

3. Response to Comments

This section of the Final Supplemental Environmental Impact Report (FSEIR) for the Tustin Legacy Specific Plan Amendment (Modified Project) includes a copy of all comment letters that were submitted during the public review period for the Draft Supplemental Environmental Impact Report (DSEIR), along with responses to comments in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088. The 45-day review period for the DSEIR began on June 28, 2024, and ended on August 12, 2024. A total of six comment letters were received in response to the DSEIR during the 45-day public review period, and one comment letter was received after the close of the public review period.

The responses amplify or clarify information provided in the DSEIR and/or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues (e.g., opinions on the merits of the Modified Project unrelated to its environmental impacts) are noted for the record. Where text changes in the DSEIR are warranted based on comments received, updated Modified Project information, or other information provided by City staff, those changes are noted in the response to comment and the reader is directed to Chapter 2.0, *Errata*, of this FSEIR.

These changes to the analysis contained in the DSEIR represent only minor clarifications/amplifications and do not constitute significant new information. In accordance with CEQA Guidelines Section 15088.5, recirculation of the DSEIR is not required.

All written comments received on the DSEIR are listed in Table 3-1. All comment letters received on the DSEIR have been coded with a number to facilitate identification and tracking. The comment letters were reviewed and divided into individual comments, with each comment containing a single theme, issue, or concern. Individual comments and the responses to them were assigned corresponding numbers. To aid readers and commenters, electronically bracketed comment letters have been reproduced in this document with the corresponding responses provided immediately following each comment letter.

Table 3-1: Comments Received on the DSEIR

Comment Letter	Commenter	Date
A-1	Orange County Sanitation District	August 1, 2024
A-2	Irvine Ranch Water District	August 12, 2024
A-3	Tustin Unified School District	August 14, 2024
I-1	Ethan Kwong	July 22, 2024
I-2	Sumedha Magdum	July 31, 2024
I-3	Sheer Best	August 3, 2024
I-4	Irvine Company	August 12, 2024

Note: A = Agency, I = Interested Party

To finalize the SEIR for the Modified Project, the following responses were prepared to address these comments.

Comment Letter 1: Orange County Sanitation District (OC San), dated August 1, 2024



10844 Ellis Avenue
Fountain Valley, CA 92708
714.962.2411
www.ocsan.gov

August 1, 2024

Samatha Beier, Senior Planner
City of Tustin, Community Development Department
300 Centennial Way
Tustin, CA 92708

SUBJECT: Notice of Availability of a Draft Supplemental Environmental Impact Report for the Legacy Specific Plan Amendment

Thank you for providing the Notice of Availability of a Draft Supplemental Environmental Impact Report for the Legacy Specific Plan Amendment. The Orange County Sanitation District (OC San) has reviewed the document and would like to recommend modifying the Mitigation Measure UT-1 for any future developments to submit sewer capacity analysis of existing wastewater utility in the area for OC San review and to obtain sewer capacity verification from OC San.

If you have any questions regarding this letter, please contact Kevin Hadden, Planning Division, at (714) 593-7462 or khadden@ocsan.gov.

Brown, Andrew



Andrew Brown, Engineering Supervisor
Planning Division
(714) 593-7052

AB/KH:op

https://ocsd.gov/sharepoint.com/sites/Planning/CEQA_Externally_Generated/2024_Comment_Letters/City_of_Tustin_Response_Ltr_20240801.docx

- Serving:
- Anaheim
- Brea
- Buena Park
- Cypress
- Fountain Valley
- Fullerton
- Garden Grove
- Huntington Beach
- Irvine
- La Habra
- La Palma
- Los Alamitos
- Newport Beach
- Orange
- Placentia
- Santa Ana
- Seal Beach
- Stanton
- Tustin
- Villa Park
- County of Orange
- Costa Mesa Sanitary District
- Midway City Sanitary District
- Irvine Ranch Water District
- Yorba Linda Water District

A-1.1

Our Mission: To protect public health and the environment by providing effective wastewater collection, treatment, and recycling.



Response to Comment Letter A-1: Orange County Sanitation District (OC San), dated August 1, 2024

Response to Comment A-1.1: This comment notes OC San's receipt of the Notice of Availability (NOA) for the Draft Supplemental Environmental Impact Report (DSEIR). Additionally, the commenter requests modification of Mitigation Measure UT-1 to include the requirement for future developers to send sewer capacity analyses to OC San for review and verification prior to project approval. Contact information has been provided regarding any future questions the City may have.

Mitigation Measure UT-1 has been revised to include the requirement proposed by OC San. This revision is captured within Chapter 2.0, *Errata*, of this Final SEIR. No other concerns regarding adequacy of the DSEIR were raised and no further revision is required. The revision represents only minor amplification and does not constitute significant new information. In accordance with CEQA Guidelines Section 15088.5, recirculation of the DSEIR is not required.

Section 5.11 Utilities and Service Systems, page 5.11-16

MM UT- 1 Prior to project approval, the development applicant shall coordinate with IRWD to conduct infrastructure analyses of water and sewer utilities in the project area to ensure existing conveyance and pressure is adequate to serve the project. Once development assumptions identified within the IRWD-approved Sub Area Master Plan (SAMP) are surpassed, project applicants shall coordinate with IRWD to update the SAMP for the TLSP area. **The developer shall also submit the sewer capacity analysis to the Orange County Sanitation District (OC San) for review and verification that there is available sewer capacity for applicable OC San facilities.**

Comment Letter A-2: Irvine Ranch Water District, dated August 12, 2024



August 12, 2024

City of Tustin, Community Development
ATTN: Samantha Beier, Senior Planner
300 Centennial Way
Tustin, CA 92780

Re: Notice of Availability of a Draft Supplemental Environmental Impact Report for the Tustin Legacy Specific Plan Amendment

Dear Ms. Beier:

Irvine Ranch Water District (IRWD) has received the City of Tustin's Notice of Availability (NOA) of a Draft Supplemental Environmental Impact Report (SEIR) for the Tustin Legacy Specific Plan Amendment. IRWD has reviewed the NOA/Draft SEIR and offers the following comments.

IRWD notes that the City of Tustin's Tustin Legacy Specific Plan (TLSP) was adopted by ordinance on February 3, 2003, and establishes the zoning for the 1,606-acre TLSP area. It also established the necessary plans, development standards, regulations, infrastructure requirements, design guidelines, and implementation programs on which subsequent, project-related development is founded. IRWD also understands that the TLSP would require local public works projects, design review plans, detailed site plans, grading and building permits, or any other action requiring ministerial or discretionary approval applicable to the project area to be consistent with the TLSP (and amendments thereof). IRWD notes that the TLSP has been amended seven times between 2001 and 2017 in response to changing market conditions. The latest specific plan amendment occurred in 2017, which reorganized delineated Planning Areas to provide additional flexibility; additionally, overall maximum allowable residential capacity was increased, and maximum allowable nonresidential capacity was decreased. IRWD further notes and understands that the current specific plan amendment proposes to amend three neighborhoods; Neighborhood D North (PA 8), D South (PAs 13 & 14), and G (PA 15), to increase the allowed residential capacity to be consistent with the City of Tustin's Housing Element Update. The TLSP specific plan amendment would increase residential capacity of Neighborhood D North by 1,911 units (currently no residential is allowed), Neighborhood D South by 100 units (from 1,672 to 1,772), and Neighborhood G by 200 units (from 2,814 to 3,014). IRWD notes that compared to the City of Tustin's adopted specific plan, the proposed specific plan amendment would increase the allowed residential capacity by a total of 2,211 residential units and would include a provision that would allow a state density bonus to the TLSP area. Therefore, the proposed allowed residential capacity increase of 2,211 and an additional potential of 2,759 density bonus units has been conservatively analyzed within the Draft SEIR to account for future potential maximum buildout conditions. IRWD further notes that no changes are proposed

A-2.1

City of Tustin, Community Development
NOA/Draft SEIR – Tustin Legacy Specific Plan Amendment
Page 2

to the allowed nonresidential capacity (i.e. office, commercial, hotel, etc.). No development or infrastructure improvements are proposed as part of the project. | A-2.1 cont.

- IRWD completed Sub Area Master Plans (SAMP) for The Tustin Legacy Specific Plan including several updates for development proposals. As more detailed planning area information is identified, the developer will be required to consult with IRWD for possible updates to the SAMP. For questions regarding the Tustin Legacy SAMP, continue to contact Eric Akiyoshi, Engineering Manager - Planning at (949) 453-5552 or via email: akiyoshi@irwd.com. | A-2.2

IRWD appreciates the opportunity to review and comment on the NOA/Draft SEIR. If you have any questions or if you require additional information, please do not hesitate to contact me at (949) 453-5325 or Andy Uk, Environmental Compliance Analyst at (949) 453-5326. | A-2.3

Sincerely,


Fiona M. Sanchez
Director of Water Resources

cc: Eric Akiyoshi, IRWD
Andy Uk, IRWD

Response to Comment Letter A-2: Irvine Ranch Water District, dated August 12, 2024

Response to Comment A-2.1: This comment states that the Irvine Ranch Water District (IRWD) has reviewed the DSEIR for the Modified Project. The comment includes a summary of the Modified Project description. The comment is introductory in nature and does not provide substantial evidence of any environmental impact. No further response is warranted.

Response to Comment A-2.2: This comment states that IRWD has completed Sub Area Master Plans (SAMP) for The Tustin Legacy Specific Plan including several updates for development proposals. The comment states that as future projects are proposed and more detailed planning area information is identified, the developer will be required to consult with IRWD to determine if updates to the SAMP are needed.

This comment is consistent with Mitigation Measure UT-1 included in the DSEIR which states “Prior to project approval, the development applicant shall coordinate with IRWD to conduct infrastructure analyses of water and sewer utilities in the project area to ensure existing conveyance and pressure is adequate to serve the project. Once development assumptions identified within the IRWD-approved Sub Area Master Plan (SAMP) are surpassed, project applicants shall coordinate with IRWD to update the SAMP for the TLSP area.” The comment also includes a contact for questions regarding the Tustin Legacy SAMP. The comment does not contain any information requiring changes to the DSEIR. No further response is warranted.

Response to Comment A-2.3: This comment provides the contact information for the commenter in the case that the lead agency has any additional questions. This comment is conclusory in nature and does not raise any CEQA issues. Therefore, no further revision or response is required.

Comment Letter A-3: Tustin Unified School District, dated August 14, 2024



August 14, 2024

Ms. Samantha Beier, Senior Planner
 City of Tustin, Community Development Department
 300 Centennial Way
 Tustin, CA 92780

RE: Response/Comments to
 Tustin Legacy Specific Plan Amendment Draft Supplemental Environmental Impact Report

Dear Ms. Beier:

Thank you for giving the Tustin Unified School District (District) the opportunity to respond to the Draft Supplemental Environmental Impact Report (DSEIR) for the Tustin Legacy Specific Plan Amendment (SPA). The District offers comments pertaining to two (2) Sections of the DSEIR; Section 5.7.4, School Services and Section 5.8, Transportation.

A-3.1

Section 5.7.4, School Services

1. As highlighted in previous correspondence between the District and the City of Tustin (City), including the response letter provided to EPD Solutions and response to the Notice of Preparation for the DSEIR (both of which are attached for reference), the schools that currently service the Tustin Legacy Specific Planning Area (Heritage Elementary School and Legacy Magnet Academy) are currently at or above capacity. The other schools that are assigned to service the Project Area (Nelson Elementary School, Sycamore Magnet Academy, and Tustin High School) currently have capacity available but do not have enough seats to accommodate all of the students that could potentially be generated by the SPA if all residential units are constructed. Additional students generated from the potential additional residential units authorized by the SPA may or may not be able to attend these schools and may be assigned to other schools within the District.
2. Accordingly, the District requests that the adequacy of school capacity be a given strong consideration in the preparation of any environmental documents related to the Project. While the District acknowledges that the payment of Developer Fees pursuant to AB 2926 constitutes adequate mitigation pursuant to CEQA, such fees will not necessarily allow the District to construct expanded facilities in the area that best serves the units covered by the SPA. Absent adequate mitigation, the District will be severely challenged as to how it provides school facilities to future residents from the Project.
3. The District stands ready to discuss its challenges and brainstorm potential solutions with the City as the DSEIR and other approval processes unfold.

A-3.2

A-3.3

Section 5.8, Transportation

1. The DSEIR contains several goals and objectives placing a high priority on neighborhood walkability and the ability for non-motorized transportation. In this spirit, the District respectfully requests that the DSEIR closely examine potential measures to allow for the safest routes to Heritage Elementary School and Legacy Magnet Academy. Currently, students are required to spend a good portion of their routes to school on busy streets

A-3.4

BOARD OF EDUCATION
 Jonathan Ablove • Allyson Damikolas • Lynn Davis • James H. Laird • Jonathan Stone

Ms. Samantha Beier
August 12, 2024
Page 2 of 2

such as Tustin Ranch Road and Valencia Avenue. Any measures to reduce student pedestrian and bicycle traffic on these roadways will greatly benefit students on their way to school.

2. Should the District need to accommodate students from future residential units in schools throughout the District, the City may need to examine traffic impacts for the additional trips generated.

A-3.4
cont.

Thank you again for the opportunity to provide these comments, and the District looks forward to working with the City to ensure that adequate school capacity is available for future residents of the Project, as well as the safest possible ways for future students to get to school each day. If you have any questions, I can be reached at (714) 730-7515, Extension 50404. My email address is trizzuti@tustin.k12.ca.us.

A-3.5

Sincerely,



Tom Rizzuti
Director, Facilities and Planning

Enclosures

Attachment A-3.1: Tustin Unified School District Email, dated August 14, 2024 (1 page)

Beier, Samantha

From: Rizzuti, Tom <trizzuti@tustin.k12.ca.us>
Sent: Wednesday, August 14, 2024 5:00 PM
To: Housing Element Rezone
Cc: Beier, Samantha; Sullins, Harold
Subject: Tustin Unified School District - Response to DSEIR for Tustin Legacy SPA
Attachments: Response Letter Legacy SPA DSEIR - 081424.pdf; Response Letter Legacy SPA DSEIR - 04182024.pdf; Response Letter - Legacy Specific Plan Amendment Project.pdf

Good Afternoon-

Please find attached the Tustin Unified School District's response letter pertaining to the DSEIR for the Tustin Legacy Specific Plan Amendment. Please note that we have also attached the two previous letters sent by the District on this matter, as they are referenced in the new letter.

Please let me know if you have any questions. Thank you again for granting the District the extra time. It was very helpful.

Best Regards,

Tom Rizzuti
Director | Facilities and Planning
Tustin Unified School District
trizzuti@tustin.k12.ca.us
(714) 730-7515, Ext. 50404 - OFFICE
(949) 293-4850 - MOBILE

Attachment A-3.2: Tustin Unified School District School Services Information Request, dated April 5, 2024 (3 pages)



Danielle Thayer, Associate Environmental Planner
EPD Solutions, Inc.

Re: Response to Request for School Services Information – Legacy Specific Plan Amendment Project (EPD 23-068)

Dear Ms. Thayer:

This letter will serve as a response to your request for information regarding the development of up to 4,970 residential units as part of the Market Place Housing Zone Project (EPD 23-070). Each service question will be answered below.

1. Schools that would serve the project:

Based on current attendance boundaries for the District, the project would be served by the schools indicated:

- K-5 – Heritage Elementary School (students generated from mitigated units)
- K-5 – Nelson Elementary School (students generated from non-mitigated units)
- 6-8 – Sycamore Magnet Academy (students generated from non-mitigated units)
- 6-12 – Legacy Magnet Academy (students generated from mitigated units)
- 9-12 – Tustin High School (students generated from non-mitigated units)

However, please be advised that the District can make no guarantee that these schools will be available to accommodate students from the subject project at the time the residential units are built. Because of the fluid nature of these comparisons, the District is unable to say how enrollment and capacity will compare at a later date and therefore, we reserve the right to change the schools to which these projects will be assigned at any time.

2. Confirmation of 2022/23 Enrollments and Capacities of schools in 2022

The statement above notwithstanding, the enrollment and capacity numbers included in your table associated with question No. 2 are correct, with the exception that the 2022/23 capacity at Legacy Magnet Academy should be 675 and the resulting remaining capacity should be -131.

3. 2023/2024 Enrollment vs. Capacity:

The statement above notwithstanding, please see current enrollments vs. capacity for the schools in question. Note that this information is from the Tustin Unified School District Fee Justification Report for Residential and Commercial/Industrial Development prepared by Special District Financing & Administration in April 2024, which is scheduled for review by the Board of Education in April.

BOARD OF EDUCATION

Jonathan Abelove • Allyson Damikolas • Lynn Davis • James H. Laird • Jonathan Stone



A Legacy of Excellence in Education

300 South C Street, Tustin, CA 92780-3695 • (714) 730-7301 • FAX (714) 731-5399 • www.tustin.k12.ca.us

School	2023/24 Enrollment	2023/24 Capacity	Remaining Capacity
Heritage Elementary School (K-5)	528	500	-28
Nelson Elementary School	464	514	50
Sycamore Magnet Academy (6-8)	1,161	1,314	153
Legacy Magnet Academy	904	810	-94
Tustin High School (9-12)	1,818	2,083	265

4. Number of students to be generated from residential units indicated

The table below shows student generation rates calculated for the Tustin Unified School District Fee Justification Report for Residential & Commercial/Industrial Development prepared by Special District Financing & Administration in April 2024, which is scheduled for review by the Board of Education in April.

Grade Level	Generation Rate	Units	Students
Elementary School (K-5)			
Single Family	0.1842	809	149
Multifamily	0.1425	4,161	593
Subtotal		4,970	742
Middle School (6-8)			
Single Family	0.1057	809	86
Multifamily	.0794	4,161	330
Subtotal		4,970	416
High School (9-12)			
Single Family	0.1410	809	114
Multifamily	0.1059	4,161	441
Subtotal		4,970	555
Total			1,713

BOARD OF EDUCATION

Jonathan Abelove • Allyson Damikolas • Lynn Davis • James H. Laird • Jonathan Stone



A Legacy of Excellence in Education

300 South C Street, Tustin, CA 92780-3695 • (714) 730-7301 • FAX (714) 731-5399 • www.tustin.k12.ca.us

5. Are there any improvements or additions planned for schools that serve the Project Area?

The District recently completed construction of a gymnasium building at Legacy Magnet Academy. All classroom space created by these improvements is reflected in the capacity numbers indicated in Response No. 3.

6. Are there plans to build any new schools that would serve the Project?

A second classroom building at Legacy Magnet Academy has been designed and *could* be constructed if commensurate demand and funding are in place.

In summary, the schools that would serve this project are mostly impacted. The two schools that would accommodate students from mitigated units are above capacity. Absent additional information those schools will not be available to future non-mitigated residential units based on current enrollment/capacity comparisons. The volume of additional new residential development presents substantial impacts to the District in terms of providing adequate school facilities to the potential new students from the proposed residential development. To reiterate, the District reserves the right to send students from the Project to other schools in the District if space is not available at the current schools of attendance.

Please contact me if you have any questions or need additional information. I can be reached at (714) 730-7515, Extension 50404 or at trizzuti@tustin.k12.ca.us.

Sincerely,

Tom Rizzuti
Director, Facilities and Planning

Attachment A-3.3: Tustin Unified School District Response to NOP, dated April 18, 2024 (1 page)



April 18, 2024

Ms. Samantha Beier, Senior Planner
City of Tustin, Community Development Department
300 Centennial Way
Tustin, CA 92780

RE: Response to Notice of Preparation
Tustin Legacy Specific Plan Amendment Draft Supplemental Environmental Impact Report

Dear Ms. Beier:

Thank you for giving the Tustin Unified School District the opportunity to respond to the Notice of Preparation for the Tustin Legacy Plan Amendment (Project) Draft Supplemental Environmental Impact Report. The District offers the following comments:

1. As highlighted in the response letter provided to EPD Solutions (attached for reference), the schools that currently service the Tustin Legacy Specific Planning Area (Heritage Elementary School and Legacy Magnet Academy) are currently at or above capacity. Additional students generated from the potential additional residential units from the Project may or may not be able to attend these schools and may be assigned to other schools within the district.
2. Accordingly, the District requests that the adequacy of school capacity be a consideration in the preparation of and environmental documents related to the Project. Absent adequate mitigation, the District will be severely challenged as to how it provides school facilities to future residents from the Project.
3. The District stands ready to discuss its challenges and brainstorm potential solutions with the City as the DSEIR process unfolds.

I will be the main point of contact for the City, and can be reached at (714) 730-7515, Extension 50404. My email address is trizzuti@tustin.k12.ca.us.

Thank you again for the opportunity to provide these comments, and the District looks forward to working with the City to ensure that adequate school capacity is available for future residents of the Project.

Sincerely,

Tom Rizzuti
Director, Facilities and Planning

BOARD OF EDUCATION
Jonathan Abelow • Allyson Damikolas • Lynn Davis • James H. Laird • Jonathan Stone

Response to Comment Letter A-3: Tustin Unified School District, dated August 14, 2024

Response to Comment A-3.1: This comment states that the Tustin Unified School District (TUSD) has comments regarding the DSEIR prepared for the Modified Project. The comment is introductory in nature and does not provide substantial evidence of any environmental impact. No further response is warranted.

Referenced attachments are included as Attachment A-3.1 through A-3.3.

Response to Comment A-3.2: The commenter states the schools that currently serve the TLSP area, including Heritage Elementary School and Legacy Magnet Academy, are currently at or above capacity as provided in previous correspondence. Additionally, the commenter notes other schools assigned to the TLSP area, including Nelson Elementary School, Sycamore Magnet Academy, and Tustin High School, currently have capacity available, however, they do not have enough seats to accommodate the number of students that could potentially be generated by the full Modified Project buildout. The commenter concludes that the students potentially generated by the Modified Project may or may not be able to attend the locally serving schools and may be assigned to other schools in the District.

The City appreciates TUSD's participation in the public review process for the Modified Project. The referenced letters have been reviewed and are noted for the record. The data previously provided by TUSD regarding student generation rates and capacity were carefully considered and incorporated into the DSEIR for analysis of the Modified Project. Section 5.7.4, *School Services*, includes data from the Special District Financing and Administration dated April 2024, as provided by the TUSD, that notes existing capacities and generation rates for schools currently serving the TLSP area. Consistent with the findings of the previously approved 2017 SEIR, the City recognizes that the residential development permitted under the TLSP could potentially surpass the current school capacity if the full buildout occurs at the time of Modified Project approval. As implied by the commenter, future buildout of the TLSP is too speculative to determine student generation and school facility needs at this time. Further, the City notes on page 5.7-22 of the DSEIR that the potential need for additional services would be addressed through compliance with school impact fee assessment, which is required for all future development. The potential that future students may be assigned to other schools in the TUSD has been noted and was specifically noted in the DSEIR on page 5.7-21. The City has noted this comment for the record. This comment does not contain any information requiring changes to the DSEIR. No further response is warranted.

Response to Comment A-3.3: The commenter requests that the adequacy of school capacity be given a strong consideration in preparation of any environmental document related to the Modified Project. Additionally, the commenter acknowledges the adequacy of school impact fees as adequate mitigation under CEQA. Further, the commenter notes that school impact fees may not allow TUSD to construct expanded facilities in the area that best serves future units potentially constructed under the Modified Project. The comment states that without adequate mitigation, TUSD would be severely challenged in providing school facilities to future residents. The commenter concludes that TUSD is ready to discuss challenges and potential solutions with the City as the DSEIR and other approvals unfold.

As reiterated by the commenter, Section 5.7.4.1 of the DSEIR, *School Services Regulatory Setting*, describes the potential future need for additional school facilities is addressed through compliance with the school impact fee assessment. SB 50 (Chapter 407 of Statutes of 1998) sets forth a State school facilities construction program that includes restrictions on a local jurisdiction's ability to condition a project on mitigation of a project's impacts on school facilities in excess of fees set forth in the Government Code. These fees are collected by school districts at the time of issuance of building permits for commercial, industrial, and residential projects. The Modified Project incorporates Implementation Measure (t) from the Adopted FEIR/EIS which requires future project developers to provide proof to the City that the appropriate school fees have been paid pursuant to Government Code Section 65995. Alternatively, Implementation Measure (t) allows the project developer to enter into a mutual agreement with an applicable school district to provide

alternative mitigation that addresses student generation increases. Therefore, the DSEIR correctly determined that the Modified Project would result in less than significant impacts with mitigation via payment of school impact fees (Implementation Measure [t]).

Additionally, TUSD and the City have an existing agreement currently in place, which specifies that the City will provide TUSD additional funding scaled by magnitude of future proposed development. The City will continue to work with the TUSD to ensure the adequacy of funding mechanisms outlined in the agreement. As future development is proposed, the City agrees that school capacity will be assessed and coordinated with TUSD prior to construction, as noted under Implementation Measure (t). The City is happy to continue discussing approvals and agreements with TUSD regarding the long-term planning of TLSP area. This comment does not contain any information requiring changes to the DSEIR. No further response is warranted.

Response to Comment A-3.4: This comment acknowledges that the DSEIR contains goals and objectives that place a high priority on neighborhood walkability and the provision of non-motorized transportation. The commenter requests that the City closely examine potential measures to allow for the safest routes to Heritage Elementary School and Legacy Magnet Academy. Further, the commenter states that students are currently required to utilize busy streets, such as Tustin Ranch Road and Valencia Avenue, to commute to school. TUSD notes that in the event students generated by future residential would need to be sent to other schools throughout the school district, the City may need to analyze resulting traffic impacts.

The safety of residents in public spaces is a foundational duty of the City. As such, the City affirms and concurs in the TUSD's emphasis of providing safe routes to school for existing and future students of the TLSP area. The TLSP included several measures and policies to ensure the provision of safe routes to school are implemented as the area is developed. The Heritage Elementary School is within TLSP Neighborhood C and Legacy Magnet School is within TLSP Neighborhood D North. The Modified Project does not propose the addition of schools or relocation of existing or proposed schools within the TLSP area. Additionally, the Modified Project does not propose changes to existing roadway, sidewalk, or bicycle facility standards implemented under the TLSP and City Municipal Code. The Modified Project proposes an increase in the capacity of allowed residential units under the TLSP for Neighborhoods D and G. Therefore, the Project could result in additional future students that attend and commute to Heritage Elementary School and Legacy Magnet Academy. Students generated by the Modified Project that would commute to Heritage Elementary School and Legacy Magnet school would come from within the boundaries of the TLSP area, specifically Neighborhoods D and G. Portions of the TLSP remain largely undeveloped and currently lack transportation infrastructure, as highlighted under Section 5.4, *Land Use*, and Section 5.8, *Transportation*, of the DSEIR. As noted by the commenter, some students that walk or bike to Heritage Elementary School and Legacy Magnet Academy are required to use the sidewalks along major and secondary arterial roadways for large portions of their commute. As the TLSP is developed, and additional infrastructure is constructed, it is reasonable to anticipate that alternative routes to existing school facilities will become available. Future developments proposed in the TLSP area would include the construction of local roadways, sidewalks, and bicycle facilities. Further, by allowing residential development within Neighborhood D North, the necessity for utilization of arterial roadways to commute to and from Heritage Elementary School and Legacy Magnet Academy would be minimized by decreasing commute distance.

As included under Section 2.3 of the TLSP, *Mobility Plan*, the City has placed an emphasis on design requirements and functional utilization of the "public realm." The public realm is comprised of a Pedestrian Zone, and a Vehicular/Bicycle Zone. TLSP Section 2.3.4, *Vehicular Circulation and Access*, includes roadway design standards and cross sections that include specific requirements for Tustin Ranch Road and Valencia Avenue, as well as future local roads and local collectors constructed within PAs 8, 13 & 14, and 15. These standards recognize the importance of pedestrian and bicycle facilities. While Tustin Ranch Road and Valencia Avenue are already built out to the TLSP standards, development standards for future local roads in the Modified Project area require implementation of an 11-foot sidewalk and landscape zone for all

future development that can be tailored to the needs of the project. A minimum 5-foot sidewalk shall be provided. Further, the City has adopted several goals and policies, as acknowledged by TUSD, that place a high priority on neighborhood walkability and the provision of non-motorized transportation. Policies 6.1, 6.2 and 6.3 under the City General Plan Circulation Element all require that new development include pedestrian and bicycle facilities to enhance walkability, as well as promote the safety of pedestrians and bicyclists. Table 5.4-3, *Consistency with Relevant General Plan Goals and Policies*, in Section 5.4, *Land Use*, of the DSEIR shows how the Modified Project would be consistent with each of these goals and policies. The City would ensure that proposed projects meet standards set forth by the TLSP and City's General Plan through project-specific plan checks prior to project approval of future development. Therefore, the Modified Project would not result in impacts on the safety of school routes, or pedestrians and bicyclists in general. Impacts would be less than significant, and no further mitigation would be required.

Lastly, the City has noted the TUSD's concern regarding potential traffic impacts of sending students to other schools within the school district. The DSEIR Section 5.8, *Transportation*, details that Senate Bill (SB) 743 eliminates auto delay, level of service (LOS), and similar measures of vehicular capacity or traffic congestion as the basis for determining significant impacts. As such, pursuant to Public Resources Code Section 21099(b)(2), the DSEIR focuses on analysis of Vehicle Miles Traveled (VMT) criteria to determine whether the Modified Project would result in a significant impact on traffic. As stated on page 5.8-27 of the DSEIR, pursuant to the *City of Tustin VMT Analysis Guidelines (2024)*, the Modified Project would be anticipated to have a less-than-significant VMT impact at full buildout. Potential changes to which TUSD school that certain students in the TLSP area are enrolled in would be anticipated to result in negligible to no change in the outcome of the VMT Analysis (included as Appendix D of the DSEIR). This is because default distances, which reflect regional data trends as opposed to specific local distances (e.g. home-to-school trip distances), are embedded in the model that was used to calculate VMT. Moreover, the City of Tustin uses a metric of VMT per capita to measure VMT impacts per the *City of Tustin VMT Analysis Guidelines (2024)*. This metric is not inclusive of school-based trips, and further, would not affect the VMT results. Nonetheless, future development would be reviewed by the City and would be further analyzed for project-specific impacts according to the *City of Tustin VMT Analysis Guidelines (2024)* on the surrounding neighborhood as appropriate, prior to project approval. This comment does not contain any information requiring changes to the DSEIR. No further response is warranted.

Response to Comment A-3.5: This comment provides the contact information for the commenter in the case that the lead agency has any additional questions. This comment is conclusory in nature and does not raise any CEQA issues. Therefore, no further revision or response is required.

Comment Letter I-1: Ethan Kwong, dated July 22, 2024

Beier, Samantha

From: Ethan Kwong <[REDACTED]>
Sent: Monday, July 22, 2024 1:27 AM
To: Housing Element Rezone
Subject: Commentary and Questions

Hi Tustin City Planners,

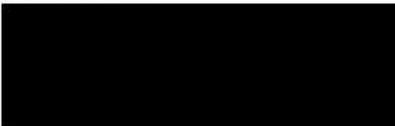
My name is Ethan Kwong and I am a high school student at Arnold O. Beckman High School. I have recently done a mini-documentary about zoning in OC and have strong opinions about this draft. Regarding the rezoning draft, I am in full support of rezoning the Tustin Legacy area, as much of it is not used currently and has potential to be a future urban spot of Tustin which could prop up the local economy.

I-1.1

While I do think mixed-use zoning is needed, I am not sure the marketplace is the right place for that. Firstly, an urbanist mixed-use area would need a multitude of transportation forms in order to make the community walkable. Currently, the bicycle infrastructure in the Tustin parts which surround the marketplace are neither bikable nor walkable, including the El Modena Tustin Channel which could be used as a bikeway, but is closed off. Secondly, though the bus passed through the area, stops are infrequent, making traveling by car the only sensible option. Then comes another issue: increasing traffic in the area. Critics on NextDoor argue that the marketplace has enough traffic, but I would also like to ask: does this really create a more urban neighborhood and is this only going to overcrowd the city? Back to my original point about there needing to be multiple forms of transportation for a successful urban mixed-use area, will this only contribute to an overpopulation in the area or actually make the city more livable? I know that many people in the area think low of urbanization due to the housing prices which would fall (many are homeowners), and increases in traffic. I think that this could be extremely successful, but only if improving current bicycle and transportation infrastructure to accommodate for such a large rezoning measure are done. Again, the legacy rezoning measures are good for that area, however the marketplace rezoning needs to be much more thorough and should be postponed until Tustin residents can bike and walk safely to the marketplace without crossing through bikeways or protected bike lanes. Additionally, the marketplace is generally a crowded place, and this would probably be a very unpopular place to promote rezoning.

I-1.2

Thank you for your time,
Ethan Kwong



Response to Comment Letter I-1: Ethan Kwong, dated July 22, 2024

Response to Comment I-1.1: The comment states that the commenter is concerned about a separate proposed rezoning for The Market Place site but is in support of the proposed rezoning as part of the Modified Project in Tustin Legacy Specific Plan area.

Comments related to The Market Place are not related to the Modified Project (TLSP Specific Plan Amendment) and have been addressed separately as part of The Market Place Rezone Project Final EIR. The comments regarding the Modified Project do not raise a specific issue with the adequacy of the DSEIR or raise any other CEQA issue. The opinions of the commenter have been noted for the record. No further response is required or provided.

Response to Comment I-1.2: This comment states that the proposed rezoning for The Market Place site would require a multitude of transportation forms in order to make a walkable, mixed-use community possible. Additionally, the comment states that neighbors around The Market Place site have existing complaints about traffic and the commenter argues the proposed rezoning would increase traffic. The comment continues to state that the proposed rezoning of The Market Place site should be postponed until the residents of Tustin can utilize safe, multimodal transport to access the area. This comment also states that the commenter is in support of the proposed rezoning effort for the TLSP area.

Comments related to The Market Place are not related to the Modified Project (TLSP Specific Plan Amendment) and have been addressed separately as part of The Market Place Rezone Project Final EIR. The comments regarding the Modified Project do not raise a specific issue with the adequacy of the DSEIR or raise any other CEQA issue. The opinions of the commenter have been noted for the record. No further response is required or provided.

Comment Letter I-2: Sumedha Magdum, dated July 31, 2024

Beier, Samantha

From: sumedha magdum [REDACTED]
Sent: Wednesday, July 31, 2024 9:57 AM
To: Housing Element Rezone
Subject: Tustin Legacy , Specific Plan Amendment (SPS-2024-0002)

Dear Samatha ,

I am a Tustin ,CA resident and I am truly concerned about the air quality , noise ,growing population and traffic in this area. Also providing more residences is nowhere reducing the housing cost but definitely will have adverse effects of population growth.
I strongly object to this amendment to increase density in this area. Hope the decision will be made in favour of the well being of residents of this area and not in favor of the developers.

I-2.1

Thank you.

Sumedha Magdum

Sumedha Magdum

Response to Comment Letter I-2: Sumedha Magdum, dated July 31, 2024

Response to Comment I-2.1: This comment expresses concern about the air quality, noise, population increase, and increase in traffic in the Modified Project area. The comment also expresses opposition to elevated housing costs and increased density. The comment concludes by stating that the commenter objects to the proposed Modified Project.

As described in DSEIR Chapter 3.0, *Project Description*, under Section 3.1, *Project Background*, the housing sites and proposed housing capacities (or densities) that were analyzed in the DSEIR were previously approved under the City of Tustin 2021-2029 Housing Element. The final certified 2021-2029 Housing Element, which included substantial community outreach by the City and opportunities for input throughout the decision-making process, was approved by City Council on October 4, 2022. The proposed Modified Project includes rezoning of portions of the TLSP area (PA 8, 13-14, and 15 of Neighborhoods D North, D South, and G) in compliance with the previously approved City of Tustin 2021-2029 Housing Element. No development is currently proposed as part of the Modified Project.

Further, the DSEIR prepared for the Modified Project analyzed potential impacts related to air quality, noise, population increase, and transportation. As described in DSEIR Section 5.1, *Air Quality*, future buildout of the Modified Project would result in operational air emissions that would exceed South Coast Air Quality Management District (SCAQMD) thresholds for volatile organic compounds (VOCs), nitrogen oxide (NO_x), carbon monoxide (CO), particulate matter 10 (PM₁₀), and particulate matter 2.5 (PM_{2.5}), which is consistent with the threshold exceedances that would occur from buildout of the existing TLSP (without the Modified Project). The Modified Project incorporates feasible mitigation measures aimed at further reducing air emissions that would result from the Modified Project. However, the majority of NO_x emissions are from vehicles, and the majority of VOC emissions would be derived from consumer products, neither of which the City has the ability to reduce emissions of through implementation of mitigation measures. Therefore, VOC, NO_x, CO, PM₁₀, and PM_{2.5} emissions from implementation of the Modified Project would remain significant and unavoidable impact even after implementation of mitigation; however, the Modified Project would result in no new significant impacts beyond the Approved Project (2017 TLSP).

As described in DSEIR Section 5.5, *Noise*, development of the Modified Project would result in less-than-significant impacts related to construction noise, which would be temporary in nature, lasting only as long as the construction period. Additionally, because no development is proposed as part of this Modified Project, the specific details related to future development(s) are not known at this time and will not be known until a development project is proposed. Therefore, the Modified Project incorporates Mitigation Measure NOI-3 from the 2017 TLSP SEIR, which requires all future development projects to prepare project-specific plans and studies to determine whether any exterior noise sensitive areas would experience noise levels greater than 65 dBA CNEL or interior noise levels of 45 dBA CNEL; and to identify any noise reduction features for the proposed development (e.g., upgraded windows with Sound Transmission Class (STC) ratings of 30–35). Each future development project shall confirm that proposed siting of noise-generating stationary sources, if any, would not result in an exceedance of applicable noise thresholds at surrounding land uses. Thus, with implementation of Mitigation Measure NOI-3, impacts related to stationary noise impacts would be less than significant.

Population increase as a result of buildout of the Modified Project was analyzed in DSEIR Section 5.6, *Population and Housing*. The analysis found that buildout of the Modified Project would increase population growth in the area; however, this growth was determined to result in a less than significant impact because the Modified Project is being implemented, in part, to satisfy the State requirements to provide new housing opportunities through increased housing supply (specifically through the City's prescribed Regional Housing Needs Allocation [RHNA]).

Regarding increased traffic that would result from the Modified Project, the number of vehicle trips that would result from the Modified Project is provided in Table 5.8-2, *Modified Project Trip Generation*, of the DSEIR. The Modified Project would increase the number of trips compared to the Approved 2017 TLSP. The DSEIR Section 5.8, *Transportation*, details that Public Resources Code Section 21099(b)(2) eliminates auto delay, level of service (LOS), and similar measures of vehicular capacity or traffic congestion as the basis for determining significant impacts. As such, pursuant to Senate Bill (SB) 743, the DSEIR focuses on analysis of Vehicle Miles Traveled (VMT) criteria to determine whether the Modified Project would result in a significant environmental impact as a result of increased number and/or distance of vehicle trips. As stated on page 5.8-27 of the DSEIR, pursuant to the *City of Tustin VMT Analysis Guidelines (2024)*, the Modified Project would be anticipated to have a less-than-significant VMT impact at full buildout. Although the DSEIR does not analyze impacts related to traffic congestion or LOS, a Traffic Impact Analysis (TIA) has been prepared separately for the Modified Project to assist the City in determining roadway efficacies. The TIA is available for review upon request to the City.

The DSEIR does not analyze housing costs, or other socioeconomic factors, as it is not an environmental topic area considered under CEQA. Further, no development is proposed as part of the Modified Project. All future development would be reviewed by the City and would be further analyzed for project-specific impacts on the surrounding neighborhood as appropriate.

This comment does not raise a specific issue with the adequacy of the DSEIR or raise any new CEQA issues. The opinions of the commenter have been noted for the record. No further response is required or provided.

Comment Letter I-3: Sheer Best, dated August 3, 2024

Beier, Samantha

From: Sheer Best [REDACTED]
Sent: Saturday, August 3, 2024 3:24 PM
To: Housing Element Rezone
Subject: Tustin Legacy Specific Plan Amendment

Hello,

I am a current Tustin resident and received the letter a few weeks back related to the plan amendment to the Tustin Legacy Plan. I wanted to reply back to this email with my opposition to adding the additional units for all the neighborhoods this plan encompasses but most specifically in Neighborhood G as this is the neighborhood I currently reside in. I'm assuming that these additional units will be in the form of apartments and not single-family homes per the video I saw on the City website. This will greatly impact the traffic and congestion on our roads that are already seeing higher levels of congestion with the build out of the Landing.

I-3.1

If any of these additional units are in the form of single-family homes, I would be more open to consider those to be approved over townhomes, condos and apartments.

Warm regards,
Sheer Best

Response to Comment Letter I-3: Sheer Best, dated August 3, 2024

Response to Comment I-3.1: This comment states that the commenter is opposed to increasing the residential unit capacity of the TLSP area. The comment expresses concern that future residential units will be constructed as multi-family residences rather than single-family residences and states the Modified Project would lead to an increase in traffic and congestion in the TLSP area. The comment concludes by stating the commenter is open to single-family residences rather than multi-family residences.

As described in DSEIR Section 3.0, *Project Description*, under Section 3.1, *Project Background*, the housing sites and proposed housing capacities (or densities) that were analyzed in the DSEIR were previously approved under the City of Tustin 2021-2029 Housing Element. The final certified 2021-2029 Housing Element, which included substantial community outreach by the City and opportunities for input throughout the decision-making process, was approved by City Council on October 4, 2022. The proposed Modified Project includes rezoning of portions of the TLSP area (PA 8, 13-14, and 15 of Neighborhoods D North, D South, and G) in compliance with the previously approved City of Tustin 2021-2029 Housing Element. No development is currently proposed as part of the Modified Project. Further, the Modified Project does not propose any development projects; therefore, the exact siting of potential future residential units that may be constructed under the Modified Project are not known at this time.

Regarding increased traffic that would result from the Modified Project, the number of vehicle trips that would result from the Modified Project is provided in Table 5.8-2, *Modified Project Trip Generation*, of the DSEIR. The Modified Project would increase the number of trips compared to the Approved 2017 TLSP. The DSEIR Section 5.8, *Transportation*, details that Senate Bill (SB) 743 eliminates auto delay, level of service (LOS), and similar measures of vehicular capacity or traffic congestion as the basis for determining significant impacts. As such, pursuant to Public Resources Code Section 21099(b)(2), the DSEIR focuses on analysis of Vehicle Miles Traveled (VMT) criteria to determine whether the Modified Project would result in a significant environmental impact as a result of increased number and/or distance of vehicle trips. As stated on page 5.8-27 of the DSEIR, pursuant to the *City of Tustin VMT Analysis Guidelines (2024)*, the Modified Project would be anticipated to have a less-than-significant VMT impact at full buildout. Although the DSEIR does not analyze impacts related to traffic congestion or LOS, a Traffic Impact Analysis (TIA) has been prepared separately for the Modified Project to assist the City in determining roadway efficacies. The TIA is available for review upon request to the City.

No development is proposed as part of the Modified Project. All future development would be reviewed by the City and would be further analyzed for project-specific impacts on the surrounding neighborhood as appropriate. This comment does not raise a specific issue with the adequacy of the DSEIR or raise any CEQA issues. The opinions of the commenter have been noted for the record. No further response is required or provided.

Comment Letter I-4: Irvine Company, dated August 12, 2024



August 12, 2024

Samantha Beier
Senior Planner
City of Tustin
Community Development Department
300 Centennial Way
Tustin, CA 92780

Subject: Draft Supplemental Environmental Impact Report for the Tustin Legacy Specific Plan Amendment

Dear Ms. Beier,

Irvine Company appreciates the opportunity to provide feedback regarding the Draft Supplemental Environmental Impact Report (EIR) for the City's Tustin Legacy Specific Plan Amendment.

The City adopted its state-certified Housing Element in October 2022 and identified 19 housing opportunity sites to meet its state-mandated Regional Housing Needs Assessment (RHNA) allocation of 6,782 housing units. Site 1A, 1B and 2 listed in the previously-approved Housing Element are within the Tustin Legacy Specific Plan area.

I-4.1

The proposed Specific Plan Amendment would plan for 2,211 additional base housing units within the "D North", "D South" and "G" areas, consistent with the City's Housing Element. The EIR also evaluates an additional 2,759 potential density bonus units, for a total of 4,970 housing units.

The Supplemental EIR concludes that impacts can be mitigated to less than significant levels (with the exception of air quality and greenhouse gas emissions) and identifies new mitigation measures in the areas of air quality, biology, greenhouse gas emissions, cultural resources, and utilities.

Relative to the identified mitigation measures and given the complexities of building housing at the site, it is important that the language of such measures is clear but does not unnecessarily constrain options for compliance. Accordingly, Irvine Company suggests minor drafting corrections to certain measures to ensure they can be successfully implemented.

I-4.2

For example, in Mitigation Measure AQ-3, the measure calls for CC&Rs and/or tenant lease agreements to specify that only electric landscape equipment can be used onsite. This should be clarified as not all projects will have CC&Rs or tenant lease agreements.

In addition, Mitigation Measure TCR-1 outlines a detailed procedure for securing an agreement with a Native American tribe for construction monitoring services. Irvine Company suggests an option be added to retain an otherwise qualified professional as approved by the City as a last option, in case the options specifically outlined in the

I-4.3

550 Newport Center Drive, Newport Beach, California 92660 | 949.720.2000

measure do not come to fruition.

Irvine Company would appreciate the opportunity to meet with City staff to discuss these and similar drafting comments in greater detail. We look forward to the success of the City's efforts to plan for new housing at Tustin Legacy and we appreciate the opportunity to comment on the EIR.

I-4.4

Sincerely,

Jennifer Le

Jennifer Le
Senior Director, Entitlement

Response to Comment Letter I-4: Irvine Company, dated August 12, 2024

Response to Comment I-4.1: This comment introduces the comment letter and a brief summary of the Project description and conclusions from the DSEIR. The comment is introductory in nature and does not provide substantial evidence of any environmental impact. No further response is warranted.

Response to Comment I-4.2: This comment states the importance of ensuring mitigation measure language is clear and does not constrain the ability of future developers/applicants to comply with the measure. The comment states the Irvine Company has minor suggested corrections to certain measures contained within the SEIR. The comment summarizes SEIR Mitigation Measure AQ-3 which requires Covenants, Conditions, and Restrictions (CC&Rs) and/or tenant lease agreements to specify that only electric landscape equipment can be used onsite. The comment suggests that the measure should be clarified to specify that not all projects will have CC&Rs or tenant lease agreements.

Mitigation Measure AQ-3 has been modified to provide clarification regarding the types of contractual mechanisms that will include these requirements. This revision is captured within Chapter 2.0, *Errata*, of this Final SEIR. No other concerns regarding adequacy of the DSEIR were raised and no further revision is required. The revision represents only minor amplification and does not constitute significant new information. In accordance with CEQA Guidelines Section 15088.5, recirculation of the DSEIR is not required.

Section 5.1 Air Quality, page 5.1-30

Mitigation Measure AQ-3: Electric Landscape Equipment. Prior to the issuance of occupancy permits, the Community Development Department shall confirm that the ~~Modified P~~project's Codes Covenants and Restrictions (CC&Rs) and/or **non-residential** tenant lease agreements include contractual language that all landscaping equipment used on site shall be 100 percent electrically powered. All residential and non-residential properties shall be equipped with exterior electrical outlets to accommodate this requirement. This requirement shall be included in the third-party vendor agreements for landscape services for the **property or** building owner and **non-residential** tenants, as applicable.

Response to Comment I-4.3: This comment summarizes SEIR Mitigation Measure TCR-1 which outlines the agreement framework between applicants and/or developers and Native American Monitors regarding ground-disturbing activities of future potential projects. The comment suggests revising the measure to add an option to retain an otherwise qualified professional, as approved by the City, as a last resort option in the case the other options in the measure are not achieved. As a result, Mitigation Measure TCR-1 has been slightly revised to provide additional clarification on when a qualified archaeologist may be retained for monitoring of tribal cultural resources and the type of activities exempt from future monitoring. Additionally, the language of the measure has been cleaned up based on relevant regulatory language and Native American Heritage Commission general guidance. This revision is captured within Chapter 2.0, *Errata*, of this Final SEIR. No other concerns regarding adequacy of the DSEIR were raised and no further revision is required. The revision represents only minor amplification and does not constitute significant new information. In accordance with CEQA Guidelines Section 15088.5, recirculation of the DSEIR is not required.

Section 5.9 Tribal Cultural Resources, page 5.9-7**TCR-1: Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities**

- a. Prior to the issuance of demolition or grading permits for any projects that would disturb previously undisturbed soils (native soils) or soils that have native fill, the project applicant/developer shall retain a Native American Monitor, with first preference given to the Gabrieleño Band of Mission Indians – Kizh Nation, who responded to the City's request for consultation on November 14, 2023 (first preference Tribe, Tribe). The applicant/developer shall allow 45 days from the initial contact with the first preference tribe to enter into a contract for monitoring services. If the applicant/developer is unable to

contact the Kizh Nation after three documented attempts or is unable to secure an agreement, the applicant shall report to the lead agency, and the lead agency will contact the Kizh Nation to validate that the parties were unable to enter into an agreement. ~~The applicant/developer shall have made three documented attempts to directly contact the Kizh Nation to enter into a tribal monitoring agreement.~~ If the applicant/developer can demonstrate they were unable to secure an agreement with the first preference tribe, as validated and documented by the Community Development Department in writing, or if the contracted tribe fails to fulfill its obligation under the contract terms, then the applicant/developer may retain an alternative qualified tribal monitor from a culturally affiliated tribe, **or if none are available, an otherwise qualified archaeologist may be retained as** ~~if~~ approved by the City.

The monitor shall be retained prior to the issuance of a demolition permit or grading permit, and the commencement of any development related "ground-disturbing activity" for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, auguring, grubbing, boring, grading, excavation, drilling, and trenching for the purposes of reconstruction and new development. "Ground-disturbing activity" shall not include ~~minor~~ **removal or maintenance of existing small facilities and utilities** activities such as potholing, tree removal, and parking lot maintenance. This mitigation measure does not apply to ~~projects~~ **activities** that would only disturb soils made up of artificial fill, as verified by a soils or geotechnical report.

- b. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.
- c. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, **and** cultural-related materials, ~~and any other facts, conditions, materials, or discoveries~~ of significance to the Kizh Nation. Monitor logs will identify and describe any discovered TCRs, ~~including but not limited to~~, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and ~~burial~~ **associated grave** goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request to the consulting tribe. If a monitor is selected from a tribe other than the Kizh Nation, the Kizh Nation shall be contacted if any discoveries are found.
- d. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the ~~consulting tribe~~ **monitor** from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities and that have the potential to impact local TCRs on the project site or in connection with the project are complete; **or (2) the monitor determines based on field observations that there is no likelihood of encountering intact TCRs. Monitoring may be reduced in extent or frequency as determined appropriate by the monitor.**

Response to Comment I-4.4: This comment concludes the letter and provides an opportunity for City staff to meet with the Irvine Company to discuss the comments included in this letter in greater detail. This comment does not raise a specific issue with the adequacy of the DSEIR or raise any other CEQA issue. The opinions of the commenter have been noted for the record. No further response is required or provided.