.000429068	1545.989617	0.000606	0.243571	0.013042	0.014848	0.00157767	0.041310835	0.014639597	0.22	0.069327	0.024264	0.152232	0
Los Angeles	2024	T7 NNOOF	Acquireate	65	Diesel	133541.3905	133541.4	0	1.462172	0.03451	0.036070386	0.00457348	1529.992184	0.000587	0.241051	0.012631	0.014379	0.00182318	0.035410247	0.014488111	0.22	0.069327	0.024264	0.150657	0
Los Angeles	2024	T7 NNOOS	Aggregate	65	Diesel	48489.01	48489.01	0	1.577713	0.037123	0.037123176	0.001786376	1535.525811	0.00062	0.241923	0.011334	0.011508	0.000991017	0.041904175	0.014540511	0.22	0.069327	0.024264	0.151202	0
Los Angeles	2024	T7 POAK	Aggregate	65	Diesel	10.45546243	10.45546	0	1.226971	0.029062	0.030398853	3.01753E-07	1763.288944	0.000498	0.277807	0.010718	0.012202	1.21129E-07	0.0216636						

Attachment 4

Responses to CREED LA Comment Letter Dated February 21, 2023



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February 23, 2023
Project No. 22-12694

Elijah Sugay
Vice President, Finance & Facilities
Bright Star Schools
600 South La Fayette Park Place, Suite 302
Los Angeles, California 90057

**Subject: Valor Elementary School Project Final IS-MND (ENV-2022-5866-MND),
Responses to CREED LA Comment Letter Dated February 21, 2023**

Dear Mr. Sugay:

Rincon Consultants, Inc. (Rincon) has prepared responses to the follow-up comment letter provided by Kevin Carmichael of Adams Broadwell Joseph & Cardozo law firm on behalf of Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA). The comment letter was received by the City on February 21, 2023 in relation to the responses provided to CREED LA's previous comment letter dated December 14, 2022 regarding the Valor Elementary School Project Mitigated Negative Declaration (MND). The responses to each comment in this document are organized as they are presented in CREED LA's comment letter, which is included as Attachment 1. The topic heading of each of CREED LA's comments is included in quotes (""") as follows.

Responses to Comments

Comment: "The City Must Prepare a Preliminary Endangerment Assessment Pursuant to the California Education Code."

Response: The commenter restates that the City failed to consult with the Department of Toxic Substances Control (DTSC) for preparation of a Preliminary Endangerment Assessment (PEA) per the California Education Code and adds that a charter school is subject to these requirements when it receives funds from the State to construct or improve its buildings under the Charter School Facilities Program (CSFP). The commenter states that Bright Star Schools' 2022-2023 budget audit report reflects that it received Proposition 1D grants which are categorized as "Proposition Construction Revenue" in the budget.

The commenter incorrectly assumes that Bright Star Schools will be using CSFP funds for the project. To clarify, Bright Star Schools has not applied for, and will not be using, CSFP funds for the construction of the proposed project. Therefore, the project continues to be exempt from the California Education Code and any requirement to consult with DTSC. Furthermore, Section IX, *Hazards and Hazardous Materials*, of the MND documents the findings of the Phase I Environmental Site Assessment (ESA), Phase II ESA, and Asbestos Survey, and includes mitigation measures based on the findings of these analyses. Specifically, Mitigation Measure HAZ-1 (Septic Tank Removal) identified in the MND would reduce potential impacts related to the potential encounter and removal of an on-site septic tank to a less than



significant level. Furthermore, the Asbestos Survey Report concluded that, based on sampling of exterior materials associated with the on-site single-family residence, samples of black penetration mastic located at the northeast portion of the roof was identified to have asbestos-containing materials (ACMs). These materials could pose hazardous to the environment during the construction stage of the project, particularly with adaptive reuse of the residence. Therefore, implementation of Mitigation Measure HAZ-2 (Asbestos-Containing Materials) identified in the MND would reduce impacts related to removal of ACMs to a less than significant level. The project would not result in a significant unmitigable impact associated with hazards and hazardous materials.

Comment: “There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Health Risks from Exposure to Freeway Emissions.”

Response: The comment states that the City failed to analyze the background risk from air pollution in the project area and that, with the existing background risk of 413 in one million, the project would exceed the South Coast Air Quality Management District’s (SCAQMD) 100 in one million-significance threshold even with incorporation of MERV filters. The commenter adds that the MND therefore failed to provide sufficient mitigation to reduce risk.

The SCAQMD does not have a cumulative risk threshold of 100 in one million for toxic air contaminants (TAC), or any cumulative threshold for TACs. The SCAQMD project level threshold of 10 in one million applied in the Health Risk Assessment (HRA) prepared for the project, which is also used as the cumulatively considerable threshold, is technically used to address the impacts of the project on the environment. However, the 10 in one million threshold is also used as a numeric threshold to assess risk from the environment on the project (such as exposure to freeways and other permitted TAC sources) since a specific numeric threshold for the effects of the environment on the project has not been adopted by SCAQMD.

As detailed in the HRA (and supplemented in the previous responses to CREED LA’s comments dated December 14, 2022), the risk from Interstate 405 (I-405) is the only known TAC source within 1,000 feet of the project. The 1,000-foot radius for assessing risk has been adopted by numerous air districts, including the SCAQMD, to evaluate the potential risk from a project on the surrounding environment as well as the effects of the environment on the project in the case of siting sensitive receptors (such as a school) in proximity to TAC sources. As identified in the HRA, the risk from the only TAC source within 1,000 feet of the site is 1.97 in one million, which is well below the SCAQMD’s threshold of 10 in one million.

The 413 in one million risk discussed by the commenter is a background risk level that is applied to the entire 91343 zip code in the “MATES V” study referenced by the commenter and is not site specific. As stated previously, the SCAQMD does not have a numeric cumulative threshold for health risk or any other pollutant, and their project level thresholds were designed to indicate risk increases above ambient risk (such as the risk identified in the “MATES V” study). The Bay Area Air Quality Management District (BAAQMD) uses the 100 in one million as a threshold to determine cumulative risk. However, their guidance for quantifying cumulative risk states “A project would have a cumulative significant impact if the aggregated total of all past, present, and foreseeable future sources within a 1,000-foot radius (or beyond where appropriate) from the fence line of a source, or from the location of a receptor, plus the contribution from the project, exceeds the following:

- An excess cancer risk levels of more than 100 in one million...”



The BAAQMD's cumulative risk does not consider ambient background risk of the region, or subregion/zip code and only focuses on the sources within 1,000 feet of the project site. Even if the analysis were to incorporate the 100 in one million threshold from the BAAQMD with their analysis criteria, the only source within 1,000 feet of the project site is I-405 freeway and, as identified in the HRA, a result of 1.97 in one million is still well below the 100 in one million. Therefore, the risk to the students at the site would not exceed established thresholds using the appropriate methodology for evaluating potential risk and mitigation is not necessary.

Comment: "There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Noise Impacts."

Response: The commenter restates that 24-hour noise measurement conducted as part of the noise analysis was taken at the rear of the site and does not capture traffic patterns at surrounding residences. The commenter adds that the City failed to quantify the project's operational noise and lacks evidence to conclude the project will not have a significant impact. The commenter also states that the residence to the east would not be shielded and would be exposed to project noise.

Capturing ambient noise over a 24-hour period at the most sensitive receiver (where ambient noise levels are lowest) is adequate to characterize a project's noise impacts. This is the most conservative approach to determine project noise impacts. In addition, this measurement can provide context for other nearby receivers, as noise will increase the closer a residence is to the roadway. In other words, if the long-term measurement was conducted near the roadway, it would show higher noise levels that would underestimate the project's operational noise impacts. Thus, the existing noise impact is adequately characterized so that the public can have the proper context for noise impacts, and additional measurements are not required.

With respect to operational noise, the MND quantifies noise associated heating, ventilation, and air conditioning (HVAC) units. As discussed in Section XIII, *Noise*, of the MND, it is anticipated that the closest rooftop-mounted HVAC unit would be installed on the proposed multi-purpose building located approximately 30 feet from the nearest off-site sensitive receivers east of the project site. HVAC equipment would diminish at a rate of at least 6 dBA per doubling of distance (conservatively ignoring other attenuation effects from ground and shielding effects). The nearest sensitive receivers are single-family residences, which are approximately 30 feet from the nearest proposed multi-purpose building to the east. A 2.5-foot-high parapet wall is proposed on the rooftop, which would reduce HVAC noise levels by approximately 5 dBA. At a distance of 30 feet and with the shielding from the proposed parapet wall, HVAC noise would attenuate to approximately 43 dBA or less, which would not exceed the lowest measured hourly L_{eq} of 46 dBA from the 24-hour noise measurement. Residences to the east would not be exposed to excess HVAC noise and impacts would be less than significant.

The project would also generate noise associated with student recreational activity from kindergarten through grade four children in the proposed outdoor play areas. However, outdoor noise would be an intermittent and periodic noise source, which would be limited to the daytime during school hours and when staff and students are outdoors (e.g., mornings prior to class start times, study breaks or lunch breaks throughout the day, afterschool prior to students getting picked up). The project would not include PA systems or bells. Campus hours for the school would be from 7:15 a.m. to 6:00 p.m., Monday through Friday during normal school months. During the summer months, the school campus would be closed. No lighting is proposed for the on-site playfields; therefore, the proposed school would not host athletic events that would occur during the late afternoon/early evening hours. Furthermore, an eight-



foot CMU wall is proposed along the perimeter of the project, including along the eastern boundary of the site between the project and residences to the east highlighted by the commenter. According to the Federal Highway Administration, any large structure blocking the line of sight will provide an additional 5-dBA reduction in source noise levels at the receiver.¹ At a height of eight feet, the proposed CMU wall would block line of sight of the average person located at the residence to the east and further reduce on-site recreation noise. Since student recreational activities would be limited to daytime hours and there are no proposed PA systems for sports activities, impacts would be less than significant.

Furthermore, the City's Municipal Code would regulate delivery and trash hauling noise associated with the project. For instance, LAMC Section 114.03 prohibits the loading or unloading of any vehicle, operation of any dollies, carts, forklifts, or other wheeled equipment, which causes any impulsive sound, raucous or unnecessary noise within 200 feet of any residential building between 10:00 p.m. and 7:00 a.m. However, noise associated with delivery and trash-hauling trucks would be an intermittent noise source and are already a common occurrence in the project area due to existing residential and commercial uses that make up the developed urban area. Therefore, such services associated with the project would not result in a substantial permanent increase in ambient noise levels without the project. The project would not result in significant impacts from noise.

Comment: "The MND Fails to Account for the Public Services That Will Be Needed to Support the Project."

Response: The commenter states that the MND does not address whether consultation with the Los Angeles Police Department (LAPD) would result in changes to the project design or require additional police services to meet project demands. The commenter states that the City must complete the required consultation with LAPD to analyze environmental impacts of any design changes requested by the LAPD in an Environmental Impact Report.

The commenter highlights Policies 8-2.2 and 8-2.3 of the Mission Hills-Panorama City-North Hills Community Plan, which require consultation with the LAPD as part of the project's land use review process to review project landscaping and lighting. Policy 8-2.2 regulates landscaping around buildings such that it does not impede visibility whereas Policy 8-2.3 regulates adequate lighting around buildings to improve security. According to Section 47610 of the California Education Code, a charter school shall comply with the California Building Standards Code Part 2 (California Building Code) as adopted and enforced by the local building enforcement agency (i.e., Los Angeles Department of Building and Safety [LADBS]). Further, the project plans are the subject of review and appropriate conditions per Section 16.05 of the LAMC, which states that the purpose of site plan review is to "promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are properly related to their sites, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on surrounding properties by reason of inadequate site planning or improvements."

¹ Federal Highway Administration. Highway Traffic Noise: Analysis and Abatement Guidance (FHWA-HEP-10-025). https://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/analysis_and_abatement_guidance/rev_guidance.pdf.



Comment: “The City Cannot Approve the Project’s Conditional Use Permit.”

Response: The commenter states that, based on their letter, the MND fails to disclose and mitigate impacts and, therefore, the Conditional Use Permit (CUP) to allow development of a public school in the RA-1 zone cannot be approved by the City per Section 12.24.E. of the LAMC. The commenter states that the project will adversely affect public health due to its proximity to I-405, will adversely affect adjacent properties due to unmitigated noise impacts, and does not comply with Community Plan policies due to lack of consultation with the LAPD.

A school is a permitted land use under the RA-1 zone with approval of a CUP, which is included as part of project entitlements. With respect to Section 12.24.E. of the LAMC, and prior to approval of a CUP, the City must find that (1) the project will enhance the build environment in the surrounding neighborhood or will perform a function/service that is essential or beneficial to the community, city or region; (2) the project’s location, size, height, operations and other features will be compatible with and not adversely affect or degrade the public health, welfare, and safety of surrounding neighborhood; and (3) the project conforms with the purpose, intent, and provisions of the General plan and any other applicable plan. The project involves construction of a charter school serving kindergarten through grade four students on a mostly undeveloped lot. Furthermore, analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level and impacts would not degrade the public health, welfare, and safety of the neighborhood. The commenter’s key concerns, including those related to health risks from I-405 and consultation with the LAPD for project design, are addressed under previous responses in this letter. The project would not result in significant impacts such that the CUP cannot be approved by the City.

Conclusion

Comments provided on behalf of CREED LA are addressed in this letter and do not raise any concerns regarding significant impacts that have not been identified and mitigated or would otherwise substantially change the conclusions of the MND.

Sincerely,
Rincon Consultants, Inc.

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Attachment 1 CREED LA Comment Letter



Attachment 1

CREED LA Comment Letter

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February 21, 2022

VIA EMAIL

Commission President Millman and Commission Members
City Planning Commission
Email: cpc@lacity.org

Esther Ahn, Planner
Email: esther.ahn@lacity.org

Re: Agenda Item 7: - Valor Elementary School Project, Case No. CPC-2022-5865-CU-SPR, CEQA No. ENV-2022-5866-MND

Dear Commission President Millman, Commission Members, and Ms. Ahn:

This letter is submitted on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") regarding Agenda Item 7, the Valor Elementary School Project, Case No. CPC-2022-5865-CU-SPR, CEQA No. ENV-2022-5866-MND ("project") proposed by Bright Star Schools ("Applicant").

On December 14, 2022, CREED LA submitted comments to the Department of Planning on the Mitigated Negative Declaration¹ ("MND") prepared for the Project pursuant to the California Environmental Quality Act ("CEQA")² by the City of Los Angeles ("City"). Our comments explained that the City failed to comply with CEQA by failing to accurately disclose the extent of the Project's potentially significant impacts on air quality, public health, hazards, public services, and noise, and that there is more than a fair argument that the Project will result in significant, unmitigated impacts in each of these areas.

On February 15, 2023 the City released a Recommendation Report for the Project which contains responses to our comments from Planning Department staff

¹ City of Los Angeles, Mitigated Negative Declaration, Valor Elementary School Project ("MND") Case No: ENV-2022-5866-MND (November 2022) available at <https://planning.lacity.org/odocument/4665dfef-ecad-42b5-80b6-575ca5e17851/ENV-2022-5866.pdf>

² Public Resources Code § 21000 *et seq.*; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 *et seq.* L6420-010j

and the Applicant's consultant, Rincon Consultants Inc.³ The City's responses fail to resolve the majority of issues raised in CREED LA's MND comments. This letter addresses the responses to comments contained in the Recommendation Report and Rincon Report. Air quality and hazards expert James Clark, Ph.D and noise expert Ani Toncheva also provided responses to the Recommendation Report, attached to this letter as Attachments A and B respectively.⁴ In sum, these comments show that the City does not provide substantial evidence to justify reliance on an MND, that substantial evidence remains in the record demonstrating that the Project has significant, unmitigated impacts, and the Planning Commission cannot make the findings required to approve the Project under the City's municipal code.⁵

For the reasons discussed in our herein, in our previous letter, and the attached expert comments, CREED LA urges the Commission to remand the Project to staff so that they can correct the deficiencies in the MND by preparing a legally adequate EIR and recirculating it for public review and comment before the Project can be considered for approval.⁶

A. The City Must Prepare a Preliminary Endangerment Assessment Pursuant to the California Education Code.

In our comments on the MND, we noted that the City failed to consult with the Department of Toxic Substances Control ("DTSC") and prepare a Preliminary Endangerment Assessment ("PEA") for the Project. In response, the City states that the California Education Code section 47610 exempts charter schools from many provisions of the Education Code including the requirement to consult with DTSC.⁷ However, when a charter school receives funds from the state to construct or improve its buildings under the Charter School Facilities Program ("CSFP"), the

³ Department of City Planning, Recommendation Report, Valor Elementary School Final IS-MND (ENV-202205866-MND) (February 23, 2023) available at https://planning.lacity.org/plndoc/Staff_Reports/2023/02-23-2023/CPC_2022_5865.pdf; see also Exhibit E, Rincon Consultants, Responses to CREED LA Comment Letter Dated December 14, 2022 (February 9, 2023) (hereinafter "Rincon") beginning at pdf. p. 239.

⁴ **Attachment A:** Comments on Valor Elementary School Project (February 20, 2023) ("Clark Comments"); **Attachment B:** Comments on Valor Elementary School Project Responses (February 21, 2023) ("Wilson Ihrig Comments").

⁵ Pub. Res. Code § 21081; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

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 Rincon, Response 4.1, p. 3.

school is subject to additional requirements, including the requirements to consult with DTSC.

The CSFP was enacted in 2002 by Assembly Bill 14, amended by Senate Bill 15 and Assembly Bill 16, and funded through Proposition 47, Proposition 55, Proposition 1D, and Proposition 51, for the purposes of constructing, acquiring, or renovating new facilities for site-based charter school students throughout California.⁸ The CSFP is codified in Education Code Chapter 12.5 section 17078.52.⁹ The CSFP allows charter schools to access state facility funding for new construction directly or through the school district where the charter school is physically located. The program funds 50 percent of project costs as a grant (paid by the State), while the charter school, in the form of a long-term lease or a lump sum payment, repays the remaining 50 percent.¹⁰

As a condition of receiving state funding pursuant to Chapter 12.5, a charter school must complete the three-step process outlined in Education Code § 17213.1 and assess whether there has been a release of hazardous waste at a school site.¹¹ As explained in our prior comments, process requires consultation with DTSC and to enter into an Environmental Oversight Agreement with DTSC, then contract with a qualified environmental consultant to prepare an assessment according to DTSC guidelines.¹²

Bright Star Schools' 2022-2023 budget audit report states that it received Proposition 1D grants which are categorized as "Proposition Construction Revenue" in the budget.¹³ Based on the Audit Report it appears that Bright Star Schools intends to use the funds from the Proposition 1D grants to fund school construction projects such as the Project here, noting that \$26,971,711 in assets are restricted for construction.¹⁴ Because the funds are made available through Education Code Chapter 12.5, then, in order to use these funds for Project construction, Bright Star Schools is required to comply with Education Code § 17213.1 and consult with DTSC regarding the Project's potential health risks to students.

⁸ California State Treasurer's Office, School Finance Authority, Charter School Facilities Program Overview (2023) ("STO Overview") available at <https://www.treasurer.ca.gov/csfa/charter.asp>

⁹ Ed. Code, § 17078.52.

¹⁰ STO Overview (2023).

¹¹ Ed. Code §17213.1 *see also* DTSC, Environmental Assessments For Charter School Sites Fact Sheet available at <https://dtsc.ca.gov/environmental-assessments-for-charter-school-sites-fact-sheet/>

¹² Ed. Code §17213.1(a)(4)(B).

¹³ Bright Star Schools, 2022-2023 Budget Report on the Financial Statement ("Auditor's Report") (June 30, 2022) p. 11. Available at https://brightstarschools.org/files/galleries/2022_Audited_Financials.pdf

¹⁴ Auditor's Report, p. 7.

The City failed to consult with DTSC in violation of the Education Code. Additionally, based on the results of the Phase I completed for the Project, there is a fair argument that if the City had consulted with DTSC, a PEA would be required. The Planning Commission must continue the hearing until consultation with DTSC is completed, and prepare and circulate a revised CEQA document which includes the results of the consultation and any subsequent PEA prepared for the Project.

B. There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Health Risks from Exposure to Freeway Emissions

As explained in our initial comments and herein, the City failed to analyze the background risk from air pollution in the Project area. Development of the Project will place children and staff in an area of high air pollution concentrations. In his review of the Recommendation Report and Responses, Dr. Clark found that the cumulative cancer risk from air pollutants in the area of the project is 413 in 1,000,000.¹⁵ Diesel particulate matter (“DPM”) accounts for approximately 65 percent of that risk or 268 in 1,000,000, while the 145 in 1,000,000 comes from benzene, formaldehyde and other gasses which will not be treated with the MERV filters.¹⁶ Assuming that the MERV 13 filters at the site reduce the cancer risk from DPM by 90 percent, the cumulative risk to students and staff will still exceed the SCAQMD threshold of 100 in 1,000,000, resulting in a significant impact. The Responses fail to include additional mitigation such as measures requiring the Project to minimize the amount of time the students spend outside to limit exposure. The City must prepare an EIR which includes additional mitigation measures to protect students and staff or contain the findings necessary to justify a statement of overriding considerations if the risk cannot be mitigated to below the threshold.

C. There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Noise Impacts

We previously commented that the long term noise measurement taken for the Project failed to document the changes in the noise environment that occur through the day because the measurement was taken at the back of the Project site where it is partially shielded from both nearby streets and does not capture traffic

¹⁵ Clark Letter, p. 1.

¹⁶ Clark Letter, p. 2.

patterns at residences close to Plummer Street. The City's Response 5.1 states that this was done on purpose and results in a more conservative analysis to measure project noise against.¹⁷ However, Ms. Toncheva found that the long-term measurement location still fails to adequately document the existing noise impacts to all sensitive receptor locations nearby the Project site, including those along Plummer Street, adjacent to the Project site. Additional measurement and analysis is required to characterize the existing noise environment at the Project site.

Additionally, the City provides new information regarding the Project's operational noise, stating that the Project will not employ bells or an outdoor paging system.¹⁸ However, the City failed to quantify the Project's operational noise and therefore lacks substantial evidence to conclude that the Project will not have a significant impact. Furthermore, Ms. Toncheva found that, while the Project buildings will shield receptors to the west and south, the residence to the east of the site is not shielded and may be exposed to reflections of Project noise.¹⁹

Ms. Toncheva concludes that the Project's construction and operational noise impacts remain significant and unmitigated notwithstanding the mitigation measures proposed in the MND and the Project's conditions of approval. Ms. Toncheva's comments provide substantial evidence supporting a fair argument that an EIR is required to accurately disclose and mitigate these impacts.

D. The MND Fails to Account for the Public Services That Will Be Needed to Support the Project

The Responses fail to address whether consultation with LAPD will result in changes to the Project design or require additional police services to support the Project. An MND must consider the effect of changes to the environment that can result from the expansion of services.²⁰ Here, the MND states that the Project would not place an unanticipated burden on police protection services.²¹ However, the MND and responses fail to include any information or analysis on how this conclusion was reached.

As detailed in our previous comments, the City failed to proceed in the manner required by law by failing analyze consistency with the Community Plan's public protection policies and lacks substantial evidence to support its conclusion

¹⁷ Rincon, p. 8.

¹⁸ Recommendation Report, p. C-6.

¹⁹ Wilson Ihrig, p .2.

²⁰ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.

²¹ MND, p. 116.

that the Project's public services impacts would be less than significant. The responses fail to meaningfully respond to CREED LA's prior comments. The City must complete the required consultation with LAPD and analyze the environmental impacts of any required Project design changes to the Project in an EIR.

II. THE CITY LACKS SUBSTANTIAL EVIDENCE TO APPROVE THE PROJECT'S LOCAL LAND USE PERMITS

A. The City Cannot Approve the Project's Conditional Use Permit

The Project seeks approval of a Conditional Use Permit to allow development of a public school in the RA-1 zone ("CUP") pursuant to LAMC § 12.24.²² The MND fails to accurately disclose and mitigate significant impacts, as discussed herein. Therefore, the Project fails to meet the LAMC requirements to obtain a CUP. LAMC § 12.24(E)(2) and (3) require "that the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety" and that the Project "conforms with the purpose, intent and provisions of the General Plan, the applicable community plan". The Project as analyzed above **will** adversely affect public health due to the Project's proximity to I-405 and the unmitigated impacts to future students and school staff, **will** adversely affect adjacent properties due to unmitigated noise impacts and, and **does not** conform with the applicable community plan by failing to consult with LAPD prior to Project approval.

III. CONCLUSION

For the reasons stated herein and in our prior comments and the comments of CREED LA's experts, CREED LA respectfully requests that the City Planning Commission remand the Project to staff and direct staff to prepare an EIR for the Project.

Sincerely,

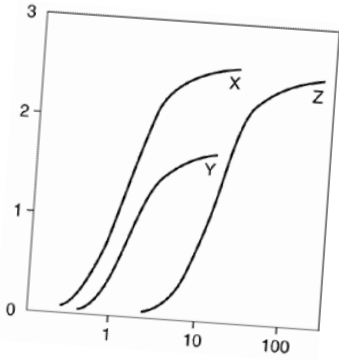


Kevin Carmichael

KTC:lj1

²² LAMC § 12.24(U)(24).
L6420-010j

ATTACHMENT A



Clark & Associates

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February 20, 2023

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Mr. Kevin Carmichael

**Subject: : Comments On Staff Recommendation Report Of Initial
Study/Mitigated Negative Declaration (IS/MND) For
Valor Elementary School Project, Los Angeles, CA 91343
Case Number: ENV-2022-5866-MND**

Dear Mr. Carmichael:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the 2022 City of Los Angeles' (the City's) Staff Recommendation Report regarding the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan.

The Staff's analysis ignores the substantial evidence previously detailed to them in my comment letter that mitigation measures outlined by the Proponent (installation of MERV 13 filtration system) to reduce the cumulative air quality impacts fail to protect the students and staff a clearly unacceptable risk. According to the Multiple Air Toxics Exposure Study V (MATES V) published by the South Coast Air Quality Management District (SCAQMD) in August 2021, air quality modeling of sources in the vicinity of the Project (including Interstate 405) lead to a cumulative risk from air toxins of 413 in 1,000,000 for the Project site.

The risk drivers in the area included diesel particulate matter (DPM), arsenic, benzene, formaldehyde, and other air toxins. Diesel particulate matter (DPM) accounts for 65% of the risk (268 out of the 413 calculated). MERV 13 technology reduces particulate matter and not vapors/gases. The remaining risk from air pollutants (145 out of the 413) is from benzene, formaldehyde and other gases. Assuming that the Proponent's estimates that 90% (as outlined by IS/MND) of the DPM risk is controlled by the mitigation measure, it is clear that the Project will be exposing sensitive receptors (students and staff) to risks in excess of 100 in 1,000,000. The City must re-evaluate the significant impacts identified in this letter by requiring the preparation of a revised DEIR and outline additional measures to protect the staff and students from their exposure to air toxins that will not be controlled by the planned mitigation measure.

Sincerely,





WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #22-005.35

February 21, 2023

Kevin T. Carmichael
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

SUBJECT: Comments on Valor Elementary School Project Noise and Vibration Study, Follow-up Comments on Response to Public Comments

Dear Mr. Carmichael,

Wilson Ihrig has reviewed the Staff Report prepared for the Valor Elementary School Project hearing before the Los Angeles Planning Commission on February 23, 2023, including responses to comments prepared by Rincon Consultants, Inc. on behalf of the Project applicant, dated February 9, 2023. Following are further comments or clarifications.

Response 5.1

As stated in our initial comments, LT1 is shielded from traffic noise and the relatively flat hourly noise levels reported in Table 19 do not appear to capture the range of time-varying traffic noise patterns at the residences **close** to Plummer Street. We agree that the long-term measurement (LT1) captures the lowest ambient noise level at sensitive receivers near the project and that a 24-hour noise measurement can capture traffic noise changes from hour to hour. However, the existing noise impacts from Plummer are not adequately documented with the results from LT1.

Per Section I.2 of the LA CEQA Threshold Guide, significance thresholds for operational noise are contingent on the CNEL of the affected land uses. Therefore, the discussion should be updated to address how the selected measurement locations characterize the existing noise environment at all residential land uses nearest the project.

Response 5.3

The MND lacks evidence (calculations) to verify that a 15 dB reduction will result from the noise barrier described in mitigation measure RCM-1.

Response 5.4

We note that the response provides additional information on the school operation hours and confirms that there will be no PA system installed. The MND must provide evidence (quantitative calculations) to verify that on-site operations noise will not result in a significant increase over ambient levels. Many of the homes near the site will be shielded from play area activities, per the project site plan in Figure 4 in the MND. However, the residence East of the site at 15508 Plummer Street, is not shielded from play areas and may be exposed to reflections from the proposed building configuration. Please provide calculations showing expected operation noise levels at the residences.

Please feel free to contact me with any questions on this information.

Very truly yours,

WILSON IHRIG

A handwritten signature in black ink, appearing to read 'Ani Toncheva', with a long horizontal flourish extending to the right.

Ani S. Toncheva
Senior Consultant

Attachment 5

Responses to CREED LA Comment Letter Dated February 21, 2023 - Summary



Rincon Consultants, Inc.

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February 23, 2023

Elijah Sugay, Vice President, Finance & Facilities, Bright Star Schools
Via email: esugay@brightstarschools.org

Subject: Agenda Item 7: Valor Elementary School Project Final IS-MND (ENV-2022-5866-MND), Responses to CREED LA Comment Letter Dated February 21, 2023 (Executive Summary)

Dear Mr. Sugay:

Rincon Consultants, Inc. has prepared these responses to address the comment letter received by the City on February 21, 2023 from attorney Kevin Carmichael on behalf of CREED LA. The comment letter is a follow up to Rincon's responses addressing a previous comment letter from CREED LA regarding ENV-2022-5866-MND. The following responses are an executive summary version of more detailed responses provided to address CREED LA's comment letter. The more detailed responses are also dated February 23, 2023 and have been provided to the City Planning Commission (CPC) under a separate cover.

Comment: "The City Must Prepare a Preliminary Endangerment Assessment Pursuant to the California Education Code." – Comment Letter Page 2

Response: The commenter incorrectly assumes that Bright Star Schools will be using Charter School Facilities Program (CSFP) funds for the project; however, Bright Star Schools has not applied for, and will not be using, CSFP funds for the construction of the project. Therefore, the project continues to be exempt from the California Education Code and any requirement to consult with the Department of Toxic Substances Control. Furthermore, Section IX, *Hazards and Hazardous Materials*, of the MND documents the findings of the Phase I and II Environmental Site Assessments and Asbestos Survey and includes mitigation measures based to reduce impacts to a less-than-significant level.

Comment: "There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Health Risks from Exposure to Freeway Emissions." – Comment Letter Page 4

Response: The South Coast Air Quality Management District (SCAQMD) does not have a cumulative risk threshold of 100 in 1 million for toxic air contaminants (TAC), or any cumulative threshold for TAC. The SCAQMD project level threshold of 10 in 1 million applied in the Health Risk Assessment (HRA), which is also used as the cumulatively considerable threshold, is used to address the impacts of the project on the environment. The 10 in 1 million threshold is also used as a numeric threshold to assess risk from the environment on the project (e.g., exposure to freeways and other permitted TAC sources) since a specific numeric threshold for the effects of the environment on the project has not been adopted. Interstate 405 (I-405) is the only known TAC source within 1,000 feet of the project, which is the radius adopted by SCAQMD to evaluate the potential risk. The HRA found that the risk from I-405 TAC source is 1.97 in 1 million and below the SCAQMD threshold of 10 in 1 million. Furthermore, the 413 in 1 million risk stated by the commenter is a background risk level that is applied to the entire 91343 zip code in the "MATES V" study and is not site specific. In addition, the Bay Area Air Quality Management District (BAAQMD), not SCAQMD, uses the 100 in 1 million mentioned by the commenter as a threshold to determine cumulative risk.



Comment: “There is Substantial Evidence Supporting a Fair Argument That the Project Will Result in Significant, Unmitigated Noise Impacts.” – Comment Letter Page 4

Response: Capturing noise over a 24-hour period at the most sensitive receiver (where ambient noise levels are lowest) is adequate to conservatively characterize a project’s noise impacts and provide context for other nearby receivers, as noise will increase the closer a residence is to a roadway. The analysis adequately characterizes existing noise to provide a proper context to compare project impacts. With respect to operational noise impacts, some noise sources would be regulated by the City’s Municipal Code (e.g., delivery and trash hauling under Section 114.03). As discussed in Section XIII, *Noise*, of the MND and based on the location of the rooftop-mounted HVAC unit to the nearest receiver, HVAC noise would attenuate to approximately 43 dBA or less, which would not exceed the lowest measured hourly L_{eq} of 46 dBA. The project would also generate noise associated with student recreational activity from kindergarten through grade four children in the proposed outdoor play areas. However, outdoor noise would be an intermittent and periodic noise source during the school year and would be limited to the daytime during school hours and when staff and students are momentarily outdoors. The project would not include PA systems or bells and no lighting is proposed for the on-site playfields, limiting evening events. Furthermore, an eight-foot CMU wall is proposed along the perimeter of the project, which would block line of sight and provide an additional 5-dBA reduction in source noise levels at the receiver.

Comment: “The MND Fails to Account for the Public Services That Will Be Needed to Support the Project.” – Comment Letter Page 5

Response: The project would comply with the California Building Standards Code Part 2 as adopted and enforced by the local building enforcement agency (i.e., Los Angeles Department of Building and Safety [LADBS]). Furthermore, the project plans are also subject to City review procedures to promote orderly development and evaluate and mitigate significant environmental impacts.

Comment: “The City Cannot Approve the Project’s Conditional Use Permit.” – Comment Letter Page 6

Response: The RA-1 zone permits school uses with approval of a Conditional Use Permit (CUP), which is included as part of project entitlements. With respect to Section 12.24.E. of the LAMC, the City must make the appropriate findings to approve a CUP. Nonetheless, analysis in the MND determined that identified mitigation measures would reduce potentially significant impacts to a less-than-significant level and impacts would not degrade the public health, welfare, and safety of the neighborhood.

Conclusion: CREED LA’s comments are addressed in this letter and do not raise any concerns regarding new significant impacts nor otherwise substantially change the conclusions of the MND.

Sincerely,
Rincon Consultants, Inc.

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