

From: anngadfly@aol.com [mailto:anngadfly@aol.com]

Sent: Tuesday, December 6, 2022 12:48 PM

To: Council District 1 <District1@longbeach.gov>; Council District 2 <District2@longbeach.gov>; Council District 3 <District3@longbeach.gov>; Council District 5 <District5@longbeach.gov>; Council District 6 <District6@longbeach.gov>; Council District 7 <District7@longbeach.gov>; Council District 8 <District8@longbeach.gov>; Council District 9 <District9@longbeach.gov>; Mayor <Mayor@longbeach.gov>; CityClerk <CityClerk@longbeach.gov>; Dawn McIntosh <Dawn.McIntosh@longbeach.gov>

Subject: Fwd: Comments on Dec. 6, 2022 Council agenda

-EXTERNAL-

Attaching the Carsten letter in pdf.

-----Original Message-----

From: anngadfly@aol.com

To: district1@longbeach.gov <district1@longbeach.gov>; district2@longbeach.gov <district2@longbeach.gov>; district3@longbeach.gov <district3@longbeach.gov>; district5@longbeach.gov <district5@longbeach.gov>; district6@longbeach.gov <district6@longbeach.gov>; district7@longbeach.gov <district7@longbeach.gov>; district8@longbeach.gov <district8@longbeach.gov>; district9@longbeach.gov <district9@longbeach.gov>; mayor@longbeach.gov <mayor@longbeach.gov>; cityclerk@longbeach.gov <cityclerk@longbeach.gov>; dawn.mcintosh@longbeach.gov <dawn.mcintosh@longbeach.gov>

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Sent: Tue, Dec 6, 2022 12:08 pm

Subject: Comments on Dec. 6, 2022 Council agenda

To: Long Beach City Councilmembers and Staff:

From: Riverpark Coalition

Re: Agenda Items 55 and 56

Item 55. Recommendation to declare ordinance amending the Use District Map of the City of Long Beach as said Map has been established and amended by amending portions of Part 15 of said Map from Commercial Storage (CS), Commercial Storage with Horse Overlay (CS (H)) and Single-Family Residential, Standard Lot (R-1-N) to Residential, Planned Unit Development, 15 DU/AC (RP-15) and Residential, Planned Unit Development, 15 DU/AC with Horse Overlay (RP-15 (H)), read and adopted as read. (District 7)

Office or Department: DEVELOPMENT SERVICES
ORDINANCES:

Item 56. Recommendation to declare ordinance approving an application for a Development Agreement pursuant to Chapter 21.29 of the Long Beach Municipal Code; directing the City Attorney to prepare a Development Agreement embodying the application and key terms of the Development Agreement as approved by the City Council; and authorizing and directing the City Manager to execute, on behalf of the City of Long Beach, a Development Agreement with the River Park Project Owner, LLC, for the **Riverpark** Residential Development Project, read and adopted as read. (District 7)

Office or Department: DEVELOPMENT SERVICES Suggested Action: Approve recommendation.

On November 15, 2022, Riverpark Coaliton and many others opposed these Zoning changes and Development Agreement, along with the Environmental Impact Report, for this gated housing project. Please deny the Ordinance amending the Use District Map of the City of Long Beach removing the horse overlay from CS H and the R-1-N with horse overlay to RP-15 (H) and the Development agreement. (See attachment from Riverpark board member, Renee Lawler) and also deny the Development Agreement.

Please consider that you are approving building housing on a former Brown Field, in the Diesel Death Zone, with the only mitigation being an air filter in every unit requiring the inhabitants to **keep their doors and windows closed at all time**.

There will be only one entrance and exit to this development, with little space for backed up cars. What is the plan for a disaster?

There are 12 low cost housing units, however, the Home Owners Association will be responsible for all street, infrastructure and park maintenance. This will be very costly. Will those in the low cost units have to pay the same dues as those in the single family homes?

There are many questions which have not been addressed for this project (see attached letter). Please postpone until the councilmember for the district has returned.

Ann Cantrell
Board Member, Riverpark Coalition

Hermosa Beach Office

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September 1, 2022

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VIA E-MAIL

Planning Commission

City of Long Beach

Development Services Department

411 W. Ocean Blvd., 3rd Floor

Long Beach CA 90802 PlanningCommissioners@longbeach.gov

Re: Objection to River Park Residential Project, 712 Baker Street,
State Clearinghouse No. 2021020492

Dear Honorable Commissioners,

On behalf of the Riverpark Coalition, we submit these comments opposing the River Park Residential Project (the Project) as proposed and the certification of the environmental impact report (EIR) prepared for the Project.

Located immediately across the 405 Freeway from the Project site, the Project's census tract in western Long Beach (census tract 6037572100) ranks *worse than 89 percent* of the rest of the state for pollution burden, attributable to contaminated sites, solid waste and hazardous vehicle emissions in the area. (See <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>; Exhibit ("Exh.") 1 [CalEnviroScreen 4.0 output for census tract 6037572100].) The Project area is also a designated "Disadvantaged Community" per California Senate Bill (SB) 535. According to CalEnviroScreen 4.0, the area is a predominantly Hispanic and Asian community that is over 76% people of color. The area has *more people living with asthma, emergency department visits for asthma symptoms, and deaths from asthma, than 92% of census tracts* throughout California.

collection of community groups and individuals including residents of western Long

Riverpark Coalition is a

Beach. This community-based coalition works to promote public-serving open space in

nature-deprived areas of western Long Beach. We urge you to honor the site's long-

planned use as vibrant, connective greenspace along the LA River, and reject this Project.

The Project would replace 20 acres of currently undeveloped space along the Los

Angeles River with residential development and less than 5 acres of landscaped open

space. While the Coalition agrees with the City of Long Beach (“City”) that housing is

needed, the Coalition cannot condone building residential units that will harm their

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occupants. The Project site is highly contaminated after decades of use by oil companies,

and future occupants of the residential units would be exposed to a constant

bombardment of “diesel death zone” air pollution and noise from the freeways. (See

<https://www.latimes.com/local/lanow/la-me-ln-710-freeway-expansion-20180301->

[story.html](#).) Instead of analyzing whether the Project would harm its occupants, the City

hides behind its claim that the California Environmental Quality Act (CEQA) does not

require analysis of the environment’s impacts on the Project. However, CEQA requires

the City to analyze and disclose whether the Project would have adverse impacts on

human beings. (Cal. Code Regs., tit. 14 (“CEQA Guidelines”) § 15065, subd. (a)(4).)

And outside of CEQA, the City has an obligation to use its police powers to *protect*, not

harm, the health and welfare of its residents.

The City and other regional entities have long designated the Project site and its surrounding area for park development. In fact,

Development of the site as a park would eliminate the harmful impacts of building housing in a contaminated diesel death zone, remove the Project's conflicts with applicable land use plans, and provide the western Long Beach community with much-needed recreational assets. Yet the City failed to adequately analyze the use of this site as a park. As the City has approved development of the Pacific Place facility on the other remaining, large riverside parcel in the area (see Exh. 2), this is the City's last chance to comply with the numerous plans detailing the site as park space and realize its important river park goals.

Additionally, the Project's elimination of the last remaining large piece of open space in western Long Beach available for park purposes would unearth toxic soil, increase air contamination, traffic, and construction impacts in an already pollution-burdened and nature-deprived community, and subject residents to a host of environmental harms. These impacts were neither fully analyzed nor mitigated under CEQA, as required.

We agree with the scoping comments provided by Tilly Hinton, PhD and urge the Planning Commission to review the issues raised in that letter, which we have attached as Exhibit 3. (DEIR Appendix ("App.") I, p. 140.)

Lower Los Angeles Revitalization Working Group as the "gem" of the lower Los

Angeles River.

the Project site was identified by the

We ask that the City take this opportunity to protect human health and preserve its

ability to realize its recreational goals for the “gem” of the Los Angeles River corridor by

rejecting this harmful project.

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I. The Project Will Have Significant and Unmitigated Environmental Impacts without the Full Disclosure and Mitigation Required by California Environmental Quality Act.

CEQA serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.) CEQA has been termed a “bill of rights for an environmental democracy”¹ because of the manner in which it promotes and protects public participation in public agency decisions. CEQA requires the City to disclose, analyze, and discuss all feasible mitigation for a Project’s potentially significant, adverse environmental impacts.

Importantly, CEQA also requires the County to respond to the public’s comments and questions with “reasoned, good faith analysis.” (CEQA Guidelines § 15088.) When a comment raises a significant environmental issue, the lead agency must address the comment “in detail giving reasons why” the comment was “not accepted.” (*Ibid.*) “Conclusory statements unsupported by factual

information will not suffice.” (*Ibid*; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124.) The level of detail of responses to comments must be commensurate with the level of detail of the comments. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 878 [“the determination of the sufficiency of the agency's responses to comments on the draft EIR turns upon the detail required in the responses”].) This is especially important with regard to the substantive comments of responsible or “sister agencies” which may not simply be ignored. (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 357.)

This requirement for good faith, reasoned analysis “ensures that stubborn problems or serious criticism are not swept under the rug.” (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal. App. 4th 715, 732.) The courts have held that inadequate responses to comments – alone – can be grounds for voiding a project’s approval. (*See, Env. Protection Information Center. v. Johnson* (1985) 170 Cal. App. 3d 604, 627.) Failure to respond to a *single* comment is sufficient to invalidate approval of a FEIR. (*Flanders Foundation v. City of Carmel by-the-Sea* (2012) 202 Cal. App. 4th 603.) Unfortunately, the FEIR failed to respond adequately to comments raised in comment letters submitted on the draft EIR, as discussed more in greater detail below.

¹ Byron Sher, California State Legislator 1980-2004 Planning and Conservation League, “Everyday Heroes Protect the Air We Breathe, the Water We Drink, and the Natural Areas We Prize, Thirty-Five Years of the California Environmental Quality Act,” 2005, available at https://www.pcl.org/media/prior-c/CEQA-Everyday-Heroes-full_report.pdf.

A. The Project Conflicts With Land Use Plans Calling for Development of Parks at the Project Site.

The DEIR and the City's Responses to Comments claim that the Project will have no significant land use impacts. Under the EIR's adopted threshold of significance, the Project will cause a significant land use impact if it conflicts with "any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect." (DEIR, p. IV.J-10.)

Here, the Project will cause significant land use impacts because of its conflicts with numerous land use plans and policies designating the site as park space. Further, the Project will also conflict with the Horse Overlay District on the eastern part of the Project site. For these reasons, the EIR must be recirculated to properly disclose these impacts.

1. The EIR Fails to Disclose Inconsistencies with Numerous Land Use Plans Designating the Project Site as Park Space.

The longstanding consensus of numerous land use plans is that the Project site should be preserved as large park or area of public greenspace, entitled Wrigley Heights River Park. The RiverLink Plan, Long Beach Department of Parks, Recreation, and Marine Strategic Plan, West Long Beach Livability Implementation Plan, West Long Beach I-710 Community Livability Plan, Los Angeles River Master Plan, and Lower Los Angeles River Revitalization Plan all designate the Project site as parkland. The Project would foreclose the possibility of developing Wrigley Heights River Park and circumvent years of planning and advocacy for public greenspace at this site. The EIR must analyze the Project's

Re: #55 22-1350 Use District Map Amendment and #56 22-1351 Development Agreement

Please deny the Ordinance amending the Use District Map of the City of Long Beach removing the horse overlay from CS H and the R-1-N with horse overlay to RP-15 (H) and the Development agreement.

Staff proposal to retain the “H” in the RP-15H is useless because it does not adhere to any of the requirements of the overlay and completely ignores your own development standards for when there is . Once the density is allowed, the “H” use is forever adversely impacted, with cumulative negative consequence. Once again Council will be deciding to ignore past protective zoning decisions and make the equestrian community even more of a minority. This decision will be cumulative attrition to the similar past decisions in this Horse overlay zone, in the other H zones in the City of Long Beach, and in the region. This is a socially unjust decision to eliminate the last of sites trail adjacent whereby the historic equestrian/rancho lifestyle can survive and replace it with high density and “affordable” housing which is not trail dependent and can be placed elsewhere. The equestrian land use designation is also more compatible with the regional master plan and Riverlinks visions whereby larger open spaces and multi-use recreational needs can all be met. A PUD forecloses on all those livability benefits.

The Environmental documentation did not sufficiently address the cumulative adverse impacts removal of this zone creates by further diminishing areas where horses can be housed and lands for the culturally significant equestrian activities and uses. This zone has already undergone negative impact with the zone amendment in the 1980s and development of the affordable high density housing referred to as “countryside Lane”. This zone has also undergone attrition with the removal of the public equestrian facilities and placement of the Dog Park and zero mitigation for the equestrian Horse overlay loss of use.

The PUD does not provide for a single equestrian residence and the removal of the CS zoning does not allow for any public equestrian amenity, corral or stables. The proposed PUD does not provide for a single equestrian home or feature in the development or in the suggested Park.

This decision does not comply with goals and objective of the general plan. This decision will adversely affect the overall character and livability for surrounding equestrian community. Alterations of this zone disrupts the linear connectivity between H overlay zones. The LA River Bridle and hiking trail established in 1944 serves as the mobility corridor for the horses and this zone is a critical connector between the Wrigley equestrian zone to the south, (a zone which also has experience 50% loss of H overlay uses through high-density development), and the next Horse overlay zone north. This decision will not comply with development standards when an overlay exists. The Staff also erroneously indicated there are no trail easements when there are existing trail easements that will be eliminated.

This decision will remove the critical low-density space necessary for Horse keeping in this overlay (H) zone. There will be additional cumulative negative impacts to a culturally significant group in California history as recognized in the EIR and Horse overlay zoning of 1977.

You will be allowing a development that does not provide ANY, NOT ONE equestrian facility (commercial or residential) in a Horse keeping zone and will permanently remove that option. The change to RP-15H planned unit development is too dense for the 8000 square foot lot size and set back minimums the H overlay requires for the health and safety of horses/animals/occupants.

Renee Lawler

conflicts with these plans as significant impacts, for which mitigation is required.

RiverLink Plan

West Long Beach residents have one acre of parkland per 1,000 residents. It is currently a federally defined park poor community as shown in Table 1 below and the 2007 Long Beach RiverLink Report (Exh 2, pp. 77-78.)

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Table 1. Long Beach - Parks Needs Assessment.

Source: RiverLink planning document, <http://www.longbeach.gov/globalassets/park/media-library/documents/business-operations/about/in-development/riverlink-report/>. (last visited Aug 31, 2022.)

Due to historical development trends that favored industry with high levels of pollution, western Long Beach has a severe need for more parks and open space. In 2002, the City's Open Space and Recreation Element formally established a goal to reverse this harmful trend and achieve an average of eight (8.0) acres of recreational open space per 1,000 residents. (Exh. 4, p. 287.) Subsequently, in 2007, the Long Beach Department of Parks, Recreation and Marine authored the RiverLink planning document (RiverLink). The RiverLink provides a vision of an integrated open space system and a framework to connect westside neighborhoods and greater Long Beach with the Los Angeles River (LA River.) When fully implemented the RiverLink was supposed to contain 263 acres of open space. Long Beach's vision for the LA River is one of a "River that provides aesthetic, recreational, and ecological

benefits, in addition to serving its flood control purposes.” (See Exh. 2, p. 79.)

The RiverLink plan specifically stated for the “Wrigley Heights-South” site that it “proposes that as much of the area as possible become an open space destination containing a restored wetland, riparian woodland, pedestrian and bicycle paths, and a neighborhood park with a playground, picnic areas, and other amenities (see Exhibit 21).” (Exh. 2, RiverLink, p. 88.)

With the current proposed project and others similar to it that put planned greenspace to other uses (such as the Riverwalk project in 2015), RiverLink’s designation of the site as public greenspace would never be achieved. Such an impact is significant and must be disclosed in an EIR.

Currently the eastern side of Long Beach has seventeen times more acreage dedicated to parks and open space than the westside of Long Beach, where the Project is now proposed. The Project area presents an unparalleled opportunity to bridge this gap by creating a park and preserving open space in an area that needs more of both. Further,

Western Long Beach

1 acre per 1000 residents

South Long Beach

2.7 acres per 1000 residents

Eastern Quadrant of Long Beach

16.7 acres per 1000 residents

Long Beach Citywide

5.4 acres average citywide

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this site is one of western Long Beach's *last two remaining* large pieces of land suitable for open space parkland.

Davenport Park, once a landfill turned industrial site in North Long Beach, was recently converted into a flourishing park. This former brownfield was acquired by the Redevelopment Agency in 2001 with North Long Beach Project Area Funds. (See Parks, Recreation and Marine website, Ed "Pops" Davenport Park information, <https://www.longbeach.gov/park/park-and-facilities/directory/ed-pops-davenport-park/>, last visited Aug. 31, 2022.) The Davenport Park project is a prime example of how this project area in West Long Beach could and should be used. Revitalizing the little open space that remains is critical to achieve the City's 2002 and 2007 commitments: to increase average park acreage in West Long Beach and aid disadvantaged communities disproportionately saddled with environmental pollution.

Long Beach Department of Parks, Recreation, and Marine Strategic Plan

According to the Long Beach Department of Parks, Recreation of Marine's ("DPRM") 2003 Strategic Plan, the West park district has only 1 acre of parkland per 1,000 residents, while the East park district has 16 acres per 1,000 residents. (Exh. 2, p. 244.) To respond to this disparity, DPRM included Strategy 1.1 as part of its Strategic Plan, which established a target of 8 acres per 1,000 residents. (Exh. 2, p. 244-45.) Strategy 1.1 identified 50 acres in Wrigley Heights for park development. (Exh. 2, p. 245.) The City must maintain its commitment to provide much needed park space

in western Long Beach by reserving the Project site for park access.

West Long Beach Livability Implementation Plan

The West Long Beach Livability Implementation Plan (“Livable West Long Beach”) was adopted by the City in August 2015 as a “comprehensive approach for achieving the community’s vision for healthy, vibrant, attractive and safe neighborhoods.” (Exh. 5, p. 293.) The plan “identifies, prioritizes, and strategizes the implementation of projects and initiatives that will provide a variety of neighborhood benefits including enhancements to the community’s physical environment . . . [and] a cleaner environment.” (*Ibid.*) Livable West Long Beach identifies the Project site as the location of the Wrigley Heights Park Expansion and River Connector. (Exh. 5, p. 302.)

West Long Beach I-710 Community Livability Plan

The West Long Beach I-710 Community Livability Plan (“Livability Plan”) was adopted in 2008 to address the environmental impacts of the I-710 freeway on the

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neighborhoods within the I-710 corridor, including Wrigley Heights. (Exh. 6, p. 316.) The plan designates the Project site as Wrigley Heights Park – South, as identified in the Riverlink Plan. (Exh. 6, p. 318.)

Los Angeles River Master Plan

The final Los Angeles River Master Plan (LARMP), which was updated in June 2022 and should have been reviewed while

preparing the FEIR, also designates the Project site as Wrigley Heights River Park, a “Planned Major Project.” (Exh. 7, p. 341.)

Lower Los Angeles River Revitalization Plan

The Lower Los Angeles River Revitalization Plan (“LLARRP”) was the result of the Lower Los Angeles River Working Group, a working group set forth by Assembly Bill 530 to develop a revitalization plan for the Lower Los Angeles River watershed. (Exh. 8, p. 365; Pub. Resources Code §§ 32622, 5795, 5795.20, 5795.10.) The LLARRP identifies locations along the Los Angeles River for revitalization.

The LLARRP identifies the Project site – Wrigley Heights River Park – as the “gem of the Lower LA River.” (Exh. 8, p. 374.) The LLARRP calls the Project site a “blank canvas[] that present[s] a multitude of options for advancing the objectives of the plan elements. With its proximity to an unconfined aquifer, this site has the potential for groundwater recharge – one of the few locations along the Lower LA River where groundwater recharge is possible.” (*Ibid.*) The LLARRP identified the Wrigley Heights River Park as an opportunity area for revitalization, and gave it a score of 98 out of 100 for potential. The LLARRP also identified it as a “signature strategy” that is “exemplary of the multi-benefit, community-driven planning process and capture the essence of the LLARRP.” (Exh. 8, p. 370, 367-368.)

2. The EIR Fails to Disclose the Project’s Conflicts with the General Plan.

Under CEQA, lead agencies must analyze whether a proposed project is inconsistent with applicable land use policies, such as the governing general plan. (Cal. Code Regs, tit. 14 (“CEQA Guidelines”) § 15125, subd. (d).) A significant land use impact

requires disclosure and mitigation in the EIR. The Project will conflict with the City's park goals and other key land use plans, as described above in Section I. The Project must either be modified to eliminate these conflicts, or the conflicts must be disclosed as significant land use impacts in the EIR. The EIR's current failure to identify significant impacts on land use violates CEQA.

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For example, the City of Long Beach General Plan Land Use Element requires implementation of the Long Beach RiverLink Plan. (Exh. 9, p. 406.) Implementation Strategy LU-M-86 requires the City to: "Update and implement the Long Beach Riverlink Plan to create a continuous greenway of pedestrian and bike paths and linkages along the east bank of the Los Angeles River, as well as to connect to existing and future parks, open space and beaches along western portions of the City." (*Ibid.*) However, construction of the Project along the River will surely conflict with this implementation measure by foreclosing public access and green space on the vast majority of the Project site.

The EIR fails to analyze the Project's conflicts with other applicable General Plan implementation strategies (Exh. 9, pp. 404-07), including ones that incorporate the land use plans described above, such as:

- LU-M-53: Continue to implement the Long Beach I-710 Community Livability Plan aimed at incorporating and prioritizing livability improvements in the I-710 freeway corridor neighborhoods.

- LU-M-54: Continue to implement the West Long Beach Livability Implementation Plan to improve the quality of life in West Long Beach and to bring to fruition the community's vision of a healthy, vibrant and livable neighborhood through land use planning and capital improvement projects.
- LU-M-84: Increase parks and open space areas to meet the City standard of eight acres of park land for every 1,000 Long Beach residents, particularly in neighborhoods where there is a deficiency in park space.
- LU-M-85: Continue to implement and update the Department of Parks, Recreation and Marine Strategic Plan and the Open Space and Recreation Element.
- LU-M-95: Reuse vacant properties as community amenities such as gardens, parks or temporary green spaces to reduce blight and safety issues, increase residents' access to needed parks and open spaces, and spur additional investment in neighborhoods.
The EIR must be recirculated to analyze, disclose, and mitigate the Project's conflicts with the General Plan.

3. The EIR Must Disclose and Analyze Impacts to Equestrian Uses.

A portion of the Project site falls within the City's horse overlay zone. These horse overlay zones were approved to preserve and protect Los Cerritos' unique culture

and cherished community. (See Exh. 10, excerpts from the 1977 EIR adopting the horse overlays, along with a map of the remaining horse overlay districts.) We understand that the horse overlay district will remain on the site, however, we urge that the City *preserve* and *maintain* equestrian uses within this overlay district and we do not believe this Project will achieve that.

The Project sits near one of the last remaining equestrian-zoned properties within the City of Long Beach, located adjacent to the Los Angeles County Flood Control/Historical Equestrian Trail. This area has specific and unique needs which incorporate utilization and access of the existing sized strip of County Land parallel to the Flood Control region for ingress/egress, emergency services, access to the Equestrian trail and preservation of the zoning and intended use of residents' lands. Approving the Project would adversely impact equestrian-zoned properties and adjoining trails. The Project as proposed does not appear to provide housing that would allow for stables or corrals, pursuant to the horse overlay as codified in the Long Beach Municipal Code ("LBMC"), sections 21.38.010 et seq.

These standards include, among others:

- Restrictions on the number of horses permitted per lot area, including that no horse shall be kept on any lot containing less than eight thousand (8,000) square feet of gross lot area (LBMC § 21.38.201).

- Requirements for stalls to located on the rear 50% of a lot (LBMC § 21.38.210).
- Setbacks from residential units, property lines, and accessory structures (LBMC §§ 21.38.215, 21.38.220, 21.38.225.)
- Landscaping and parking requirements (LBMC §§ 21.38.240, 21.38.245).

The Project effectively forecloses the ability for equestrian use, because property owners in the proposed development would not be able to meet these requirements. For example, the maximum unit size of a unit within the proposed development is 2,244 square feet (Staff Report, p. 5), which is much less than the minimum lot size required under LBMC § 21.38.201. The EIR must analyze this as a conflict with applicable zoning regulations.

Additionally, the City failed to respond to Riverpark Coalition's comment that the Project would cross over the equestrian trail easement.

Further, a strategy of the Land Use Element in this area is to "Respect and maintain the equestrian uses within Wrigley Heights and promote shared use and maintenance of the area trail system." (Exh. 9, p. 409.) The Project as proposed would

preclude implementation of this strategy by preventing maintenance of long-protected equestrian uses at this Site. Western Long Beach community members have worked for years to maintain groups like the Wrigley Equestrian community while furthering the City's ambitious RiverLink plan, in hopes of strengthening community connection to natural spaces throughout Long Beach. The Riverpark Coalition encourages the City to work with stakeholders and community advocates to preserve and help realize this shared vision.

B. The EIR Fails to Adequately Disclose, Analyze, and Mitigate the Project's Significant Hazardous Impacts and Impacts to Water Quality.

The EIR, even as revised, does not adequately analyze, disclose, or mitigate the Project's significant impacts relating to hazardous materials and water quality. While CEQA does not require an analysis of the environment's effects on a project, when, as here, a project would exacerbate existing environmental hazards "by bringing development and people into the area affected," there must be analysis of such impacts. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 388.)

The FEIR recognizes that the site cannot be used for residential purposes until it is cleaned up. Yet the EIR improperly defers analysis of the Project's exacerbation of hazardous impacts, and leaves analysis of such impacts to be reviewed by the LARWQCB. Under CEQA, lead agencies are not permitted to defer environmental analysis to a separate regulatory scheme. (*Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 16-17.) The EIR defers analysis of the Project's construction exacerbating soil and

groundwater contamination, instead concluding that “in the event” such contamination is encountered, it will be removed and/or treated in accordance with the RAP and state, federal, and local regulations. (FEIR, p. IV-H.33.)

CEQA does not permit deferral of the analysis of environmental impacts, as “[a] fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 394.) Thus, environmental review must occur as early as possible to provide meaningful information to the Planning Commission and the public. Further, deferred mitigation violates CEQA. (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; CEQA Guidelines § 15126.4(a)(1)(B).) Deferral is only permitted when

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an agency commits itself to a mitigation measure with specific performance standards. (CEQA Guidelines § 15126.4(a)(1)(B).)

The EIR relies on a RAP that has not even yet been approved by the LARWQCB to ensure that the Project site will be cleaned up and impacts will be mitigated. (*Ibid.*) Not only has the RAP not yet been approved, it is not even fully defined. The EIR states that the RAP itself defers the preparation of a Groundwater Monitoring Plan which will specify the design and implementation of groundwater monitoring, and will include a “contingency” for in-situ groundwater remediation if LARWQCB later determines it is necessary. (FEIR App. C Section 1, IV.H-7.) Additionally, the EIR

recognizes that an Operations, Maintenance, and Implementation Plan “is expected to be a component” of the LARWQCB’s approval. (*Ibid.*) These mitigation measures are far too speculative and lack any specific performance criteria or commitment, and thus violate CEQA.

Additionally, the Project relies on an engineered cap on the north side of the Project site instead of soil remediation, where the site’s limited open space uses are planned to be. (FEIR, App. C Section 2, p. vi [Revised RAP].) The EIR does not disclose the design or engineering details of this cap, which will be deferred until after approval of the RAP. (*Ibid.*) Nor does the EIR disclose what would happen if the cap failed to contain the site’s hazardous soils. The EIR must analyze and disclose these impacts and project features prior to project approval.

The Project will also likely cause significant impacts to surface water quality as it will convert over 60% of the site to impervious surface. (DEIR, p. IV.I-25.) Instead of addressing these impacts, the EIR merely states that the Project would be required to prepare post-construction Best Management Practices (BMP) and prepare an LID Plan. (DEIR, p. IV.I-28.) These BMPs and the LID Plan must be in place before the public and decisionmakers review the Project; otherwise they are deprived of information essential to analyzing the Project’s impacts.

With regards to groundwater, the EIR should be recirculated to specifically review impacts to groundwater, especially given the City’s reliance on groundwater as surface water within the State becomes more scarce. (See Exh. 11.)

Finally, the EIR appears to rely on Project Design Features to base its conclusion that the Project would have no significant hydrology

or water quality impacts, stating that such features would “reduce potential Project and cumulative hydrology and water quality impacts to less than significant levels.” (DEIR, p. IV.I-30.) Reliance on Project Design Features improperly compresses the DEIR’s disclosure and analysis functions. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-656.) A

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“mitigation measure cannot be used as a device to avoid disclosing project impacts.” (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663-664.) An EIR cannot incorporate “the proposed mitigation measures into its description of the project and then conclude [] that any potential impacts from the project will be less than significant.” (*Lotus, supra*, 223 Cal.App.4th 645, 655-657.) The EIR’s shortcut is “not merely a harmless procedural failing...[it] subverts the purposes of CEQA by omitting material necessary to informed decisionmaking and informed public participation.” (*Id.* at 658.)

C. The EIR Fails to Disclose All Impacts to Tribal Cultural Resources

In response to the Riverpark Coalition’s comments regarding the lack of analysis of other tribal governments having a connection with the Project site, the City claims it has fulfilled its duties under AB 52. Because of the Project’s site connection to several tribal governments, we urge the City to sustain efforts to analyze, disclose, and mitigate the impacts of the Project on tribal cultural resources. We agree with comments made by Anna Christensen, Chair of the Sierra Club Los Cerritos Wetlands Task Force and have attached them as Exhibit 12.

D. The Project Will Expose New and Existing Residents to Unsafe Air Quality.

The Project site is located between the 405 and 710 freeways at their interchange in what has been termed a “diesel death zone.” The Project site is a mere 85 feet south of the 405 Freeway and 660 feet east of the 710 Freeway. (DEIR p. IV.B-17.) The Project’s location, by itself, renders the site unsuitable for residential development. The DEIR admits that the Project site’s freeway-centric location, alone, would expose new residents to levels of pollution beyond the South Coast Air Quality Management District’s threshold of significance for excess cancer risk. (IV.B-56.) Therefore, the Project would “Expose sensitive receptors to substantial pollutant concentrations,” triggering DEIR Threshold IV.AQ-3. The City should not approve a Project it knows will harm the residents it seeks to house. The City should instead use its police powers to protect its residents and instead explore alternate uses, such as use for a park, that will not expose users to 24/7 vehicular and diesel pollution.

The DEIR details the site’s unsuitability for residential development. The DEIR’s air quality section begins by explaining that “Residential areas are []considered sensitive to poor air quality because people in residential areas are often at home for extended periods.” (IV.B-18.) Next, the DEIR notes that “high volume roads and freeways are the primary sources of diesel exhaust emissions (a TAC) within urban areas. Freeways or urban roads experiencing 100,000 or more vehicles/day could expose sensitive receptors

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to adverse health risks.” (DEIR p. IV.B-43.) “The primary concern is the effect of diesel exhaust particulate, a TAC, on sensitive

uses.” (*Ibid.*) The DEIR also explains the potential harms of TACs, and diesel in particular. For this reason, “CARB recommends that local agencies avoid siting new, sensitive land uses within 500 feet of a freeway.” (*Ibid.*) Yet the Project site is only 85 feet from the 405 Freeway and scarcely more than 500 feet from the heaviest diesel truck corridor in Southern California, the 710 Freeway. (DEIR p. IV.B-17 and IV.B-43.) As a result, the DEIR finds, “the maximum cancer risk at the Project Site from DPM emissions generated by diesel-vehicle travel along the I- 710, I-405 and Wardlow Road for residents and workers are 1.2 in one hundred thousand (or 12 per one million) and 8.4 in ten million (or 0.84 per one million), respectively. *As such, the cancer risk for residents at the Site would exceed the SCAQMD suggested significance criteria of 10 per one million.*” (IV.B-55-56.) The DEIR summarizes, “the impact from exposure to pollutants from I-710, I-405 and Wardlow Road are considered potentially significant because cancer risk for residents at the Site would exceed the SCAQMD suggested significance criteria.” (IV.B-56.) Residential exposures to diesel particulate pollution at the Project site exceed South Coast Air Quality Management District’s significance criteria for excess cancer risk. The Project should not be approved.

Despite these clear findings, the DEIR finds that Project could reduce cancer risks to an acceptable level through Mitigation Measure MM AQ-2. This measure would “incorporate the following design features to reduce potential cancer risk:

- Install, operate, and maintain an HVAC system that uses high-efficiency filters of Minimum Efficiency Reporting Value (MERV) 14 or higher for the residential units (suggested use of MERV 16);
- Locate the air intakes for the uses as far from the freeway as possible; and

- Provide a disclosure letter to all new residents that discusses the potential risk from living within close proximity of the freeway and roadway segment, and points out that opening windows reduces the effectiveness of implemented reduction measures and increases individuals' exposure and hence risk.”

However, as DEIR admits, MM AQ-2 is only truly effective when “doors and windows are kept mostly closed.” (DEIR p. IV.B-56.) How likely is that for residents who will not be living that far from the ocean, especially when it is much more economical to rely on ocean breezes from a window than pricey air conditioning? Understanding this, the DEIR acknowledges, “Consequently, because most occupants of the proposed Project are anticipated to open their windows or doors at least part of the day, any pollutant reduction

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attained through the use of high-efficiency filters would be compromised based on the amount of time doors and windows are left open.” (DEIR p. IV.B-57.) Thus, it appears that the DEIR itself recognizes that its mitigation measure for the air quality impacts of bringing residents into an unacceptably polluted landscape will not be effective. CEQA requires that mitigation measures be effective if they are to be relied upon in an EIR. “Unrealistic mitigation measures...do not contribute to a useful CEQA analysis.”

(*Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 433.)

Additionally, the EIR is unclear about the implementation of MM AQ-2. While it claims to require that the applicant “install, operate, and *maintain*” an HVAC system and filters, the implementation

details are left unclear. How often will filters be changed? How will this be managed, funded, and implemented in perpetuity? Neither the mitigation measure nor the Conditions of Approval provide this information. Without assurance that MM AQ-2 will be funded and enforced throughout the life of the Project, there is not substantial evidence to support the DEIR's conclusion that impacts will be mitigated below a level of significance. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189-90.)

Understandably, members of the public submitted comments during the DEIR process raising concerns about the danger the Project poses to new residents. In response to Comment 11a-1, the FEIR stated, "This comment does not identify an impact potentially resulting from the Project, but rather focuses on the environment's impact on the Project. As explained above, the environment's impacts on the Project are generally outside of the scope of CEQA." This is incorrect, and the response is inadequate. Although an EIR need not analyze the environment's impacts on a Project, an EIR must still disclose, analyze, and mitigate environmental impacts that will be *exacerbated* by a Project. As the Supreme Court found, "when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users." (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 377– 378.) Bringing 624 residents to the site, 24/7, will exacerbate the air quality dangers posed by the Project site. Further, CEQA requires a mandatory finding of significance when a Project "will cause substantial adverse effects on human beings, either directly or indirectly." (CEQA Guidelines § 15065 (a)(4).)

The Project will have significant and adverse health impacts on human beings without assured and enforceable mitigation. We urge the Commission to heed the warnings of the DEIR and reject the proposal to subject 624 residents to round-the-clock pollution.

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E. The Project Will Expose Residents to Unsafe Levels of Noise.

It is undisputed that living next to a freeway is loud. This Project would expose hundreds of people to the freeway noise of two of Southern California's busiest, and loudest, freeways. The U.S. Environmental Protection Agency has declared that exposure to high noise levels presents a "health risk in that noise may contribute to the development and aggravation of stress related conditions such as high blood pressure, coronary disease, ulcers, colitis, and migraine headaches...Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies. There are also some indications that noise exposure can increase susceptibility to viral infection and toxic substances."²

Potentially deadly cardiovascular impacts can be triggered by long-term average exposure to noise levels as low as 55 decibels.³

Exposure to even moderately high levels of noise during a single 8 hour period triggers the body's stress response. In turn, the body increases cortisol production, which stimulates vasoconstriction of blood vessels that results in a five to ten point increase in blood pressure. Over time, this noise-induced stress can result in hypertension and coronary artery disease, both of which increase the risk of heart attack death.⁴ Studies on the use of tranquilizers,

sleeping pills, psychotropic drugs, and mental hospital admission rates suggest that high noise levels cause adverse impacts on mental health.⁵

² EPA Noise Effects Handbook, <http://www.nonoise.org/library/handbook/handbook.htm>, incorporated by reference; see also EPA *Noise: A Health Problem* <http://www.nonoise.org/library/epahlth/epahlth.htm#heart%20disease>, incorporated by reference. ³ World Health Organization Media Centre, http://www.euro.who.int/eprise/main/WHO/MediaCentre/PR/2009/20091008_1?language [elevated blood pressure and heart attacks], incorporated by reference; <http://whqlibdoc.who.int/hq/1999/a68672.pdf> [finding demonstrated cardiovascular impacts, including ischemic heart disease and hypertension after long-term exposure to 24 hour average noise values of 65-70 dBA], incorporated by reference.

⁴ WHO Guidelines for Community Noise, p. x and pp. 47-48. The report is available in its entirety online at <http://whqlibdoc.who.int/hq/1999/a68672.pdf>; *see also*, Maschke C (2003). “Stress Hormone Changes in Persons exposed to Simulated Night Noise”. *Noise Health* 5 (17): 35–45. PMID 12537833, <http://www.noiseandhealth.org/article.asp?issn=1463-1741;year=2002;volume=5;issue=17;spage=35;epage=45;aualast=Maschke>, incorporated by reference; Franssen EA, van Wiechen CM, Nagelkerke NJ, Lebrecht E (2004). “Aircraft noise around a large international airport and its impact on general health and medication use”. *Occup Environ Med* 61 (5): 405–13. doi:10.1136/oem.2002.005488. PMID 15090660.

⁵ WHO, p. x. and pp. 48-49.

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High noise levels also have dramatic developmental impacts on small children, many of whom might one day reside in the Project. Children who are exposed to higher average noise levels have

heightened sympathetic arousal, expressed by increased stress hormone levels, and elevated resting blood pressure. As proposed, the Project would expose community members to levels of noise that are unsafe for cardiovascular health, mental health, societal well being, and child development.

During the DEIR comment period, Caltrans wrote, “residential construction next to freeways is an incompatible land use and local jurisdictions need to require soundwalls tall enough to reduce traffic noise. To ensure compliance with established noise standards and guidelines, and to protect future occupants from potential adverse effects associated with traffic noise levels exceeding these standards, soundwalls need to be implemented in the zoning, architectural design, and construction of units. Otherwise, future traffic noise controversy can be expected.”

The FEIR essentially disregarded Caltrans’ comments, writing in Response 1-4: (1) that the residential units would be located slightly further from the freeways; (2) that noise measurements did not exceed sound limit; and (3) that CEQA does not require this analysis anyway. Sound walls will not be considered. The FEIR’s response is inadequate. Caltrans, as the State’s foremost expert on freeways, was explicit in its comment that residences and freeways are incompatible land uses.

The DEIR’s noise levels may be underestimated. The DEIR’s noise analysis averaged noise levels over 15-minute intervals, which obscures both short-term and impulsive noise that can be most disturbing to residents. (DEIR p. IV.K-5.) Noise levels were measured at noon and 3 pm, outside of the commute hours when traffic noise would be highest. Additionally, the DEIR’s noise measurements were taken on February 3, 2021 (*ibid*), a Wednesday morning before Covid vaccines were widely available and traffic

had fully rebounded to pre-Covid levels. In any case, nearly all of the recorded ambient noise levels exceeded the 55 dBA level at which health impacts can occur, and site 5 exceeded 70 dBA, a level the State of California deems “unacceptable” for residential use. (DEIR p. IV.K-19.) The Project site’s ambient noise also exceeds the City’s existing limits for residential uses and for other residential zones in the City. Consequently, the Project would likely have a significant adverse impact on human beings by exposing residents to noise they would otherwise miss, a CEQA impact that cannot be dismissed and that must be disclosed, analyzed, and mitigated in the EIR. (CEQA Guidelines s. 15065.) Sound walls should be considered in this analysis.

F. The EIR Fails to Adequately Address Impacts to Biological Resources.

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The EIR claims, “While Southern Tarplant (*Centromadia parryi*) is known to occur in the area, thorough surveys, conducted at different times of year, did not locate any specimens of this specie.” (DEIR p. IV.C-2.) Further, the EIR did not even list it as a species with a likelihood of being found on the site. (DEIR pp. IV.C-15 and 16.) The southern tarplant has a California Native Plant Society (CNPS) Rare Plant Rank of 1B.1 and is considered a rare species under CEQA. The conclusions of the EIR’s biological resources section are curious, given that biological resources consultant LSA documented 830 individuals on the *adjoining* property. During the environmental review process for the 3701 Pacific Place project, which would be located next door to the Riverpark Project, LSA submitted an updated assessment of the tarplant population. This assessment found, “when combining the

results from 2019 and 2020, LSA has estimated a total of approximately 830 southern tarplant individuals occurring within the project limits, all of which would be permanently impacted by the proposed project.” (LSA Letter dated August 21, 2020, Exhibit 13.)

As a result of the EIR’s failure to disclose that Southern tarplant could potentially occupy the site, the Project fails to include any mitigation for impacts to Southern tarplant individuals that may be present now or that could colonize the site in the future. As the Department of Fish and Wildlife wrote in their comments on the Notice of Preparation, “CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW *also considers impacts to SSC a significant direct and cumulative adverse effect* without implementing appropriate avoid and/or mitigation measures.” (emphasis added.) CDFW continued, “The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent communities as threatened habitats having both regional and local significance.” The EIR contains no such measures. The EIR must be revised to require preconstruction surveys and measures to protect, in place, any tarplant individuals found.

G. The Proposed Traffic Mitigation is Unsafe.

CEQA prohibits the imposition of speculative mitigation measures. (Pub. Resources Code § 21081.6(b) [must be “fully enforceable through permit conditions, agreements, or other measures.”]) Further, CEQA requires that mitigation measures be analyzed for efficacy and for environmental impacts they may, themselves,

create. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645; CEQA Guidelines § 15126.4.)

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The Project's main access driveway would be located on Wardlow Road. (FEIR p. 29.) The Project's trip generation would introduce new trips onto a road segment that has had an unacceptable Level of Service of E since at least 1993. (Exhibit 14, March 12, 1993 City Memorandum.) The EIR found the potential impact to be unsafe. Line-of-sight analysis of vehicle movements at the proposed access driveway on Wardlow Road determined that vehicles at the proposed driveway would lack adequate sight distance along Wardlow Road. This could "substantially increase hazards." (I-11.) The EIR proposes to mitigate the impacts of these new trips with a flashing light via Mitigation measure MM Trans-1. (DEIR p. IV.M-32.) Per the final EIR, "This mitigation would result in the installation of a traffic signal on Wardlow Road at the Project driveway." (FEIR p. 31.) Without this mitigation, the Project's impacts on traffic would remain significant and require the City to support and approve a Statement of Overriding Considerations.

However, the City has considered a traffic signal at this location in the past. The City specifically chose *not* to install a traffic signal at this location because it would be unsafe. Environmental Impact Report No. 64-87, dated April 14, 1988, for a proposed, but never built residential development in Wrigley Heights stated: "The City Traffic Engineer has previously indicated that because of the elevation and geometrics, it is not possible to construct a new North/South street to Wardlow." (Exhibit 14, March 12, 1993 City Memorandum.) In 1988, there was no A-Train (Blue Line), there

were no bollards on Wardlow Road, and there was far less traffic. The City provides no support for any assertion that the flashing light proposed by the Project will make the situation safe. The proposed mitigation measures do nothing to improve the line-of-sight for vehicles at the intersection. The only substantive change appears to be flashing lights hanging from a utility pole. At this location, Wardlow Road is both curved and steep. Threshold TR-3 confirms that none of the measures related to the proposed traffic signal at the new intersection improve the line-of-sight in any way. (FEIR p. 18.) The EIR fails to even guarantee *which, if any*, measures will be taken in conjunction with the new signal. The FEIR states, twice, that the traffic signal related equipment *may include* a number of features.

The EIR fails to explain how a traffic signal that was previously considered unsafe is now acceptable. Traffic on Wardlow has doubled since 1993. Either the proposed mitigation measure MM Trans-1 remains unsafe and will not be installed, rendering it speculative, or the EIR proposes an unsafe mitigation measure without disclosing, analyzing, and mitigating the significant impacts on driver, pedestrian, and cyclist safety. Either way, the City's EIR violates CEQA. The EIR must be revised and recirculated.

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Conclusion

Thank you for your consideration of these comments. We urge the Commission to reject this harmful Project in favor of the long-planned and much-needed Los Angeles River park that would be forever foreclosed if the City approves this Project. If the City

chooses to continue its consideration of the Project, we look forward to the City's completion of the required analyses described herein, and recirculation of the EIR, before it does so.

Exhibits:

1. (1) CalEnviroScreen 4.0 Output filtered for Census Tract 6037572100 and Data Dictionary, downloaded from <https://oehha.ca.gov/media/downloads/calenviroscreen/document/calenviroscreen40resultsdatadictionaryf2021.zip> on Aug. 27, 2022.
2. (2) Excerpts of the April 12, 2021 Riverpark Coalition Letter Opposing 3701 Pacific Place Development
3. (3) NOP Comments from Dr. Tilly Hinton, PhD.
4. (4) Excerpts of the Long Beach General Plan Open Space and Recreation Element
5. (5) Excerpts of West Long Beach Livability Implementation Plan
6. (6) Excerpts of West Long Beach I-710 Community Livability Plan
7. (7) Excerpts of Los Angeles River Master Plan

8. (8) Excerpts of Lower Los Angeles River Revitalization Plan
9. (9) Excerpts of the Long Beach General Plan Land Use Element
10. (10) Excerpts from 1977 EIR, and map of remaining horse overlay districts.
11. (11) Harry Saltzgaver, Long Beach Press-Telegram, “Long Beach keeps pace, leads efforts to become water independent,” August 16, 2022, available at:
<https://www.presstelegram.com/2022/08/16/long-beach-keeps-pace-leads-efforts-to-become-water-independent/>.
12. (12) Comments on tribal cultural resources.

Sincerely,

Michelle Black Sunjana Supekar

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1. (13) Letter from LSA re Southern Tarplant at 3701 Pacific Place, August 21, 2020, available at <https://longbeach.gov/globalassets/lbds/media-library/documents/planning/environmental/environmental-reports/pending/3701-pacific->

[place/c3_-_focused_special_status_plant_survey_aug_2020.](#)

2. (14) City of Long Beach Memorandum re Metro Blue Line Wardlow Road Station Relocation, March 12, 1993.