

# City Council

Meeting Time: 10-09-18 17:00

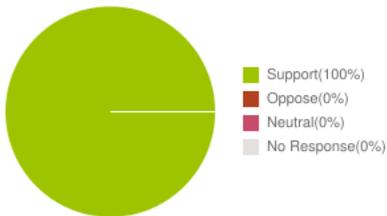
## eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
City Council	10-09-18 17:00	26	1	1	0	0

### Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

#### Overall Sentiment



# City Council

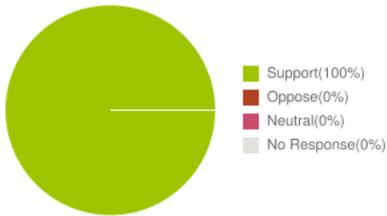
10-09-18 17:00

Agenda Name	Comments	Support	Oppose	Neutral
10. Approval of Loan Commitment for the 1717 S Street Project (Published for 10-Day Review on 09/27/2018) File ID: 2018-01166	1	1	0	0

## Sentiments for All Agenda Items

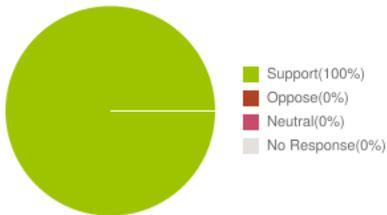
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

### Overall Sentiment



Agenda Item: eComments for 10. Approval of Loan Commitment for the 1717 S Street Project (Published for 10-Day Review on 09/27/2018) File ID: 2018-01166

### Overall Sentiment



### Alan LoFaso

Location:

Submitted At: 7:15pm 10-09-18

I strongly support this action and this project. This has been a "dark block" for years calling out for development, especially with a project combining strong housing and mix-use components. I also support the affordable housing units. I live near this project. /s/ Alan LoFaso

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October 9, 2018

**VIA HAND DELIVERY AND EMAIL**

Members of the Sacramento City Council  
c/o Mindy Cuppy, MMC  
City Clerk, City of Sacramento  
915 I Street  
Sacramento, CA 95814  
clerk@cityofsacramento.org

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
Sacramento, CA 95811  
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**RE: Comments On Final Environmental Impact Report For The McKinley Water Vault**

Dear members of the City Council and Mr. Johnson:

I write on behalf of Citizens For A Safe And Sewage-Free McKinley Park (“Citizens”), an unincorporated association dedicated to preserving and protecting historic McKinley Park and its surrounding neighborhoods.

Citizens objects to the City’s approval of the McKinley Water Vault Project (“Project”). As detailed in the letter and accompanying materials submitted by Citizens to the City on June 6, 2018, the contents of which are incorporated herein by reference, the Draft Environmental Impact Report (“DEIR”) for the Project failed to comply with the most basic requirements of the California Environmental Quality Act (“CEQA”). Unfortunately, notwithstanding the significance of this Project to the residents of the City of Sacramento—as evidenced by the many comment letters submitted to the City following release of the DEIR—the Final Environmental Impact Report (“FEIR”) for the Project similarly falls far short of satisfying CEQA’s mandates.

As detailed in Citizens’ June 6, 2018 letter, the DEIR was deficient because it failed to adequately analyze and propose mitigation measures to address the Project’s impacts on (i) aesthetics and visual resources; (ii) air quality; (iii) biological resources, including trees; (iv) cultural resources; (v) geology and soils; (vi) hazards and hazardous materials; (vii) hydrology; (viii) noise and vibration; and (ix) transportation and traffic. In addition, the DEIR failed to comply with CEQA

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because its Project Description was legally deficient, and the DEIR failed to discuss reasonable and feasible Project alternatives. The FEIR does not cure the DEIR's defects in any of these areas.

Nor does the FEIR satisfy the City's obligation to respond to comments on the DEIR. By way of illustration, as explained in the attached letter from Terra Nova Planning & Research, Inc. ("Terra Nova"), the FEIR fails to address Citizens' comments and questions concerning: (i) the capacity of the vault; (ii) how long overflows would be retained in the vault; (iii) the adequacy of shoring and the safety of excavation; and (iv) the nature and level of contaminants potentially present in the vault (and therefore in runoff), including human waste/E. Coli, petroleum distillates, heavy metals, and asbestos. By failing to adequately respond to these comments, and to provide critical requested information, the City has made it impossible for responsible agencies and the public to evaluate the true nature and extent of the Project's environmental impacts.

Not only does the FEIR fail to cure serious defects in the DEIR, or to adequately respond to comments thereon, but the FEIR also makes significant changes to the DEIR without analyzing the impacts of those changes. For example, as detailed in the accompanying letter from Terra Nova, the FEIR discloses that the size of the Project's impact area will be significantly greater than the impact area identified in the DEIR. However, the FEIR fails to analyze impacts resulting from the expansion of the Project's impact area, including those relating to air quality, trees, the historic resource that is McKinley Park, and noise and vibration, particularly as they concern children attending the Tiny Tots Daycare. Similarly, the FEIR substantially changes the way in which the Project site will be accessed, and now proposes a single ingress and egress on 33rd Street. This change will likely cause multiple significant impacts that have not been analyzed, including impacts relating to traffic and emergency vehicle access. The EIR must be revised to study the impacts of these significant changes, and must then be recirculated for public review and comment.

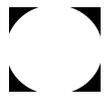
For the reasons set forth in Citizens' letter dated June 6, 2018 and the materials submitted therewith, and for the reasons set forth herein and in the accompanying letter by Terra Nova, the EIR for the Project fails to comply with CEQA. Accordingly, the EIR must be revised to accurately reflect the Project and its impacts, and must then be recirculated to allow the public and decision-makers a meaningful opportunity to review and comment upon the Project and its environmental impacts. See 14 Cal. Code Regs. § 15088.5.

Sincerely,



STEPHEN R. COOK

Encl.



# TERRA NOVA PLANNING & RESEARCH, INC.

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October 9, 2018

Stephen R. Cook  
Brown Rudnick, LLP  
2211 Michelson Drive, Suite 700  
Irvine, CA 92612

RE: Final Environmental Impact Report  
McKinley Water Vault  
(SCH No. 2017062015)

Dear Mr. Cook:

In response to your request, we have reviewed the Final Environmental Impact Report (Final EIR) prepared by the City of Sacramento for the McKinley Water Vault Project (SCH No. 2017062015). The following summarizes our findings as a result of this review.

### **Executive Summary**

Our comprehensive review of the Final EIR forces us to conclude that the City has failed to meet its mandate under the California Environmental Quality Act (CEQA). The responses provided in the Final EIR do not address the majority of our comments, and do not mitigate the significant impacts associated with the Project. The following briefly summarizes our concerns, which are detailed in the topical sections below.

The Final EIR claims that the Project area is smaller than what was analyzed in the Draft EIR. What the Final EIR fails to disclose is that although the sewage vault is smaller than previously described, the impact area of the Project has increased, because staging areas have been expanded in both the east-west and north-south directions.

The Final EIR still does not address the flooding impact resulting from the construction of the Project. As explained thoroughly in our letter of June 6, 2018, the proposed water vault will fail to address flooding in East Sacramento. The Final EIR repeatedly states that the Project is not designed to eliminate flooding in this historic neighborhood. Yet nowhere in either the Draft or Final EIR does the City analyze the impacts associated with the flooding that will remain. As detailed in our June 6 letter, there will be a minimum of 0.8 inches, and up to three inches of flood water in East Sacramento after the Project is constructed in a 10-year storm. The Project is directly responsible for this impact, yet the City fails to analyze it in any way.

Further, the City has failed to address impacts associated with biological resources, particularly trees, in the Project area. As detailed in our June 6 letter, the tree inventory provided in the Draft

EIR was flawed, and no analysis of impacts to trees was provided. Although the tree inventory has been partially corrected, there remains no analysis of the impacts to trees immediately adjacent to the Project, and unfounded promises for the planting of additional trees are characterized as mitigation measures.

Impacts to historic resources have not been addressed, and the Final EIR ignores impacts to contributing features of this National Register nominated park. The Final EIR discounts the loss of the George Cole Baseball Diamond, and completely ignores both the horseshoe pits and the light standards in the park, all of which occur within the newly expanded staging area.

The expansion of the Project's impact area also will result in greater impacts to the children attending the Tiny Tots Daycare, as the southern boundary of the work fence now occurs less than 20 feet from the building that houses the Daycare. Impacts associated with air quality, noise and vibration have been ignored in the Final EIR.

Finally, the Final EIR now discloses that the Project will take access only from 33<sup>rd</sup> Street. The Project plan provided in Appendix B of the Final EIR shows the "90% Plans" for the Project, an engineering term which means that the plan is 90% of the final design for the Project. In this plan, construction gates are clearly shown at the north end of 33<sup>rd</sup>, immediately south of McKinley Boulevard, and barriers are shown at the intersection of 33<sup>rd</sup> and Park Way. All heavy equipment and worker traffic, both in and out of the Project, will now access from this single entry point. Yet neither the Draft nor the Final EIR provide any analysis of the impacts of this design to local streets, both in terms of Project traffic, and in terms of the impacts to local residents.

### **Final EIR Deficiencies**

CEQA requires that a Lead Agency respond to all substantive comments received on a Draft EIR. Specifically, Guidelines Section 15088(c) states:

*"The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice."*(emphasis added)

In this case, the City of Sacramento has failed to respond to the objections and recommendations made in our letter of June 6, 2018. In most cases, they have been ignored. It is important to note that the Final EIR relies on the use of "Master Responses," and dismisses most comments with references to these Master Responses. What the Final EIR fails to do, however, is to address all of our concerns in these Master Responses. The analysis below first addresses the content of the Master Responses, and then the specific responses to our letter of June 6, 2018.

### **A. Master Response 1: Project Purpose and Objectives**

Master Response 1 clearly states that the intent of the Project is not to eliminate flooding in East Sacramento. What this response fails to do, however, is to analyze the impacts of the flooding that will remain with implementation of the Project. Given that the City characterizes the McKinley Vault as a positive solution to an existing problem, the City is responsible for considering and analyzing:

- a) How much sewage and storm water will occur in East Sacramento after implementation of the Project; and
- b) What the impact of leaving sewage and storm water in East Sacramento streets and yards will have on the neighborhood.

This is particularly important because the City has chosen to design the Project for the smallest potential 10-year storm. As detailed in our letter of June 6, 2018, the 10-year, 6-hour storm will not be accommodated by this Project, and 0.8 to 1.2 inches of sewage and storm water will remain in East Sacramento. In the 10-year, 12-hour and 10-year, 24-hour storm, there will be 1.5 to 3.25 inches of water in streets and front yards. In a 100-year storm, the impacts are further magnified, and up to 6 inches of sewage and storm water will remain in East Sacramento streets and front yards. This is a direct result of implementation of the Project, and must be addressed throughout the EIR, including impacts associated with public safety, flooding, and the propagation of pathogens, chemicals and metals into a residential neighborhood. Yet no analysis has been provided, and no mitigation measures included in the document. The issue is addressed in one sentence in the Final EIR, on page 3.6, with the statement that “*(a)ny flooding within the area would be reduced with the introduction of the McKinley Water Vault, with more manageable flows throughout the McKinley Park area.*” What is “manageable flow”? The Final EIR appears to concede that there will be impacts, but considers these impacts acceptable because they will be “manageable.”

### **B. Master Response 2: Project Footprint and Construction Details**

The Final EIR states that the Draft EIR analyzed an area of impact greater than the Project now contemplated, insofar as the Project area in the Draft EIR was defined as 300 feet wide by 350 feet long. The Final EIR goes on to state that Appendix B of the document provides the current design, labeled “90% Plan.” What the Master Response fails to disclose or analyze is that the 90% Plan shows an impact area of 440 feet across by 600 feet long, far larger than analyzed in the Draft EIR, and far larger than the reduced vault size of 240 feet by 300 feet. Although we believe that this impact area is much more realistic, given the amount of heavy equipment, vault shoring, worker vehicles and materials storage needed for such a project, nowhere in either the Draft or the Final EIR is such a large area analyzed. As discussed below under air quality, biological resources and cultural resources, this omission results in significant deficiencies in the analysis of both the Draft and Final EIR.

Master Response 2 attempts to address the issue of vault capacity raised in our letter, and fails. The analysis we provided pointed to inconsistencies in the Draft EIR between the extremely large design capacity of the vault (1 million gallons) when compared to the storm water

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generated in outflows (surcharges) in the East Sacramento CSS, and questioned whether the extra design capacity was to be taken up by connections to the McKinley Boulevard and H Street CSS pipes. Nowhere in the Final EIR is this concern addressed, nor is any further description of whether these lines, or the CSS in Alhambra Boulevard will be connected to the Project. On the contrary, the Final EIR states that there are no off-site improvements associated with the Project, implying that no connection is to be made to any of these off-site lines. If this is indeed the case, our questions regarding the capacity of the vault have not been addressed.

Further, none of the Master Responses address our concern regarding how long overflows would be retained in the vault, particularly during periods of protracted rainfall, or how long it would take to empty the vault, once rain has ceased. These are critical to analyzing the potential for methane build-up in the vault, and for a meaningful analysis of its impacts.

Our comments raised serious concerns regarding the adequacy of shoring and the safety of the excavation, in particular the stability of the cut walls. Our comments further questioned the Draft EIR's failure to describe the methods and techniques to be used to shore up the walls, and whether these represented a safety hazard, given the shallow water table and the nature of on-site soils. Master Response 2 addresses this concern in one sentence: *"Any shoring required by the proposed Project would remain within the Project footprint and would be implemented where necessary within the excavated area."* This response is clearly insufficient under CEQA, since *"Conclusory statements unsupported by factual information will not suffice."* (Guidelines 15088(c))

Multiple Project details remain inadequately addressed in the Final EIR:

- In the Draft EIR, passing mention is made of off-site improvements that "could" include connection of combined sanitary sewer (CSS) to the Project from pipes in McKinley Boulevard and H Street. Absolutely no description or quantification of the additional flows that would need to be accommodated, and whether there is capacity for these additional flows, is provided in the document. Figures in the DEIR depict a connecting pipe "From H Street" and "From McKinley Blvd," and a single sentence on page 2.3.7 states that "two additional diversion structures" may be located in those streets and a 36 inch diameter pipe will be required in 33<sup>rd</sup> Street, but absolutely no analysis of these added Project features is provided. These structures are part of the Project, and must be analyzed fully. The Final EIR simply states that there are no off-site improvements involved in the Project. If the features described above are contemplated, then that statement is patently false.
- Dewatering pumps will be required at intervals of 50 feet around the entire construction pit. We raised concerns that the discharge from these pumps was unquantified and that their impacts to the CSS during storms was not analyzed. The Final EIR states that the contractor will be required to stop pumping during storm events, in order to prevent surcharge of the CSS. Yet no mitigation measure is provided in the document, and as a result, no assurance can be made that this will indeed be the case. An unenforceable statement such as this is not permitted under CEQA. The City must demonstrate that the action is feasible and enforceable.

- The dewatering pumps and construction equipment will require electrical power. No quantification of power demand or what impacts it will result in is provided.

The Final EIR does not address our concern regarding the lack of information on the nature and levels of contaminants potentially present in the vault (and therefore in cleaning runoff), such as human waste/*E. coli*, petroleum distillates, heavy metals, asbestos, etc., all of which are potential components of residuals in a facility that receives combined storm drain and sanitary sewer inflows.

Finally, the Final EIR makes a substantial change in Project access. The Draft EIR described that worker and heavy equipment (haul) trips would enter the site on McKinley Boulevard and exit on 33<sup>rd</sup> Street north of Park Way. The Final EIR now proposes a single ingress and egress on 33<sup>rd</sup> Street. Construction gates are clearly shown at the north end of 33<sup>rd</sup>, immediately south of McKinley Boulevard, and barriers are shown at the intersection of 33<sup>rd</sup> and Park Way. This option was not considered in the Draft EIR, and is not analyzed in the Final EIR. This option has the potential for multiple significant impacts:

1. The concentration of heavy equipment trips (over 350 trips per day, including 200 haul trips and 150 worker trips at the stop-controlled intersection of McKinley Boulevard and 33<sup>rd</sup> Street has not been evaluated. Heavy equipment is slow moving, and the stop signs apply only to 33<sup>rd</sup> Street traffic. No analysis is provided of the impacts to McKinley Boulevard traffic as a result of this major change in Project access.
2. The residents of Park Way and 33<sup>rd</sup> Street will be forced to use the intersection of 33<sup>rd</sup> and H Street for both ingress and egress to their homes. This intersection is already significantly impacted. No analysis of the addition of all residential trips to this intersection has been provided in the Draft or Final EIR.
3. Emergency vehicles will not have access to 33<sup>rd</sup> Street for a period of more than 2 years. No analysis regarding the increase in response times to emergencies in the neighborhood has been provided in either the Draft or Final EIR.

### **C. Master Response 3: Trees Impacts**

The Final EIR continues to rely on deferred mitigation to address the impacts to trees. First, the simple statement that the imposition of the City's Tree Ordinance will assure that impacts to trees will be mitigated is insufficient because nowhere in either the Draft or Final EIR are the performance standards for the Ordinance described and analyzed. Second, the Final EIR continues to rely on the assumption that placing fencing on the edge of the tree dripline is sufficient to protect the trees. Our clearly stated concern that the EIR fails to address the root protection zone has been completely ignored. There is no analysis in the Final EIR of the impact to trees. The only discussion is that with the change in access (the removal of the McKinley Boulevard construction access) the Project will remove zero, four or six trees – depending on which sentence of the Final EIR one reads. Over and above this ridiculous internal inconsistency,

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the fact that the Project will remove fewer trees does not at all resolve the important issue of whether the Project will damage, and potentially kill more trees. The 90% Plan clearly shows that the construction fence for the Project abuts the treeline throughout the park. The Final EIR, however, never addresses the root system of these trees, apparently assuming that tree roots do not grow beyond the dripline. This is patently absurd, and a serious and fatal deficiency in the EIR's analysis. The 90% Plan also shows that the work area has significantly expanded. No analysis is provided of how these expanded areas will be impacted by compacting of soil due to heavy equipment traffic, or the impacts of storage of materials, chemicals and equipment.

We provided a detailed analysis by an eminent and highly qualified arborist in our letter of June 6. The Final EIR addresses only one of his many concerns: it corrects the tree inventory from the Draft EIR, and admits that the Project arborist was wrong. Significantly, however, our arborist provided analysis of only a sampling of the trees included in the inventory. The Final EIR found that almost all of his findings were correct, but failed to go through the entire inventory and correct it.

In addition, this Master Response asserts that the City is required to plant 60 trees in McKinley Park to compensate for tree damage and loss. Nowhere in either the Draft or Final EIR is this required. As a matter of fact, nowhere in the EIR is there a mitigation measure to that effect, nor is there any analysis or discussion of the type, size or location of these new trees. At a minimum, a mitigation measure must be included which provides for the species, size and location of these trees. Otherwise, the statements made in the Final EIR represent an empty, unenforceable "promise" that carries no weight or authority under CEQA.

Finally, the Final EIR acknowledges that Heritage Trees are no longer protected by the City, but states that this does not impact the analysis or adequacy of the EIR. Given that the Draft EIR relies on City General Plan policies for the protection of Heritage Trees, this conclusionary statement is false. The analysis in the Draft EIR specifically cites and relies upon the City's protection of Heritage Trees. Since that protection has been removed, the Draft EIR's analysis is flawed and incorrect.

#### **D. Master Response 5: Alternatives**

Our concerns regarding Project alternatives remain unaddressed. CEQA requires that an EIR consider and analyze:

*"a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project."* (CEQA Guidelines 15126.6(a))

and:

*"the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even*

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*if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” (CEQA Guidelines 15126.6(b))*

and:

*“The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” (CEQA Guidelines 15126.6(d))*

The Master Response states that the alternatives considered were adequate, and that the analysis provided in the Draft EIR for each was sufficient. As stated in our letter of June 6, 2018, the selected alternatives are all discounted and identified as inadequate or infeasible, and the analysis of their impacts is completely inadequate. Each alternative is analyzed in one page in Section 4 of the Draft EIR. This can hardly be considered adequate for purposes of the City’s decision makers to make an educated decision on the Project or its alternatives.

Although CEQA does not require that alternatives be studied to a level of detail equivalent to the proposed Project, CEQA does require that the level of analysis be sufficient for decision makers to determine whether an alternative would be a better option than the proposed Project. As currently written, the City Council has absolutely no way of considering an alternative location, or combination of two locations, because the EIR fails to provide any meaningful analysis of the impacts of any of the alternatives.

### **E. Master Response 6: Cultural Resources**

The Final EIR attempts to address the significant omissions in the Draft EIR by providing an analysis of McKinley Park as a historic resource. First, the Final EIR falsely states that the analysis in the Draft EIR was sufficient, because the park is not designated as a historic resource. As stated in our letter of June 6, 2018, that determination is false. CEQA provides that a resource is historic when it is:

*“A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4850 et seq.).”*

Therefore, McKinley Park, which has been determined eligible, must be considered a historic resource, and protected as such. Then, the Master Response proceeds to analyze the historic resource in the manner that should have been undertaken in the Draft EIR. This represents substantial new information that was not provided to the public for review. This analysis alone qualifies the EIR for recirculation under CEQA, since all of the analysis provided under the Secretary of the Interior’s standards has not been considered by the public, and has not been evaluated by Responsible Agencies.

Prior to recirculation, however, the City must correct the analysis, which is currently incomplete and insufficient. First, the Final EIR insists on discounting the Baseball field by characterizing it as an athletic field, and stating that its loss is not significant. What the Final EIR fails to

consider, however, is that baseball has been played in McKinley Park since its inception, and at this location since 1927. This should lead the EIR to conclude that replacement of the baseball field should be the appropriate mitigation for this impact. However, the Master Response concludes that the loss of the baseball field is inconsequential, because the City will replace it with soccer fields and open areas suitable for athletics, and that this is equivalent to the baseball field. This conclusion is not based on sound analysis, and is inconsistent with the Secretary of the Interior's standards for historic resources.

In addition, with the expansion of the impact area, the Project will have significant impacts on two other contributing features of the Park's historic nomination. First, the staging area now includes the existing horseshoe pits, and the light standards in the picnic area. Neither of these contributing features is addressed in either the Draft or the Final EIR. Therefore, the analysis of the impacts to this historic resource is incomplete and insufficient.

Further, the Master Response never addresses the cumulative impacts associated with the destruction of multiple contributing features contained in the nomination to the National Register, or of the indirect impacts to other features in the park, including the Rose Garden. There is no discussion at all of how these multiple features fit into the fabric of the park, or how their obliteration will impact the historic nature of the park. The Final EIR, therefore, leaves a potentially significant impact unaddressed and unmitigated.

Finally, the Master Response relies on the planting of 60 additional trees in the park as being an added benefit to the rehabilitation of the historic park. However, as stated above, there is no requirement, or evidence of a requirement for the planting of additional trees, and no description of the species, size or location of these trees. Therefore, it is impossible for the Master Response to rely on these potential trees as mitigation, since it has no way to analyze their appropriateness, or whether they will be consistent and complementary to the park's historic components.

#### **F. Master Response 8: Air Quality**

It is gratifying to see that the City re-analyzed the air quality impacts associated with the Project. However, the re-analysis is incorrect. First, the Final EIR states that the haul site for the Project is Sutter's Landing park, located 1.5 miles away. There is no evidence, however, that this location is available or suitable for the hauling of over 100,000 cubic yards of excavated dirt from the Project site, nor was this location ever identified in the Draft EIR. In addition, the statement made in the Master Response that the 100% under-counting of haul trips has been offset by the doubling of distance is incorrect. The air quality model considers differently the impact of a truck driving a distance of 20 miles than it does a distance of 10 miles with idling time at either end. The impacts associated with this error are particularly significant when considering localized impacts to Tiny Tots Daycare, as described further below.

The 90% Plans show that the Project impact area will occur less than 20 feet north of the Tiny Tots Daycare. This is much closer than what was characterized in the Draft EIR. Yet the Master Response provides no analysis of the Localized Significance Thresholds for this substantial change, and makes no effort to mitigate the impacts to the children who will be exposed to idling trucks daily for over 2 years.

### **G. Master Response 9: Noise and Vibration**

The Final EIR continues to ignore impacts to the Tiny Tots Daycare. Of particular concern is the significant change in the Project impact area, which brings the Project within less than 20 feet of the Tiny Tots building. At this distance, the children in the facility will be exposed to heavy equipment noise levels in excess of 86 dBA Lmax (Draft EIR Table 3.10-9). The City's Noise Ordinance allows for noise levels of up to 75 dB at any time during any daytime hour (Draft EIR Table 3.10-4). The EIR relies on the Ordinance's construction exemption as "mitigation." However, as stated in our letter of June 6, 2018, the courts have determined that a noise impact cannot be written off because a noise ordinance has an exemption (Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners (2001) 91 Cal.App.4th 1344; Friends of Riverside's Hills v. Riverside Transportation Commission, et al. (2013) Superior Court of California, County of Riverside (RIC 1113896)). The Final EIR fails to address this issue at all, and as a result, the Tiny Tots Daycare will be significantly impacted by construction noise during the life of the Project. This impact remains significant and unmitigated.

Further, the Draft EIR identifies significant vibration levels as being "Distinctly Perceptible" at 0.04 ppv, and "Strongly Perceptible" at 0.10 ppv (Draft EIR Table 3.10-10). The children at the Tiny Tots Daycare will be subjected to vibration of more than 0.089 to 0.210 ppv for over 2 years because of the change in the proximity of the Project area to the Daycare. Neither the Draft nor the Final EIR address these impacts, or provide mitigation measures to reduce them.

### **H. Master Response 10: Recirculation**

Based solely on the analysis of the Master Responses provided above, the Draft EIR should be recirculated. The impact area for the Project has expanded, the access to and from the Project site has changed, substantial new information has been added to the document in the Final EIR, and impacts remain unaddressed and unmitigated.

### **I. Comments and Concerns Not Addressed in the Final EIR**

First, we point out that the Final EIR responds to our comments by section, not paragraph. For example, the response to the 5 pages of analysis and critique provided in our letter regarding Biological Resources is addressed in one response, #O1-45, with the following statement: "The commenter is referred to Master Response 2 (Project Footprint) and Master Response 3 (Tree Impacts)." Many of our concerns are included in the description of the Master Responses above, but others not addressed include but are not limited to:

1. The Final EIR fails to address our concerns regarding the impact of the Project as it relates to flooding remaining in the streets of East Sacramento under the 10-year or 100-year storm, or as it relates to the increased frequency or severity of storms triggered by climate change. The failure of the Project to mitigate the impacts of sewage and storm water in East Sacramento streets has not been addressed in either the Draft or Final EIR.

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2. The Final EIR does not address our concern that the proposed Project is analyzed in a vacuum, without the benefit of consideration of the other 28 as yet unconstructed components of the City's CCSIP.
  3. The Final EIR does not address our concerns relating to the amount of time sewage and storm water will be retained in the vault, or the amount of time it will take to empty the vault, as it relates to the build-up of methane and other hazards in a confined space.
  4. The Final EIR does not describe how the excavation will be supported, given the high water table, and how shoring will be effectively maintained and protected to avoid collapse.
  5. The Final EIR does not address our concerns regarding the under-counting of trips as "bi-directional" and provides no correction to the trip generation data incorrectly stated in the Draft EIR.
  6. The Final EIR does not address our concerns regarding the lack of any analysis of potential interceptors that would add the CSS lines in McKinley Boulevard and H Street to the vault system.
  7. Our concern that the upgrading of lines in 33<sup>rd</sup> Street, and the added impact of these construction activities would significantly impact residents' access and public safety have not been addressed, and are now exacerbated by the closure of 33<sup>rd</sup> Street from Park Way north to McKinley Boulevard.
  8. The Final EIR does not address our question relating to the quantity of withdrawal of groundwater from the dewatering process, or whether the CSS has the capacity to handle this quantity of groundwater, either during dry or wet periods.
  9. The Final EIR continues to omit analysis and defer mitigation by failing to provide a preliminary grading plan and description of the added storm flows to 33<sup>rd</sup> Street created by the stated re-grading of the park toward 33<sup>rd</sup> Street. No analysis of whether the CSS has capacity to handle this redesign is provided, and no quantification of the impact analyzed.
  10. The Final EIR fails to provide an analysis of the impact to trees and falsely relies on the dripline to provide sufficient protection for trees within and adjacent to the work area.
  11. Although the Final EIR added a geotechnical report that was completed after the comment period for the Draft EIR closed, and relies on it as the basis for answering our concerns regarding liquefaction, the report provided in Appendix D of the Final EIR is a boring result report, and contains no information on geotechnical issues, including seismic hazards, Project damage due to earthquake, or liquefaction potential. The water table is higher at McKinley Park than the 20 feet height of the proposed vault. The potential for this facility to be severely impacted in an earthquake has not been addressed.
  12. In order to attempt to address our concern regarding the reduction of permeability created by a concrete structure immediately below the ground surface, the Final EIR concludes, without analysis, that the 2 feet of cover above the vault would be sufficient to allow rainfall to infiltrate into the ground and be directed around the structure. No analysis of the permeability of soils, the rate of infiltration, or the system of drains proposed to allow water to move away from the structure is provided in the Final EIR. We continue to assert that in a 10 year storm or worse, the area above the vault will become saturated, and will result in ponding.
  13. The Final EIR does not address our concern that the Project, in the absence of the other 28 projects needed to alleviate flooding in the City, has not been analyzed. Only 3 of the 28 components of the City's improvement program have been constructed. The addition of the proposed Project will not be effective in the absence of the full improvement plan, and will not solve the City's ongoing flooding issues.

**Conclusion**

The EIR for the McKinley Park Water Vault Project still does not meet even the most basic requirements of CEQA. It must be rewritten to accurately reflect the Project and its impacts, and recirculated for public review.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Sauviat Criste". The signature is fluid and cursive, with the first name "Nicole" being the most prominent.

Nicole Sauviat Criste  
Principal