

FINAL ENVIRONMENTAL IMPACT REPORT AND RESPONSE TO COMMENTS

STATE CLEARINGHOUSE NO. 2020090076

Speedway Commerce Center Project

LEAD AGENCY



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November 2021

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1.0 INTRODUCTION

1.1 CEQA REQUIREMENTS FOR A FEIR

The City of Rancho Cucamonga (City), in compliance with the California Environmental Quality Act (CEQA), has prepared this Final Environmental Impact Report (FEIR) for the Speedway Commerce Center Project (Project). The City is required, after completion of a Draft EIR (DEIR), to consult with and obtain comments from public agencies having jurisdiction by law with respect to the proposed Project, and to provide the general public with an opportunity to comment on the DEIR. In its role as the Lead Agency the City is also required to respond to significant environmental issues raised in the review and consultation process. This FEIR has been prepared to respond to comments received on the DEIR for the Project, which was circulated for public review from June 29, 2021 through August 12, 2021. Note that comments were also received after the deadline and those comments are responded to in **Section 2.2: General Comments and Responses**.

California Public Resources Code §21091(d) and State CEQA Guidelines §15088 require a lead agency to evaluate all comments on environmental issues received on the DEIR and prepare written responses for inclusion in the FEIR. The written response must address any significant environmental issues raised. In addition, there must be a good faith and reasoned analysis in the written response. However, lead agencies need only respond to significant environmental issues associated with the project and do not need to provide all the information requested by commenters, as long as a good-faith effort at full disclosure is made in the EIR (State CEQA Guidelines §15204, §15088).

State CEQA Guidelines §15204 recommends that commenters provide comments which focus on the sufficiency of the DEIR in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. State CEQA Guidelines §15204 also notes that commenters should provide an explanation and evidence supporting their comments. Pursuant to California Public Resources Code §21082.2 and State CEQA Guidelines §15064, an effect shall not be considered significant in the absence of substantial evidence supporting such a conclusion.

State CEQA Guidelines §15204 is instructive and provides insight into both the obligation of commenting parties and how the Lead Agency should review and respond to comments. Section 15204 states in part:

- “(a) In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. ***CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by***

commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good-faith effort at full disclosure is made in the EIR.” [emphasis added]

State CEQA Guidelines §15088 recommends that where a response to comment makes important changes in the information contained in the text of the DEIR, that the Lead Agency either revise the text of the DEIR or include marginal notes showing that information. The FEIR for the Project has been prepared in accordance with CEQA. CEQA Guidelines §15132 indicates that the contents of a FEIR shall consist of:

- “The draft EIR or a revision of the draft;
- Comments and recommendations received on the draft EIR either verbatim or in summary;
- A list of persons, organizations, and public agencies commenting on the Draft EIR;
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- Any other information added by the Lead Agency.”

The City will evaluate comments on environmental issues from persons who reviewed the DEIR and will prepare a written response, pursuant to CEQA Guidelines §15088(a). Pursuant to CEQA Guidelines §15088(b), the City will provide written responses to comments to any public agency that commented on the DEIR, at least ten (10) days prior to the City Council consideration of certifying the EIR as adequate under CEQA. Written responses to comments will also be provided to non-public agency individuals, organizations, and entities that commented on the DEIR. In addition, the FEIR will be made available to the general public at the City’s Planning Department office and on the City’s website a minimum of 10 days prior to the Planning Commission public hearing.

The FEIR, along with other relevant information and public testimony at the Planning Commission and City Council’s public hearings, will be considered by the City Council. Next, the Planning Commission would recommend EIR certification and Project approval to the City Council.

1.2 ORGANIZATION OF THE FEIR

This FEIR document is organized as follows:

- Section 1 Introduction** - provides a brief introduction to this document.
- Section 2 DEIR Comments and Responses** – includes all comments received on the DEIR and the City’s responses to those comments, in accordance with CEQA.
- Section 3 DEIR Errata** - presents clarifications, amplifications and insignificant modifications to the EIR, identifying revisions to the text of the document.
- Section 4 FEIR Attachments** - provides information regarding the distribution of the DEIR.

1.3 CEQA PROCESS HISTORY

The City has complied with relevant Public Resources Code provisions and CEQA Guidelines regarding the preparation and processing of the Project EIR. A brief summary of the Project's CEQA process is as follows:

- A Notice of Preparation (NOP) informing interested parties and agencies of the Project was distributed on September 3, 2020.
- Written and verbal testimonies were given at a public scoping meeting held for the Project on September 17, 2020.
- The DEIR was distributed for public review on June 29, 2021. The public review period closed on August 13, 2021.

1.4 CLARIFICATIONS, AMPLIFICATIONS AND MODIFICATIONS TO THE DEIR

Section 3.0, DEIR Errata, details the changes to the Project DEIR. In response to public comments, text changes have been made to DEIR sections to clarify and amplify the analysis or mitigation measures, and to make insignificant modifications to the DEIR. This information does not rise to the level of significant new information as the resulting impact analysis and alternatives considered remain essentially unchanged, and no new or more severe impacts have been identified. These changes do not warrant DEIR recirculation pursuant to California Public Resources Code §21092.1 and CEQA Guidelines §15088.5. As discussed herein and as elaborated upon in the respective Response to Comments, none of the clarifications or changes made in the Errata reflect a new significant environmental impact, a "substantial increase" in the severity of an environmental impact for which mitigation is not proposed, or a new feasible alternative or mitigation measure that would clearly lessen significant environmental impacts but is not adopted, nor do the Errata reflect a "fundamentally flawed" or "conclusory" DEIR. In all cases, as discussed in individual responses to comments and DEIR Errata, these minor clarifications and modifications do not identify new or substantially more severe environmental impacts that the City has not committed to mitigate. Here, the public has not been deprived of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or an unadopted feasible Project alternative or mitigation measure. Instead, the information added supports the existing analysis and conclusions, and responds to inquiries made from commenters. Therefore, this FEIR is not subject to recirculation prior to certification.

CEQA Guidelines §15088.5 describes when an EIR requires recirculation prior to certification, stating in part:

- “(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental

effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. *“Significant new information” requiring recirculation include, for example, a disclosure showing that:*

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
 - (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
 - (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to apply it.*
 - (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (Mountain Lion Coalition v. Fish and Game Com. (1989) 214 Cal.App.3d 1043).*
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.”

2.0 DEIR COMMENTS AND RESPONSES

In accordance with CEQA Guidelines §15132, the following is a list of persons, organizations, and public agencies that submitted comments on the DEIR during the public review period. This section includes all comments received by the City on the DEIR, including written comments, comments submitted online and through emails sent to the City. The City provided for a 45-day review period of the DEIR as required by CEQA. The review period ran from June 29, 2021 through August 13, 2021.

2.1 LIST OF DEIR COMMENTS

Comments have been numbered as shown below, with responses to each comment following the respective comment letter.

Reference	Commenter	Date
Wildlife Agencies		
W-1	California Department of Fish and Wildlife Scott Wilson, Environmental Program Manager	July 20, 2021
State		
	None	
Regional		
R-1	South Coast Air Quality Management District Lijin Sun, J.D., Program Supervisor, CEQA IGR	August 11, 2021
Local		
L-1	Cucamonga Valley Water District (CVWD) Gidti Ludesirishoti, PE	August 11, 2021
Organizations		
	None	
Tribal Comments		
	None	
General Public		
G-1	Mitchell M. Tsai, Attorney at Law (on behalf of the Southwest Regional Council of Carpenters)	August 13, 2021
Late Comments (received after August 15, 2021)		
LATE-1	Southern California Regional Rail Authority (Metrolink) Todd McIntyre, Chief Strategy Officer	August 18, 2021
LATE-2	Local Agency Formation Commission (LAFCO)	September 28, 2021

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2.2 GENERAL COMMENTS AND RESPONSES

Comment Letter W-1



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Comment Letter W1

July 20, 2021
Sent via email

Sean McPherson
Senior Planner
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91701

Subject: Draft Environmental Impact Report
Speedway Commerce Development Project
State Clearinghouse No. 2020090076

Dear Mr. McPherson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from City of Rancho Cucamonga (City; Lead Agency) for the Speedway Commerce Development Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Conserving California's Wildlife Since 1870

Mr. Sean McPherson
Senior Planner
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CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

cont;d
b

PROJECT DESCRIPTION SUMMARY

The Project proposes development of two warehouses totaling 655,878 square feet (sf) and associated parking on 34.61 acres, or as an alternative, the Project proposes development of a single warehouse building comprising of 500,648 sf and 10,000 sf of office space. The Project is largely located within the city limits of Rancho Cucamonga and outside of the City of Rancho Cucamonga's city limits within the unincorporated County of San Bernardino; located directly south of the Burlington Northern Santa Fe Railway, directly west of San Sevaine Channel, north of Napa Street, and east of the East Etiwanda Creek channel.

c

COMMENTS AND RECOMMENDATIONS

CDFW appreciates that recommendations provided in CDFW's September 29, 2020 comment letter on the Notice of Preparation were addressed in the DEIR. However, CDFW is concerned regarding the adequacy of the mitigation measures proposed by the City to mitigate impacts to less than significant declining populations of special-status species, such as burrowing owl (*Athene cunicularia*). CDFW offers the comments and recommendations presented below to assist the City in adequately mitigating the Project's potential impacts on biological resources and requests that the City revise the following mitigation measures prior to adoption of the Final EIR (FEIR):

d

1. Burrowing Owl. CDFW appreciates that focused breeding surveys for burrowing owl were performed and the incorporation of Mitigation Measure (MM) BIO-1, which considers burrowing owl preconstruction surveys as well as a passive relocation program. Please note that CDFW does not recommend the exclusion of owls using passive relocation unless there are suitable burrows available within 100 meters of the closed burrows (Trulio 1995, CDFG 2012) and the relocation area is protected through a long-term conservation mechanism (e.g., conservation easement). CDFW recommends that the City notify CDFW if owls are found to be present onsite and develop a conservation strategy in cooperation with CDFW, in accordance with CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012). CDFW offers the following revisions to MM BIO-1 (edits are in ~~strike through~~ and **bold**):

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MM BIO-1:

In accordance with the CDFG Staff Report on Burrowing Owl (2012), a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls between 30 and 14 days prior to site disturbance. If burrowing owls are detected on-site, **the qualified biologist shall contact California Department of Fish and Wildlife (CDFW) and conduct an impact assessment in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio and the owls shall be relocated/excluded from the site outside of the breeding season following accepted protocols, and subject to approval by CDFW. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.**

cont'd
d

Prior to passive relocation, suitable replacement burrows site(s) shall be provided within adjacent open space lands at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. Monitoring and management of the replacement burrow site(s) shall be conducted and a reporting plan shall be prepared. The objective shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.

2. Nesting Birds. CDFW appreciates the inclusion of MM BIO-2, which proposes pre-construction nesting bird surveys to verify absence of active nests. CDFW offers the following revisions to MM BIO-2 (edits are in ~~strike through~~ and **bold**) to ensure nests are properly searched:

e

MM BIO-2:

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Vegetation clearing should be conducted outside of the nesting season (**typically** February 1 through August 31). If avoidance of the nesting season cannot be accomplished, then a qualified biologist shall conduct a nesting bird survey **in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions** within three days prior any disturbance of the site, including disking and grading. **Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors).** If active nests are identified, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Typically established buffers are greater for raptors than songbirds and depend upon the species, the nesting stage, and type of construction activity proposed. The buffer should generally be a minimum of 300 feet for raptors and 100 feet for songbirds; unless **a smaller buffer is** specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species.

cont,d
e

3. Special-status mammals. The DEIR recognizes the presence of San Diego black-tailed jackrabbit (*Lepus californicus bennettii*) on the Project site on two separate occasions and its status as a California Species of Special Concern (CSSC). CDFW recommends that if San Diego black-tailed jackrabbit is encounter during construction, it be allowed to move out or harm's way to avoid direct mortality from construction.

f

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

g

FILING FEES

h

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Senior Planner
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The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

cont;d
h

CONCLUSION

CDFW requests that the City include in the FEIR the suggested revised mitigation measures and recommendations offered by CDFW to reduce project impacts.

CDFW appreciates the opportunity to comment on the DEIR for the Speedway Commerce Development Project (SCH No. 2020090076) and hopes our comments assist the City of Rancho Cucamonga in identifying and mitigating Project impacts on biological resources. If you should have any questions pertaining to the comments provided in this letter, please contact Cindy Castaneda, Environmental Scientist, at (805) 712-0346 or at Cindy.Castaneda@wildlife.ca.gov.

Sincerely,

 for
84F92FFEEFD24CB...
Scott Wilson
Environmental Program Manager

ec: HCPB CEQA Program
Habitat Conservation Planning Branch
CEQAcommentletters@wildlife.ca.gov

Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html
Trulio, L.A. 1995. Passive Relocation: A Method to Preserve Burrowing Owls on Disturbed Sites. Journal of Field Ornithology 66:99-106

i

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Letter W-1 California Department of Fish and Wildlife (CDFW)

Scott Wilson, Environmental Program Manager
July 20, 2021

Response W-1a

Comment noted. The City of Rancho Cucamonga appreciates and values these comments during the EIR participation process.

Response W-1b

Comment noted regarding CDFW's role as a Trustee Agency and a Responsible Agency.

Response W-1c

Comment noted. This comment contains a project description summary.

Response W-1d

Mitigation Measure BIO-1 has been revised as follows:

MM BIO-1: In accordance with the CDFG Staff Report on Burrowing Owl (2012), a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls between 30 and 14 days prior to site disturbance. If burrowing owls are detected on-site, the qualified biologist shall contact California Department of Fish and Wildlife (CDFW) and conduct an impact assessment in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio and the owls shall be relocated/excluded from the site outside of the breeding season following accepted protocols, and subject to approval by CDFW. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities on-site. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

Prior to passive relocation, suitable replacement burrows site(s) shall be provided within adjacent open space lands and/or other off-site lands, as approved by CDFW at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. Monitoring and management of the replacement burrow site(s) shall be conducted and a reporting plan shall be prepared. The objective

shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.

Response W-1e

MM BIO-2 has been revised as follows:

MM BIO-2: Vegetation clearing should be conducted outside of the nesting season (typically February 1 through August 31). If avoidance of the nesting season cannot be accomplished, then a qualified biologist shall conduct a nesting bird survey in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions within three days prior any disturbance of the site, including disking and grading. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If active nests are identified, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Typically established buffers are greater for raptors than songbirds and depend upon the species, the nesting stage, and type of construction activity proposed. The buffer should generally be a minimum of 300 feet for raptors and 100 feet for songbirds; unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species.

Response W-1f

The City is in agreement with CDFW's comment to allow the jackrabbit to leave the site on its own if construction equipment is in close proximity to their location.

Response W-1g

The City understands that special status species and natural communities detected during Project surveys be added to the California Natural Diversity Database (CNDDDB), if found on-site. No threatened or endangers species were identified on the Project site.

Response W-1h

Upon filing of the Notice of Determination, the City will pay the appropriate Environmental Impact Report (EIR) filing fee, as presented at the below location, to help defray the cost of environmental review by CDFW:

<https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA/Fees>

Response W-1i

Comment noted.

Comment Letter R-1



Comment Letter R1

SENT VIA E-MAIL:
Sean.McPherson@cityofrc.us
Sean McPherson, Senior Planner
City of Rancho Cucamonga, Planning Division
10500 Civic Center Drive
Rancho Cucamonga, California 91701

August 11, 2021

Draft Environmental Impact Report (Draft EIR) for the Speedway Commerce Center (Proposed Project) (SCH No.: 2020090076)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The City of Rancho Cucamonga is the California Environmental Quality Act (CEQA) Lead Agency for the Proposed Project. The following comments included recommended changes to air quality mitigation measures and information on South Coast AQMD Rules 2305 and 316 that the Lead Agency should include in the Final EIR.

South Coast AQMD Staff's Summary of Project Description in the Draft EIR

The Proposed Project consists of construction and operation of two warehouses totaling 655,878 square feet on 35.73 acres. Based on the Draft EIR, the Proposed Project would include electrical hookups for tenants that require cold storage during operation. The Proposed Project is located on the northeast corner of Etiwanda Avenue and Napa Street in the City of Rancho Cucamonga (City). Based on a review of aerial photographs, the Proposed Project is immediately surrounded by vacant lands and warehouse uses, and the closest sensitive receptors (e.g., residents) are located 730 feet to the north on the northwest corner of Arrow Route and Ilex Street. Additional residents are located further north along Foothill Boulevard between Interstate 15 (I-15) and Cherry Avenue. Construction of the Proposed Project will occur in a 10-month period. At full buildout in 2022, the Proposed Project would generate 369 daily truck trips, including 63 trips from 2-Axle trucks, 84 trips from 3-Axle trucks, and 222 trips from 4+-Axle trucks¹. Based on the City's General Plan, Arrow Route, Foothill Boulevard, and Sixth Street are identified as the nearest major east/west truck routes and Etiwanda Avenue, Rochester Avenue, and Milliken Avenue as the nearest identified north/south truck routes².

a

South Coast AQMD Staff's Comments

Recommended Changes to Mitigation Measure AQ-6

The Draft EIR included nine air quality mitigation measures. Mitigation Measure AQ-6 requires the posting of signs at every truck exit driveway to provide directional information to the truck route³. Based on the air dispersion modeling for the Proposed Project's health risk assessment, truck routes included the following⁴:

- Fourth Street – I-15 south bound (SB) ramps to north bound (NB) ramps
- Fourth Street – I-15 NB ramps to Etiwanda Avenue

b

¹ Draft EIR. Appendix A. Table 3, *Diesel Particulate Matter Emissions Rates*. Page 16.

² Draft EIR. Page 4.11.

³ Draft EIR. Page 1-18.

⁴ Draft EIR. Appendix A. Modeling Data. PDF page 1128.

Sean McPherson

August 11, 2021

- Etiwanda Avenue – Interstate 10 to Fourth Street
- Etiwanda Avenue – Fourth Street to Napa Street
- Etiwanda Avenue – Napa Street to I-15

Figure 1: Copy of Figure 4.11-1: Existing Roadway Network in the Draft EIR*



*South Coast AQMD staff added two polygons to indicate the location of existing residents that are located to the north of the Proposed Project. August 10, 2021.

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Sean McPherson

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As shown in Figure 1, Fourth Street and Napa Street are located south of the Proposed Project, and Etiwanda Avenue is located west of the Proposed Project. Trucks using these roadways will likely enter and exit the Proposed Project without a need to travel next to or near existing residential uses on Arrow Route and Foothill Boulevard that are located north of the Proposed Project. As such, South Coast AQMD staff recommends that the Lead Agency limit the truck routes to be consistent with those that are used to analyze the Proposed Project's health risk impacts and make the following revisions to Mitigation Measure AQ-6 in the Final EIR.

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Mitigation Measure AQ-6: Post signs at every truck exit driveway providing directional information to the truck route, so that trucks will not travel on Arrow Route and Foothill Boulevard next to or near sensitive land uses (e.g., residences).

South Coast AQMD Rule 2305 and Rule 316

On May 7, 2021, South Coast AQMD's Governing Board adopted Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program, and Rule 316 – Fees for Rule 2305. Rules 2305 and 316 are new rules that will reduce regional and local emissions of nitrogen oxides (NOx) and particulate matter (PM), including diesel PM. These emission reductions will reduce public health impacts for communities located near warehouses from mobile sources that are associated with warehouse activities. Also, the emission reductions will help the region attain federal and state ambient air quality standards. Rule 2305 applies to owners and operators of warehouses greater than or equal to 100,000 square feet. Under Rule 2305, operators are subject to an annual WAIRE Points Compliance Obligation that is calculated based on the annual number of truck trips to the warehouse. WAIRE Points can be earned by implementing actions in a prescribed menu in Rule 2305, implementing a site-specific custom plan, or paying a mitigation fee. Warehouse owners are only required to submit limited information reports, but they can opt in to earn Points on behalf of their tenants if they so choose because certain actions to reduce emissions may be better achieved at the warehouse development phase, for instance the installation of solar and charging infrastructure. Rule 316 is a companion fee rule for Rule 2305 to allow South Coast AQMD to recover costs associated with Rule 2305 compliance activities. Since the Proposed Project consists of the development of two warehouses totaling 632,034 square feet, the Proposed Project's warehouse owners and operators will be required to comply with Rule 2305 once the warehouse is occupied. Therefore, South Coast AQMD staff recommends that the Lead Agency review South Coast AQMD Rule 2305 to determine the potential WAIRE Points Compliance Obligation for future operators and explore whether additional project requirements and CEQA mitigation measures can be identified and implemented at the Proposed Project that may help future warehouse operators meet their compliance obligation. South Coast AQMD staff is available to answer questions concerning Rule 2305 implementation and compliance by phone or email at (909) 396-3140 or waire-program@aqmd.gov. For implementation guidance documents and compliance and reporting tools, please visit South Coast AQMD's WAIRE Program webpage.⁵

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Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not

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⁵ South Coast AQMD WAIRE Program. Accessed at: <http://www.aqmd.gov/waire>.

Sean McPherson

August 11, 2021

meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended revisions to the existing air quality mitigation measure are not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Steve Tsumura, Air Quality Specialist, at stsumura@aqmd.gov or (909) 396-2549, should you have any questions.

Sincerely,

Lijin Sun

Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

LS:ST
[SBC210701-02](#)
Control Number

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Letter R-1 South Coast Air Quality Management District

Lijin Sun, J.D.
August 11, 2021

Response R-1a

Comment noted. The commenter provides general introductory and background information as well as a summary of the project and air quality analysis. The City of Rancho Cucamonga appreciates and values these comments during the EIR participation process. Responses to specific comments are provided below; no further response is required.

Response R-1b

The comment requests clarification to Mitigation Measure AQ-6. Mitigation Measure AQ-6 will be revised in the Final EIR (FEIR), as indicated below.

MM AQ-6: Post signs at every truck exit driveway providing directional information to the truck route, so that trucks will not travel on Arrow Route and Foothill Boulevard next to or near sensitive land uses (e.g., residences).

Response R-1c

The comment summarizes the South Coast Air Quality Management District's (SCAQMD) Warehouse Indirect Source Rule (Rule 2305) and the companion fee rule (Rule 316). Rule 2035 was summarized in the Regulatory Setting of Draft EIR (DEIR) Section 4.1 (Air Quality) and the applicability of the rule was identified in the analysis portion of DEIR Section 4.1 (refer to pages 4.1-10, 4.1-18, 4.1-19, 4.1-25, and 4.1-35). The analysis notes that the Project would be required to comply with the rule and earn Warehouse Actions and Investments to Reduce Emissions (WAIRE) Points each year. As noted on DEIR page 4.1-1, the Project is being pursued on a speculative basis and the future occupant(s) are unknown at this time. Therefore, it cannot be determined which WAIRE points will be applied to the Project at this time. However, as noted in the DEIR, the Project would be required to comply with all existing and applicable rules, including SCAQMD Rule 2305 and Rule 316. These requirements, once implemented, would reduce project emissions below what is already conservatively reported in the DEIR.

Response R-1d

The comment identifies California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b) which requires lead agencies to provide written responses to the comment letter. The City of Rancho Cucamonga is in full compliance with the requirements of California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088 as requested in the comment.

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Comment Letter L-1

Comment Letter L1



10440 Ashford Street, Rancho Cucamonga, CA 91730-2799
P.O. Box 638, Rancho Cucamonga, CA 91729-0638
(909) 987-2591 Fax (909) 476-8032

John Bosler
Secretary/General Manager/CEO

August 11, 2021

City of Rancho Cucamonga
Attn: Sean McPherson – Senior Planner
10500 Civic Center Drive.
Planning Department
Rancho Cucamonga, CA 91730

RE: Written Comments on the Draft Environmental Impact Report (DEIR) – Speedway Commerce Center

Dear Mr. McPherson,

Thank you for providing Cucamonga Valley Water District (District) the opportunity to respond to the DEIR for the Speedway Commerce Center Project. The following comment seeks to clarify a few items stated in the document.

In sections 4.5 and 4.13 the DEIR describes Cucamonga Valley Water District owning existing sewer facilities that the site may connect to for this project. The District does not own any facilities near the site and it is not actually within the District's service area. The District is currently coordinating with Inland Empire Utilities Agency (IEUA) to help the site connect to the closest sewer main, a regional trunk sewer owned by IEUA. However, the District does not own this pipeline and this project site is currently outside of the District's service area. An agreement with IEUA and coordination with the Local Agency Formation Commission (LAFCO) may be necessary prior to providing service.

Table 4.13-6 references our 2015 Urban Water Management Plan (UWMP). The latest version is the recently published 2020 UWMP. However, since the project will not connect to neither existing District water nor sewer facilities, it may be more appropriate to reference IEUA documents.

The District staff thanks you for this opportunity to respond to the DEIR. If you have any questions or should need us to further elaborate on our responses, please contact me at (909) 987-2591 or e-mail at GidtiL@cvwdwater.com.

Sincerely,

Gidti Ludesirishoti
Gidti Ludesirishoti, PE
Cucamonga Valley Water District

Copy:

Jiwon Seung, CVWD
Kenneth Tam, IEUA
Matthew Poeske, IEUA

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Randall James Reed
President

Luis Cetina
Vice President

James V. Curatalo, Jr.
Director

Mark Gibboney
Director

Kevin Kenley
Director

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Letter L-1 Cucamonga Valley Water District (CVWD)

Gidti Ludesirishoti, PE
August 11, 2021

Response L-1a

Comment noted. The commenter provides general introductory information and greeting. The City of Rancho Cucamonga appreciates and values these comments during the EIR participation process. The remaining comments are responded to below.

Response L-1b

Section 3.0, Errata includes revisions to the DEIR, including revisions to DEIR Sections 4.5 and 4.13. These edits revise and clarify the Project's utilization of Inland Empire Utilities Agency (IEUA) resources and infrastructure. A Water Supply Assessment (WSA) was prepared for the Project (DEIR Appendix F) and determined that IEUA has adequate capacity to serve the Project. Furthermore, the Project would be required to process a Sphere of Influence (SOI) Amendment and annexation to the Cucamonga Valley Water District service boundary associated with the SOI amendments and reorganization actions that will be forwarded to LAFCO. There are no new impacts as a result of the revisions to Section 4.5 and 4.13.

Response L-1c

See FEIR Section 3.0, Errata for revisions to Table 4.13-6 to reflect data from the IEUA.

Response L-1d

Comments noted. Future noticing and updates regarding the Project will be made available.

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Comment Letter G-1

Comment Letter G1

P: (626) 381-9248
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E: info@mitchtsailaw.com



139 South Hudson Avenue
Suite 200
Pasadena, California 91101

VIA E-MAIL

August 13, 2021

Sean McPherson, Senior Planner
City of Rancho Cucamonga, Planning Division
10500 Civic Center Drive
Rancho Cucamonga, CA 91730
Em: sean.mcpherson@cityofrc.us

RE: Speedway Commerce Center Draft Environmental Impact Report

Dear Sean McPherson,

On behalf of the Southwest Regional Council of Carpenters (“**Commenters**” or “**Carpenters**”), my Office is submitting these comments on the City of Riverside’s (“**City**” or “**Lead Agency**”) Draft Environmental Impact Report (“**DEIR**”) (SCH No. 2020090076) for the proposed Speedway Commerce Center Project (“**Project**”).

The City proposes to adopt the Project, a development of a 34.31 acre site to include two warehouse buildings totaling 655,878 square feet (or, in the alternative, a single e-commerce warehouse building totaling 500,648 square feet), 383 automobile parking spaces (or, in the alternative, 1,456 automobile parking spaces), 107 trailer parking stalls (or, in the alternative, 59 trailer parking stalls), and associated landscaping and improvements. As part of the Project, the City would be required to conduct a design review and approve, among other things, a General Plan Amendment, Pre-Zoning, Annexation/Sphere of Influence Amendment, Tentative Parcel Map, and a Uniform Sign Program.

The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

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

Commenters expressly reserve the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this

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City of Rancho Cucamonga – Speedway Commerce Center Draft EIR
August 13, 2021
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Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

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

Moreover, Commenters request that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

The City should require the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

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

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City of Rancho Cucamonga – Speedway Commerce Center Draft EIR
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[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

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

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

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

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Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.²

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”³

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¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>

³ City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, available at https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf.

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In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to requiring that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, . . .”⁴ In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”⁵

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

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.⁶

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.⁷ Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

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In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational

⁴ City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

⁵ City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

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

⁷ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

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training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

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

The City should also require the Project to be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project’s environmental impacts and to advance progress towards the State of California’s environmental goals.

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

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“CCR” or “CEQA Guidelines”) § 15002(a)(1).⁸ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

⁸ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 150000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

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Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is

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made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

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B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 ... but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes “changes in the project or environmental setting as well as additional data or other information” that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when “the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” *Id.*

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An agency has an obligation to recirculate an environmental impact report for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new information was brought to the attention of an agency prior to certification, an agency

City of Rancho Cucamonga – Speedway Commerce Center Draft EIR
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is required to revise and recirculate that information as part of the environmental impact report.

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C. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.⁹

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

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

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.

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⁹ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

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

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.

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City of Rancho Cucamonga – Speedway Commerce Center Draft EIR
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- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

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

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

D. The DEIR's Project Description is Not Accurate, Stable, and Finite

¹⁰ See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

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“[A]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient” environmental document. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 200.) “A curtailed or distorted project description may stultify the objectives of the reporting process” as an accurate, stable and finite project description is necessary to allow “affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. (*Id.* at 192 – 93.) Courts determine *de novo* whether an agency proceeded “in a manner required by law” in maintaining a stable and consistent project description. (*Id.* at 200.)

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A project description fails for not including sufficient detail when there is not enough information provided to accurately evaluate the project’s environmental impacts. Here, the DEIR’s project description is not accurate, stable, or finite, thus undermining much of the subsequent analysis in the DEIR. The DEIR notes that the Project is speculative in nature and that the future tenants of the Project are as-yet unknown. (DEIR, 1-4, 2-1, 3-2.) Two different alternatives are proposed for the Project: a two building facility with 655,878 square feet of warehouse and office space with 383 parking spaces and 107 trailer parking stalls; and a single 500,648 square foot warehouse/office space building with 1,456 automobile parking stalls and 59 trailer parking stalls. (DEIR, 3-1.)

Specificity is crucial when evaluating the environmental impacts of a warehouse project because the type of warehousing generally dictates the project’s air quality, greenhouse gas emissions, and transportation impacts. The number of truck trips and vehicle miles travelled will substantially change depending on how the warehouse will be utilized.¹¹ Vehicle trip generation rates can change dramatically based upon the type of warehousing that is operated at a site.¹² For example, cold-storage uses generate significantly higher average daily vehicle trip rates than non-cold-storage uses.¹³ High-cube sort and non-sort fulfillment centers may also generate dramatically different trip rates but the DEIR fails to justify its assumptions for future tenants.

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¹¹ ITE Trip General Manual, 10th Ed., Land Use Codes, available at <https://www.ite.org/pub/?id=794f62d6%2Df31f%2D9ea7%2D4506%2Def5df11de8f6>.
¹² *High-Cube Warehouse Vehicle Trip Generation Analysis* (Oct. 2016), Institute of Transportation Engineers, available at <https://www.ite.org/pub/?id=a3e6679a%2De3a8%2Dbf38%2D7f29%2D2961becdd498>.
¹³ *Id.* at 26-8.

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The DEIR wants to rule out a cold storage use scenario in its analysis of the e-commerce alternative and “worst-case scenario,”¹⁴ but it cannot because by the DEIR’s own language the future tenants, and thus the future uses, of the proposed warehouses are merely speculative. There is no mitigation measure that precludes the use of cold storage in conjunction with e-commerce/fulfillment uses. The proposed warehouses could accommodate cold storage uses. The DEIR should then assume for purposes of its analyses that *only* cold storage tenants will utilize the proposed warehouse buildings. Although an EIR is not required to include an analysis of an *unlikely* worst-case scenario, it needs to evaluate impacts that are a reasonably foreseeable consequence of the project. *High Sierra Rural Alliance v. County of Plumas* (2018) 29 Cal. App. 5th 102, 122. Here, the Project Description unjustifiably narrows the future uses of the Project site.

The DEIR should take a more conservative approach as required by CEQA and assume that the Project could be used for cold storage purposes or any other uses that may generate higher average daily trip rates than the DEIR’s current environmental analyses indicate. The DEIR needs to be revised to include a stable and finite description and worst case scenario land use projections regarding cold storage to accurately reflect the potential environmental impacts of future tenants.

E. CEQA Bars the Deferred Development of Environmental Mitigation Measures

CEQA mitigation measures proposed and adopted into an environmental impact report are required to describe what actions that will be taken to reduce or avoid an environmental impact. CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”]. While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, but such exception is narrowly proscribed to situations where “measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” (Id.) Courts have also recognized a similar exception to the general rule against deferral of mitigation measures where the performance criteria for each mitigation measure is identified and described in the EIR. *Sacramento Old City Ass’n v. City Council* (1991) 229 Cal.App.3d 1011.

¹⁴ DEIR, 4.6-18 through 4.6-19.

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Impermissible deferral can occur when an EIR calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms but the agency fails to commit itself to specific performance standards. *Preserve Wild Santee v. City of Santee* (2012) 210 Cal. App. 4th 260, 281 [city improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App. 4th 645, 671 [EIR failed to provide and commit to specific criteria or standard of performance for mitigating impacts to biological habitats]; see also *Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 Cal. App. 5th 413, 442 [generalized air quality measures in the EIR failed to set performance standards]; *California Clean Energy Comm. v City of Woodland* (2014) 225 Cal. App. 4th 173, 195 [agency could not rely on a future report on urban decay with no standards for determining whether mitigation required]; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal. App. 4th 681, 740 [agency could not rely on future rulemaking to establish specifications to ensure emissions of nitrogen oxide would not increase because it did not establish objective performance criteria for measuring whether that goal would be achieved]; *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1119 [rejecting mitigation measure requiring replacement water to be provided to neighboring landowners because it identified a general goal for mitigation rather than specific performance standard]; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777, 794 [requiring report without established standards is impermissible delay].

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Here, the DEIR defers the development of the following mitigation measures for potentially significant environmental impacts:

- MM CUL-1 proposes to retain a qualified archaeologist to conduct monitoring duties and develop treatment plan for inadvertently discovered archaeological resources without detailing any specific plan for resource monitoring that would be established using a generally accepted performance criteria or standard.
- MM HAZ-1 and MM HAZ-2 call for the development of a Hazardous Materials Risk Management Plan and a Soil Management Plan detailing any specific plan that would be established without using a generally accepted performance criteria or standard.

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- MM TRC-3 attempts to mitigate impacts to tribal cultural resources caused by the Project through the retention of a tribal monitor/consultant but does not detail any standards for selection of such a monitor.

It is important to note that there are well developed professional protocols that could easily be integrated into the aforementioned mitigation measures to provide enforceable performance standards for the aforementioned mitigation measures.

As to MM CUL-1 and MM TRC-3, the State of California’s Governor’s Office of Planning and Research as well as the United States Department of the Interior have specific guidelines for consultation with, evaluation, and treatment of tribal remains and other archaeological resources.¹⁵ The EIR should be modified to require that mitigation and monitoring efforts comply with the aforementioned national and state guidelines.

The DEIR needs to be amended to include specific mitigation measures with any applicable performance standards. The DEIR needs to be revised to specify what the plan is and what performance standard or measure will be used that complies with any rule or regulation cited.

F. The DEIR Fails to Support Its Findings with Substantial Evidence

When new information is brought to light showing that an impact previously discussed in the DEIR but found to be insignificant with or without mitigation in the DEIR’s analysis has the potential for a significant environmental impact supported by substantial evidence, the EIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109. While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or

¹⁵ Governor’s Office of Planning and Research (2017) Technical Advisory: AB 52 and Tribal Cultural Resources in CEQA, available at https://opr.ca.gov/docs/20200224-AB_52_Technical_Advisory_Feb_2020.pdf; U.S. Department of the Interior, National Park Service (2000) Guidelines for Evaluating and Registering Archeological Properties, available at <https://www.nps.gov/subjects/nationalregister/upload/NRB36-Complete.pdf>; U.S. Department of the Interior, National Park Service (1992) Guidelines for Evaluating and Documenting Traditional Cultural Properties, available at <https://www.nps.gov/subjects/nationalregister/upload/NRB38-Compleweb.pdf>.

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thresholds of significance must be “based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines § 15064(b); *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 3 Cal. App. 5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal. App. 5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence. *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 302.

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In addition, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. See also *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

V

1. *The DEIR's Air Quality and Greenhouse Gas Emissions Analyses are Not Supported by Substantial Evidence.*

i. *The DEIR Fails to Substantiate Proposed Warehousing Uses.*

According to SCAQMD's Warehouse Truck Trip Study Data Results and Usage report, warehouse cold storage uses significantly increase truck trip rates.¹⁶ As noted above, the DEIR states the proposed Project may include cold storage facilities and, depending on who the future tenants will be, may be used e-commerce/fulfillment purposes. As noted above, vehicle trip generation rates and trip lengths can change

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¹⁶ SCAQMD, Warehouse Truck Trip Study Data Results and Usage (June 2014). Available at https://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2.

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dramatically based upon the type of warehousing that is operated at a site.¹⁷ SCAQMD’s recommended air quality analysis approach, following the CEQA requirement to use a conservative analysis, is to *utilize the cold storage trip rates* when the tenant(s) is unknown and when the proposed warehousing may accommodate that use.¹⁸

Here, the DEIR’s air quality and greenhouse gas emissions analyses are flawed and not based upon substantial evidence because they fail to use a conservative analysis which utilizes the highest daily emissions rates for cold storage or any other possible warehousing uses that were not considered. While it assumes 100 percent refrigeration use for the “baseline” project, the DEIR and its Appendix A constrain their analysis of the e-commerce alternative and “worst case scenario” emissions by stating that “[c]old storage/refrigerated space and associated [transport refrigeration units (“TRUs”)] would not be associated... because E-Commerce is not usually a refrigerated use.” (DEIR, 4.6-18 through 4.6-19; *see also, e.g.*, DEIR, 4.1-20 (“It should be noted that although the 100 Percent E-Commerce Scenario has more overall vehicle trips, it has fewer truck trips and *no TRU emissions.*”) (emphasis added).) The Project’s MM AQ-5 would limit refrigerated space to a maximum of 56,000 square feet, but nothing prevents the use of the Project facilities for e-commerce with refrigerated space. The DEIR’s analysis of purported worst-case scenarios does not actually reflect the worst case scenario as required by CEQA, and its analyses of GHG and Air Quality Impacts are inadequate.

Moreover, the DEIR’s analysis of GHG impacts is unsupported by substantial evidence as it relies on outdated modeling. The DEIR’s analysis of Air Quality and GHG impacts throughout the DEIR relies on data created using CalEEMod version 2016.3.2. (See, e.g., DEIR, 4.1-18). A newer version of this software (currently CalEEMod version 2020.4.0) became available prior to the release of the DEIR. The DEIR and its appendices provide no discussion or justification for use of the outdated 2016 version of the software. The use of outdated modeling software may result in underestimation of the Project’s GHG emissions, calling the DEIR’s conclusions into question. The DEIR’s reliance on inaccurate modeling also affects its analysis of air

¹⁷ *High-Cube Warehouse Vehicle Trip Generation Analysis* (Oct. 2016), Institute of Transportation Engineers, available at <https://www.ite.org/pub/?id=a3e6679a%2De3a8%2Dbf38%2D7f29%2D2961becdd498>.

¹⁸ *Id.* at 28-2.

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quality impacts and energy impacts. The DEIR potentially vastly undercounts the Project’s emissions, and should be reevaluated.

2. *The DEIR is Required to Consider and Adopt All Feasible Air Quality and GHG Mitigation Measures*

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

If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible”¹⁹ and find that ‘specific overriding economic, legal, social, technology or other benefits of the project outweigh the significant effects on the environment.’²⁰ “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

Here, the DEIR finds that the Project will have potentially significant impacts on air quality and greenhouse gas emissions, yet proposes mitigation measures that fall short of the “all feasible mitigation measures” standard set by CEQA. The DEIR fails to justify with substantial evidence why U.S. EPA Tier 4 Final-compliant should not be required during construction of the Project, or why CalGreen Tier 2 building standards should not be applied to the Project. Further, Standard Condition AQ-2 demands the use of low-VOC architectural coatings within the Project area, but the DEIR does not contemplate the feasibility of a requirement that “Super-Complaint” architectural be utilized to further decrease Air Quality impacts. As detailed below, the SCAG 2016-2040 RTP/SCS and the Connect SoCal 2020-2045 RTP/SCS list several project level mitigation measures and strategies to reduce Project impacts. The DEIR fails to address the feasibility of these measures, which should be considered and incorporated into the Project’s mitigation monitoring and management plan as required.

¹⁹ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

²⁰ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

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3. The DEIR Fails to Support its Findings on Population and Housing Impacts with Substantial Evidence.

The DEIR finds that the Project will have less-than-significant impacts on substantial population growth in the area. While the Project does not directly result in the creation of housing, it will result in the creation of 1,172 new jobs, (DEIR, 5-4) “which, in turn, could indirectly result in an increase in population.” (DEIR, 4.1-14.) The DEIR relies on the bare assumption that since there are unemployed people in the Riverside-San Bernardino-Ontario area, the jobs created by the Project will necessarily go to those people and there will be no impacts on population and housing. (DEIR, 7-9.) This is not enough to support the DEIR’s conclusion. An “EIR must provide the reader with an analytic bridge between the evidence and findings. (*Topanga Assn for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) The City should reconsider and revise the DEIR’s conclusion on the Project’s impacts on population and housing.

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II. **THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE CITY’S GENERAL PLAN**

A. Background Regarding the State Planning and Zoning Law

An EIR must identify, fully analyze and mitigate any inconsistencies between a proposed project and the general, specific, regional, and other plans that apply to the project. CEQA Guidelines § 15125(d); *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1566; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 881. There does not need to be a direct conflict to trigger this requirement; even if a project is “incompatible” with the “goals and policies” of a land use plan, the EIR must assess the divergence between the project and the plan, and mitigate any adverse effects of the inconsistencies. *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 378-79; *see also Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903 (holding under CEQA that a significant impact exists where project conflicts with local land use policies); *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 998 (held county development and infrastructure improvements must be consistent with adopted general plans) (citing Gov. Code 65302).

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B. The DEIR Fails to Demonstrate Consistency with SCAG’s RTP/SCS Plans

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Senate Bill No. 375 requires regional planning agencies to include a sustainable communities strategy in their regional transportation plans. Gov. Code § 65080, sub.(b)(2)(B). CEQA Guidelines § 15125(d) provides that an EIR “shall discuss any inconsistencies between the proposed project and...regional plans. Such regional plans include...regional transportation plans.” Thus, CEQA requires analysis of any inconsistencies between the Project and the relevant RTP/SCS plan.

Senate Bill No. 375 requires regional planning agencies to include a sustainable communities strategy in their regional transportation plans. Gov. Code § 65080, sub.(b)(2)(B). CEQA Guidelines § 15125(d) provides that an EIR “shall discuss any inconsistencies between the proposed project and...regional plans. Such regional plans include...regional transportation plans.” Thus, CEQA requires analysis of any inconsistencies between the Project and the relevant RTP/SCS plan.

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS (“2012 RTP/SCS”), which proposed specific land use policies and transportation strategies for local governments to implement that will help the region achieve GHG emission reductions of 9 percent per capita in 2020 and 16 percent per capita in 2035. In April 2016, SCAG adopted the 2016-2040 RTP/SCS (“2016 RTP/SCS”)²¹, which incorporates and builds upon the policies and strategies in the 2012 RTP/SCS²², that will help the region achieve GHG emission reductions that would reduce the region’s per capita transportation emissions by eight percent by 2020 and 18 percent by 2035.²³ SCAG’s RTP/SCS plan is based upon the same requirements outlined in CARB’s 2017 Scoping Plan and SB 375.

On September 3, 2020, SCAG adopted the 2020 – 2045 RTP / SCS titled Connect SoCal (“2020 RTP/ SCS” or “Connect SoCal”).²⁴ The 2020 RTP / SCS adopts policies and strategies aimed at reducing the region’s per capita greenhouse gas emissions by 8% below 2005 per capita emissions levels by 2020 and 19% below 2005

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²⁰ Southern California Association of Governments (“SCAG”) (Apr. 2016) 2026-2040 Regional Transportation Plan/Sustainable Communities Strategy: A Plan for Mobility, Accessibility, Sustainability, and a High Quality of Life (“SCAG 2016 RTP/SCS”), available at <https://scag.ca.gov/sites/main/files/file-attachments/f2016rtpscs.pdf?1606005557>.

²² SCAG 2016 RTP/SCS, p. 69, 75-115.

²³ *Id.*, p. 8, 15, 153, 166.

²⁴ SCAG (Sept 2020) Connect SoCal: The 2020 – 2045 Regional Transportation Plan / Sustainable Communities Strategy of the Southern California Association of Governments, available at https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-plan_0.pdf?1606001176

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per capita emissions levels by 2035.²⁵

SoCal Connect specifies that industrial warehouses and other “goods movement” activities need to integrate sustainable strategies to reduce emissions to near-zero because the SCAG region “does not meet federal ozone and fine particulate air quality standards, and goods movement is a major source of greenhouse gas emissions...the region will need to aggressively pursue the reduction of freight emissions that contributes to regional air pollution problems and localized ‘hot spots’ that have adverse health impacts...**Connect SoCal proposes an environmental strategy to address the air quality impacts of goods movements...**”

Connect SoCal’s Goods Movement Technical Report outlines specific steps that lead agencies should take to ensure that goods movement projects comply with the goals and strategies of Connect SoCal.²⁶ Some of these steps include:

- Use of heavy-duty vehicles that are model year 2010 or newer;
- Use of low NO_x engines in heavy-duty vehicles;
- Use of electric, hybrid-electric and near-zero emissions trucks;
- Operating time limits on TRUs and transition to use of zero emission TRUs;
- Extended truck warranties and improved maintenance protocols on diesel after treatment systems; and
- Increase fleet fuel emissions standards.

For both the 2016 RTP/SCS and Connect SoCal, SCAG prepared Program Environmental Impact Reports (“PEIR”) that include Mitigation Monitoring and Reporting Programs (“MMRP”) that list project-level environmental mitigation measures that directly and/or indirectly relate to a project’s GHG impacts and contribution to the region’s GHG emissions.²⁷ These environmental mitigation

²⁵ *Id.* At xiii.

²⁶ SCAG Connect SoCal Goods Movement Technical Report, pp. 57-69, available at https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_goods-movement.pdf.

²⁷ SCAG (April 7, 2016) Resolution No. 16-578-1: A Resolution of the Southern California Association of Government Certifying the Final Program Environmental Impact Report Prepared for the 2016 – 2040 Regional Transportation Plan / Sustainable Communities Strategy (SCH#2015031035) and Adopting Findings of Fact, a Statement of Overriding Considerations and a

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measures serve to help local municipalities when identifying mitigation to reduce impacts on a project-specific basis that can and should be implemented when they identify and mitigate project-specific environmental impacts.²⁸

Here, the DEIR does not consider consistency with the still-extant 2016-2040 RTP/SCS, and claims the Project is consistent with Connect SoCal through the analysis of ten general goals or policies of that plan. However, the goals that the DEIR analyzes for Project consistency are not applicable at the project level, only at a plan level to inform implementation of the RTP/SCS Plan. Thus, the DEIR incorrectly relies upon plan level goals outlined in the RTP/SCS. In the 2016 RTP/SCS Plan, SCAG states that:

The RTP/SCS is a long-range visioning plan that balances future mobility and housing needs with goals for the environment, the regional economy, social equity and environmental justice, and public health. Ultimately, the Plan is intended to help guide transportation and land use decisions and public investments...This Plan's goals are intended to help carry out our vision for improved mobility, a strong economy and sustainability."²⁹

The DEIR simply does not demonstrate that it is consistent with many of the RTP/SCS Plan's *project-level* goals, as described in the Mitigation Measures for the 2016 RTP/SCS and Connect SoCal.

C. The Project is Inconsistent with the General Plan, and thus the DEIR's Conclusions Regarding Impacts on Land Use and Planning are Unsupported by Substantial Evidence

The DEIR fail to establish the Project's consistency with several General Plan³⁰ goals, policies, and programs including the following:

Mitigation, Monitoring and Reporting Program Pursuant to the California Environmental Quality Act, Exhibit B, "Mitigation Monitoring and Reporting Program," available at https://scag.ca.gov/sites/main/files/file-attachments/2016fpeir_exhibitb_mmrp.pdf?1623887711; see also SCAG (Sept. 3, 2020) Connect SoCal Program Environmental Impact Report Addendum #1, available at https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_addendum_complete.pdf?1606004379, at pp. 4.0-1 through 4.0-28..

²⁸ SCAG 2012 RTP/SCS, p. 77; see also SCAG 2016 RTP/SCS, fn. 41, p. 115.

²⁹ SCAG 2016-2040 RTP/SCS Plan, pp. 63, 65 (emphasis added).

³⁰ City of Rancho Cucamonga (May 19, 2020) General Plan, available at https://www.cityofrc.us/sites/default/files/2020-12/General%20Plan_4.pdf.

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- Goal LU-7 and related policies: Encourage diverse employment-generating land uses that are clean and modern, and that incorporate green technologies.
- Goal CM-6: Coordinate with other jurisdictions on regional transportation issues.
 - Policy CM-6.4: Require the provision of appropriate mitigation of traffic impacts in surrounding communities resulting from development in Rancho Cucamonga. Work with surrounding communities to ensure that traffic impacts in Rancho Cucamonga resulting from development outside the City are adequately mitigated.
- Goal CM-7: Maintain an efficient and safe network of goods and freight movement that supports the needs of the business community.
 - Policy CM-7.1: Continue to maintain a truck circulation system that defines truck routes, directs the movement of trucks safely along major roadways, and minimizes truck travel on local and collector streets.
 - Policy CM-7.2: Support the abandonment of railroad spurs that no longer serve industrial-support services.
- Policy ED-1.3: Encourage the re-use of vacant warehousing facilities and other sites in industrial zoned areas to attract new, innovative industries, particularly green technology.
- Policy RC-4.4: Reduce operational energy requirements through sustainable and complementary land use and circulation planning. Support implementation of State mandates regarding energy consumption and greenhouse gas reduction, including AB32 and SB375.
- Goal RC-6: Encourage and support green buildings in Rancho Cucamonga

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- Policy RC-6.2: Encourage green practices for new and existing buildings throughout the community.
- Policy RC-6.3: Promote energy-efficient design features, including but not limited to, appropriate site orientation, use of lightcolored roofing and building materials, and use of deciduous trees and wind-break trees to reduce fuel consumption for heating and cooling beyond the minimum requirements of Title 24 State Energy Codes.
- Policy Rc-6.4: Promote green practices and the use of energy saving designs and devices for new and existing buildings throughout the community. Consult with energy providers such as Southern California Edison, Southern California Gas, the Rancho Cucamonga Municipal Utility, and others to establish and coordinate energy efficiency programs that promote energy efficient design in all projects and assist residential, commercial, and industrial users.
 - The DEIR purports to be consistent with Goal RC-6 and its related policies. However, it only purports to incorporate a limited number of measures. (DEIR, 4.9-16.) The DEIR does not contemplate whether or not it is feasible to incorporate CalGreen Tier 2 building standards for nonresidential buildings. As noted above, a DEIR’s failure to consider and incorporate all feasible mitigation measures violates CEQA.
- Goal PS-10: Maintain good local air quality, and reduce the local contributions of airborne pollutants to the air basin.
 - Policy PS-10.1: Pursue efforts to reduce air pollution and greenhouse gas emissions by implementing effective energy conservation and efficiency measures and promoting the use of renewable energy (e.g., solar, wind, biomass, cogeneration, and hydroelectric power).

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- Policy PS-10.2: Integrate air quality planning with land use, economic development, and transportation planning.
- Policy PS-10.4: Require projects that generate potentially significant levels of air pollutants to incorporate the best available air quality mitigation into the project design, as appropriate.
- Policy PS-10.6: Implement the policies in the Resource Conservation Chapter that are related to energy resources, energy conservation, and green buildings.
- Goal PS-11 and related Policies: Reduce the volume of pollutants generated by motorized vehicles.
- Goal PS-12 and related Policies: Mitigate against climate change.

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The Project fails to discuss its conformity with each of the aforementioned Goals, Policies, and Programs laid out in the City’s General Plan, even though the Project will have reasonably foreseeable impacts on land use, traffic, vehicle trip generation, air quality, and emissions. This discussion is relevant not only to compliance with land use and zoning law, but also with the contemplation of the Project’s consistency with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating environmental impacts. The DEIR should be amended to include analysis of the Project’s compartment with the Goals, Policies, and Programs listed above.

Further, the DEIR should be revised to analyze the Project’s consistency with the City’s upcoming General Plan Update.

III. CONCLUSION

Commenters request that the City revise and recirculate the Project’s DEIR and/or prepare an environmental impact report which addresses the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional Council of Carpenters

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City of Rancho Cucamonga – Speedway Commerce Center Draft EIR
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Attached:

- March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);
- Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B);
- Air Quality and GHG Expert Matt Hagemann CV (Exhibit C);

cont'd
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EXHIBIT A



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March 8, 2021

Mitchell M. Tsai
155 South El Molino, Suite 104
Pasadena, CA 91101

Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling

Dear Mr. Tsai,

Soil Water Air Protection Enterprise (“SWAPE”) is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas (“GHG”) emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model (“CalEEMod”) is a “statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects.”¹ CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.²

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.³

¹ “California Emissions Estimator Model.” CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

² “California Emissions Estimator Model.” CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

³ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.⁴

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

$$\text{“VMT}_i = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i) \text{”}_n$$

Where:

n = Number of land uses being modeled.”⁵

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

$$\text{“Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

Emissions_{pollutant} = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

EF_{running,pollutant} = emission factor for running emissions.”⁶

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.⁷ In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.⁸ The default number of construction-related worker trips is calculated by multiplying the

⁴ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.

⁵ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.

⁶ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

⁷ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

⁸ CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 1, 9.

number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.⁹ Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.¹⁰ Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.¹¹ The operational home-to-work vehicle trip lengths are:

“[B]ased on the *location* and *urbanization* selected on the project characteristic screen. These values were *supplied by the air districts or use a default average for the state*. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).¹²

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).¹³

Worker Trip Length by Air Basin		
Air Basin	Rural (miles)	Urban (miles)
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	16.47	11.17
Minimum	10.80	10.80
Maximum	19.80	14.70
Range	9.00	3.90

⁹ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

¹⁰ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

¹¹ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.

¹² “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.

¹³ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8- miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7- miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan (“Project”) located in the City of Claremont (“City”). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.¹⁴ In an effort to evaluate the potential for a local hire provision to reduce the Project’s construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized Construction GHG Emissions (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized Construction GHG Emissions (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project’s urbanization level and location.

¹⁴ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.

Disclaimer

SWAPE has received limited discovery. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

EXHIBIT B



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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

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Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants..* Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

- In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs*, vs. United States Metals Refining Company et. al. *Defendant*.
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019
- In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs*, vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido”
Defendant.
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19
- In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case: No 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018
- In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No 1923
Rosenfeld Deposition, 11-17-2017
- In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017
- In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017
- In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018
- In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs*, vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

- In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017
- In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015
- In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Doug Pauls, et al., et al., Plaintiffs vs. Richard Warren, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action NO. 14-C-30000
Rosenfeld Deposition, June 2015
- In The Third Judicial District County of Dona Ana, New Mexico
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward
DeRuyter, Defendants
Rosenfeld Deposition: July 2015
- In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015
- In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014
- In the United States District Court Western District of Oklahoma
Tommy McCarty, et al., Plaintiffs, v. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City
Landfill, et al. Defendants.
Case No. 5:12-cv-01152-C
Rosenfeld Deposition: July 2014

In the County Court of Dallas County Texas

Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant*.

Case Number cc-11-01650-E

Rosenfeld Deposition: March and September 2013

Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio

John Michael Abicht, et al., *Plaintiffs*, vs. Republic Services, Inc., et al., *Defendants*

Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)

Rosenfeld Deposition: October 2012

In the United States District Court of Southern District of Texas Galveston Division

Kyle Cannon, Eugene Donovan, Genaro Ramirez, Carol Sassler, and Harvey Walton, each Individually and on behalf of those similarly situated, *Plaintiffs*, vs. BP Products North America, Inc., *Defendant*.

Case 3:10-cv-00622

Rosenfeld Deposition: February 2012

Rosenfeld Trial: April 2013

In the Circuit Court of Baltimore County Maryland

Philip E. Cvach, II et al., *Plaintiffs* vs. Two Farms, Inc. d/b/a Royal Farms, Defendants

Case Number: 03-C-12-012487 OT

Rosenfeld Deposition: September 2013

EXHIBIT C



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Email: mhagemann@swape.com

Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Industrial Stormwater Compliance
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 25 years of experience in environmental policy, assessment and remediation. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 100 environmental impact reports since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, Valley Fever, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nationwide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt taught physical geology (lecture and lab and introductory geology at Golden West College in Huntington Beach, California from 2010 to 2014.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examination, 2009-2011.

Letter G-1 Mitchell M. Tsai (on behalf of the Southwest Regional Council of Carpenters)

Mitchell M. Tsai, Attorney
August 13, 2021

Response G-1a

Introductory comments, summary of the Project description and references to various DEIR reviewers are noted for the record. All attachments to the comment letter have been received. As the specific comments in the letter re-state the comments in the attachments, responses to the letter also fully respond to the attachments.

Response G-1b

The commenter is providing a summary of the Southwest Regional Council of Carpenter and their interest in the Project and indicates that they are reserving the right to comment further on the Project. This is noted for the record.

Response G-1c

The commenter makes a request that the City provide the commenter with copies of any and all notices referring or related to the Project issued under CEQA. The City acknowledges the commenter's request, and the City will include the commenter on the mailing list for future CEQA notices related to the Project.

Environmental review documents pertaining to the Project were circulated for public review and remain available on the City's website here:

https://www.dropbox.com/sh/py8i3sb3fkd1uty/AADSRuPUK0GtTTa7hzlbpKu2a/Speedway%20Commerce%20Center?dl=0&subfolder_nav_tracking=1.

The City will continue to provide public notice in compliance with CEQA Guidelines and State laws.

Response G-1d

The commenter asserts that the City should require the Project Applicant to utilize local hire union labor during construction of the Project. The City has no authority over the hiring practices of private businesses as part of a development review process and there is no feasible or enforceable mechanism for the City to accommodate the commenter's request. Nevertheless, the City hope that the development of this project will result in good-paying jobs for its residents.

Response G-1e

The commenter makes broad assertions, citing a study prepared by environmental consultants, that local hire provisions reduce greenhouse gas emissions. The information provided by the commenter does not address the Project and does not provide any information to dispute the analysis provided in the DEIR or to demonstrate that local hire would specifically reduce any of the Project's environmental impacts that were disclosed in the DEIR. The project must comply with the green building code. No additional response is necessary.

Response G-1f

See response e above; the information provided by the commenter does not address the Project and does not provide any information to dispute the analysis provided in the DEIR or to demonstrate that local hire would specifically reduce any of the Project's environmental impacts that were disclosed in the DEIR. No additional response is necessary.

Response G-1g

See response e above; the information provided by the commenter does not address the Project and does not provide any information to dispute the analysis provided in the DEIR or to demonstrate that local hire would specifically reduce any of the Project's environmental impacts that were disclosed in the DEIR. No additional response is necessary.

Response G-1h

This comment incorrectly asserts in its heading that approval of the Project would be in violation of CEQA. This comment summarizes CEQA requirements and case law related to analysis of environmental impacts and requirements for recirculation of a DEIR. As noted by the commenter, an EIR is meant to "provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to 'identify ways that environmental damage can be avoided or significantly reduced,'" which is exactly what the DEIR does. While this comment quotes several provisions of CEQA, the Guidelines, and case law, it does not raise any issues with the environmental analysis provided in the DEIR. As such, no further response is required.

Response G-1i

See Response G-1h above. The commenter does not specifically provide any information to dispute the analysis provided in the DEIR.

Response G-1j

See Response G-1h above. The commenter does not specifically provide any information to dispute the analysis provided in the DEIR.

Response G-1k

This comment continues to summarize CEQA requirements and case law related to the recirculation of an EIR when substantial changes or new information comes to light. While this comment quotes several provisions of CEQA, the Guidelines, and case law, it does not raise any issues with the environmental analysis provided in the DEIR. As such, no further response is required.

Response G-1l

This comment incorrectly asserts that the City must adopt a mandatory finding of significance that the Project may cause a substantial adverse effect on human beings due to the COVID-19 crisis. Neither provision cited by commenter, Public Resource Code Section 21083(b)(3) nor CEQA Guidelines Section 15065(a)(4) require the City to analyze the effects of COVID-19 on the general public. The sections cited by commenter, Public Resource Code Section 21083(b)(3) and CEQA Guidelines Section 15065(a)(4),

provide that the lead agency is required to make a mandatory finding of significance if “the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” Courts have repeatedly held that agencies “are not required to analyze the impact of existing environmental conditions on a project’s future users or residents.”¹ The Project, in this case, is neither a source nor a cause of COVID-19 and, as such, exposure to COVID-19 is not a direct or indirect effect of the Project.

The sourced cited in the comment letter was written in June 2020, a period of high COVID-19 transmission and contraction, and a period prior to the distribution of effective vaccines. At the time of writing this response, the State has removed previous restrictions that would have been present during the writing of the commenter’s citation, including the termination of mandatory physical distancing and capacity limits on businesses.² The commenter fails to clarify that construction work is only deemed high risk in the event of individuals entering an indoor worksite that is also occupied by an individual who is suspected of having or known to have COVID-19. Worksites are otherwise likely to remain low risk except in situations where workers are within six feet of each other.³ Furthermore, the City is not primary responsible for worksite health and safety which is within the regulatory purview of Cal osha.

Response G-1m

The Project will comply with all state and local regulations regarding the prevention of the transmission of COVID-19 in place at the time of construction and Project operation, respectively. Commenter’s suggestions regarding additional methods to prevent the spread of COVID-19 are acknowledged.

Response G-1n

This comment incorrectly asserts that the DEIR does not include an accurate and complete Project Description, while summarizing CEQA requirements and case law related to a project description. The City agrees with commenter that a project description must be “accurate, stable, and finite,” which is exactly what is provided in the DEIR. As disclosed in the DEIR, the future tenant(s) of the Project were not known at the time the DEIR was prepared and remain unknown at the time of preparation of the FEIR. However, the speculative nature of the Project does not preclude a thorough analysis of its potential effects. Based on the experience and expertise of the EIR preparer (Kimley-Horn), information provided by the Project Applicant, and the independent judgment of the City of Rancho Cucamonga, the DEIR made reasonable assumptions that the Project was most likely to be used by either a warehouse distribution business or an e-commerce/fulfillment business. To provide a conservative (“worst case”) analysis, and to inform the public and City decision-makers of the full scope of environmental impacts that could occur should the Project be approved, the DEIR provided a comprehensive analysis of the potential environmental impacts that would occur under both a warehouse distribution use and an e-commerce/fulfillment use.

¹ California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369, 377.

² California Department of Public Health. (2021). *State Public Health Officer Order of June 11, 2021*. Retrieved from: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Beyond-Blueprint.aspx>.

³ United States Department of Labor Occupational Safety and Health Administration. *Construction Work*. Retrieved from: <https://www.osha.gov/coronavirus/control-prevention/construction>.

Response G-1o

The commenter incorrectly asserts that the Project Description is lacking detail, however, the commenter fails to substantiate this claim. The limited assertion made through the statement of unknown occupant cannot be removed as there would be no way of identifying future occupant(s). The Project is therefore analyzed in a conservative, worst-case scenario against existing land use allowances and regulatory thresholds. This remains true in the analysis of alternatives.

Additionally, the DEIR clearly states that the City is only considering the development of the Project for a two-building warehouse with a maximum of 655,878 square feet of building area. (DEIR, Section 3.5). For information disclosure, the DEIR does acknowledge that an Alternate Project for a single building of 500,648 square feet for an e-commerce use is included; however, this scenario is intentionally referred to within the Project Description and throughout the DEIR as an “Alternate Project” – and not part of the Project – and the DEIR notes that any modifications would be subject to future City review and, at that time, the City could determine that additional CEQA analysis is needed. (DEIR, Page 3-23).

Furthermore, the Air Quality Assessment evaluated the “Worst-Case Scenario” shown on page 21 of DEIR Appendix A (Air Quality Assessment, Greenhouse Gas Emissions Assessment, and Health Risk Assessment) directly states that “Refrigerated buildings and Transport Refrigeration Units (TRU) were assumed for modeling purposes to provide a worst-case scenario. The unmitigated emissions modeling scenario assumed that 100 percent of the warehouse square footage could be used for cold storage. Emissions from TRUs were assumed for 100 percent of the trucks generated by the Project.”

Response G-1p

The summary of CEQA Guidelines is noted for the record. The commenter asserts that the DEIR defers mitigation for several of the Project’s significant impacts, citing examples of mitigation from the DEIR. Responses to the specific claims made by the commenter are provided below.

Response G-1q

The commenter’s assertion that Mitigation Measure CUL-1 does not adequately address the requirements for archaeological monitoring is incorrect. While potential archeological finds during construction activities can be diverse, the measure ensures that future actions address numerous variables, including but not limited to, the type of resource uncovered, its condition, and the location of discovery. Mitigation Measure CUL-1 establishes monitoring requirements, establish a protection protocol should any resources be discovered, identifies the method for addressing any resources that are found (preservation in-place and on-site reburial/relocation), and establishes the coordination protocol for the Project’s archaeologist, the City, and interested Native American tribe representatives to ensure that all affected parties are satisfied with the method of addressing the discovered resource. No changes to mitigation are warranted.

Response G-1r

The commenter does not provide any reasons why they consider Mitigation Measures HAZ-1 and HAZ-2 be deferred mitigation. As stated in Response G-1q, hazards encountered during the construction of different projects can be diverse and would not allow for a one size fits all approach. Each site, like the

Project site, is therefore analyzed specifically for potential hazards and mitigation. Accordingly, no additional response is necessary.

Response G-1s

DEIR Section 4.12 outlines the outreach process conducted with interested Native American parties. Further, Mitigation Measure TRC-1 identifies the tribal monitor for the Project. The commenter does not adequately present a case for the assertion that the measure lacks details regarding standards of selection for a tribal monitor.

Response G-1t

The commenter fails to identify areas in which the mitigation measures fail to comply with State regulations regarding tribal consultation, resource evaluation, and treatment of tribal remains or archeological resources. Therefore, no further modification to the EIR will be conducted.

Response G-1u

This comment summarizes CEQA requirements and case law related to the provision of substantial evidence to support the analysis findings in an EIR. While this comment quotes several provisions of CEQA, the Guidelines, and case law, it does not raise any issues with the environmental analysis provided in the DEIR. As such, no further response is required.

Response G-1v

This comment presents case law related to the provision of substantial evidence to support the analysis findings in an EIR. While this comment infers several provisions of CEQA, the Guidelines, and case law, it does not raise any issues with the environmental analysis provided in the DEIR. As such, no further response is required.

Response G-1w

As previously stated, page 21 of DEIR Appendix A (Air Quality Assessment, Greenhouse Gas Emissions Assessment, and Health Risk Assessment) directly states that “Refrigerated buildings and transport refrigeration units (TRUs) were assumed for modeling purposes to provide a worst-case scenario. The unmitigated emissions modeling scenario assumed that 100 percent of the warehouse square footage could be used for cold storage. Emissions from TRUs were assumed for 100 percent of the trucks generated by the Project.”

Page 28 directly outlines a 100 percent E-Commerce scenario, stating: “GHG emissions for the 100 Percent E-Commerce Worst-Case Scenario would occur from sources similar to the Alternate Project. Cold storage/refrigerated space and associated TRUs would not be associated with the Worst-Case Scenario Project because E-Commerce is not usually a refrigerated use.”

E-Commerce fulfillment centers store products sold online near high population centers in order to ship items quickly and efficiently. When an online purchase is completed, the order is routed to the fulfillment center with the item in stock located nearest to the delivery destination. Perishable products that require cold storage or climate control could sit at a fulfillment center for long periods of time waiting for a local

order to occur. Therefore, it is more cost-effective to store refrigerated products at a warehouse that specializes in perishable cold storage goods that can ship items as needed. The E-Commerce scenario is focused on the rapid distribution of products and does not include cold storage or refrigerated space.

Response G-1x

The DEIR used the latest version of CalEEMod (version 2016.3.2) that was available at the time of preparation. The Notice of Preparation for the DEIR was issued in September 2020 and public review for the DEIR commenced on June 23, 2021. CalEEMod version 2020.4.0 (the version that supersedes CalEEMod 2016.3.2 as referenced in the comment) was also released on June 23, 2021. CalEEMod 2020.4.0 was not available at the time the DEIR was being prepared. The updates incorporated into CalEEMod 2020.4.0 included using the California Air Resources Board's 2017 vehicle emissions factors (EMFAC2017) and using the latest energy consumption rates in accordance with the California Building Code requirements in the 2019 version of Title 24. Although the modeling for the Project used CalEEMod 2016.3.2, the model was manually updated to use EMFAC2017 and the latest energy consumption rates per Title 24. These updates are described in the Air Quality Assessment and the GHG Assessment prepared for the Project (refer to DEIR Appendix A). Therefore, the modeling results presented in the DEIR are not outdated and the conclusions are accurate.

Response G-1y

The commenter incorrectly states that Project will have a potentially significant impact on air quality and greenhouse gas emissions. As shown in Tables 4.1-8, 4.1-9, and 4.1-10 after incorporating standard conditions and requirements, constructions emissions for all Project scenarios are below SCAQMD construction thresholds and no mitigation would be required. Construction related air quality impacts would be less than significant.

For operations, Table 4.1-11 identifies an exceedance of the NO_x threshold, however with the mitigation included in the DEIR, emissions are reduced to less than significant levels (refer to Table 4.1-12). Operational emissions for the Alternative Project scenario and 100 Percent E-Commerce scenarios are both less than significant and do not require mitigation (refer to Table 4.1-13 and Table 4.1-14). Therefore, operational air quality impacts have been determined to be less than significant with mitigation.

As shown in Table 4.6-5 the Project would generate 14,394 MTCO₂e without mitigation, exceeding the SCAQMD threshold of 10,000 MTCO₂e for industrial uses. However, after incorporating mitigation measures AQ-1 through AQ-5 total emissions would be reduced to approximately 6,633 MTCO₂e annually from both construction and operations as shown in Table 4.6-6. GHG emissions for the Alternative Project scenario are identified in Table 4.6-7, unmitigated emissions for this scenario are below the SCAQMD GHG threshold and would not require mitigation. The 100 Percent E-Commerce scenario would generate 10,354 MTCO₂e as shown in Table 4.6-8. However, with the mitigation measures included in the DEIR, total emissions from construction and operations would be reduced to 9,955 MTCO₂e (refer to Table 4.6-9) and would result in a less than significant impact with mitigation.

As discussed above, with mitigation the Project would not result in a potentially significant impact on air quality and greenhouse gas emissions. The commenter's the statement that the DEIR proposes mitigation measures that falls short of the "all feasible mitigation measures" standard set by CEQA is misguided.

Under CEQA a Project must disclose potentially significant environmental impacts and describe any feasible mitigation that can minimize the Project's impact. The commenter recommends additional mitigation measures. However, mitigation measures are required to avoid potentially significant impacts per State CEQA Guidelines Sections 15041, 15071, and 15126.4(a)(3). Specifically, CEQA Guidelines Section 15041(a) requires mitigation to substantially lessen or avoid significant effects on the environment consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law. The mitigation measures identified in the DEIR have reduced air quality and greenhouse gas emissions to less than significant levels, no further mitigation is needed.

Response G-1z

The DEIR correctly assesses whether or not the implementation of the Project would necessitate population growth. Although future hiring practices are outside of the scope of the Project, it can be concluded that employment demand generated by the Project would not require the importation of skilled workers.

Construction of the Project would incorporate standard building methods and require typical construction experience. Employing local construction workers would be the more efficient and cost-effective than relocating a crew of specialized workers to the area to complete construction. Once operational, the Project would not require highly trained or specialized workers. Although warehouse facilities are in demand, the work is not unique, and experienced warehouse workers can work at a variety of locations. Therefore, it is not expected that workers would travel long distances to work at the Project when a comparable job is available closer to their home. Construction and operation of the Project would not generate an influx of workers that would result in an impact to available housing.

Response G-1aa

The summary of State zoning law is noted for the record.

Response G-1bb

The commenter incorrectly asserts that the DEIR fails to demonstrate consistency with the Southern California Association of Governments (SCAG) Connect SoCal and, also, fails to incorporate strategies to reduce the Project's GHG impacts. The DEIR properly analyzes consistency with SCAG's Connect SoCal in several places, including Table 4.9-2, Project Compatibility with SCAG 2020-2045 RTP/SCS Strategies, Section 4.4.4, Section 4.6.4, and Section 4.11.5. Furthermore, the DEIR includes numerous mitigation measures to reduce the Project's air quality and greenhouse gas (GHG) emissions. The analysis provided in the DEIR is adequate and no revision to the EIR is necessary.

Response G-1cc

The commenter fails to make any specific claims to the Project's consistency with the listed goals and policies of the Rancho Cucamonga General Plan. The goals and policies listed include many which are intended for implementation by lead agencies and therefore would not apply to the Project. The Project's compliance with applicable goals and policies is summarized in Table 4.9-3 of the DEIR

Response G-1dd

As set forth in the preceding responses, this comment letter does not provide substantial evidence indicating a new significant impact or substantially more severe impact, and as such, DEIR recirculation is not deemed necessary pursuant to CEQA Guidelines Section 15088.5.

Comment Letter LATE-1

Comment Letter LATE1



METROLINK.

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY
900 Wilshire Blvd. Suite 1500 Los Angeles, CA 90017

metrolinktrains.com

August 18, 2021

Mr. Sean McPherson
Senior Planner, Planning Department
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

RE: SCRRA Comments on Speedway Commerce Center Project Draft Environmental Impact Report (DEIR) – City of Rancho Cucamonga

Dear Mr. McPherson:

The Southern California Regional Rail Authority (SCRRA) has recently received and reviewed the DEIR for the proposed Speedway Commerce Center project in the City of Rancho Cucamonga. Thank you for the opportunity to comment on key issues related to SCRRA and the railroad's operations adjacent to the project site.

As background information, SCRRA is a five-county Joint Powers Authority (JPA) that operates the regional commuter rail system known as Metrolink. Additionally, SCRRA provides rail engineering, construction, operations, and maintenance services to its five JPA member agencies. The JPA consists of the Los Angeles County Metropolitan Transportation Authority (Metro), San Bernardino County Transportation Authority (SBCTA), Orange County Transportation Authority (OCTA), Riverside County Transportation Commission (RCTC), and Ventura County Transportation Commission (VCTC).

The railroad right of way (ROW) adjacent to the proposed project is a heavily trafficked railroad mainline. The mainline ROW is operated and maintained by SCRRA and owned by SBCTA. In addition to several freight trains that operated daily, 40 Metrolink trains operated on weekdays along this corridor at the pre-COVID-19 peak of operation. Rail traffic along this corridor occurs 24 hours a day, 7 days a week, and is expected to increase in the future to address growing demands. Capital projects are already being pursued along the corridor to support increased rail traffic.

Please find several general comments to the project related to the railroad and its operations listed below.

1. All drainage from the development must drain away from the SCRRA railroad corridor. This includes any irrigation runoff for landscaping along the SCRRA railroad corridor.
2. All trees must be set back from the ROW line so that when fully matured, the trees do not hang over the ROW line onto railroad property.

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Speedway Commerce Center Project – City of Rancho Cucamonga
Page 2

3. The developer should conduct a noise and vibration impact analysis and incorporate the necessary mitigation measures into the project design. Furthermore, the owner should inform employees and warehouse users of the adjacent active rail line.
4. Any proposed utility crossings with the SCRRA railroad must be coordinated with SBCTA and SCRRA. In addition, a license agreement must be obtained from SBCTA.
5. Site development plans (grading, drainage, landscaping, lighting, etc.) should be provided to SCRRA for review.

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To assess any requirements for construction (including demolition or alteration of structures) adjacent to the railroad, construction plans should be sent to the SCRRA Engineering Department at the following address:

SCRRA Engineering Department
Attn: Joe McNeely, Principal Engineer
2558 Supply Street
Pomona, CA 91767

Plans may be sent to Joe and questions addressed via email at mcneelyj@scrra.net

Please consult SCRRA Engineering and Construction standards and guidelines as necessary, including Right of Entry permit concerns, at the following web address:

<https://metrolinktrains.com/about/agency/engineering--construction/>

Thank you again for allowing us to provide commentary.

If you have any questions, please contact Roderick Diaz, Director of Planning and Development at (213) 452-0455 (O), (213) 435-4193 (M), or via e-mail at diazr@scrra.net.

Sincerely,



Todd McIntyre
Chief Strategy Officer

Cc: Carrie Schlinder, SBCTA

h

Letter LATE-1 Southern California Regional Rail Authority (Metrolink)

Todd McIntyre, Chief Strategy Officer
August 18, 2021

Response LATE-1a

Comment noted. The commenter provides general introductory information and greeting. The City of Rancho Cucamonga appreciates and values these comments during the EIR participation process. The remaining comments are responded to below.

Response LATE-1b

The comment summarizes Southern California Regional Rail Authority's (SCRRA) authority under the five-county Joint Powers Authority (JPA). The comment provides background statics regarding the right-of-way adjacent to the Project and the Metrolink trains service. Comment noted.

Response LATE-1c

The comment identifies concerns with potential drainage associated with the Project adjacent to the rail. Appendix F of the DEIR includes the Project's Preliminary Drainage Study, Preliminary Water Quality Management Plan, and Water Supply Assessment (DEIR Appendix F). As shown on DEIR Appendix F, page 3-1, the Project site is designed to convey drainage flows towards low points and then on-site drain lines. The Rational Method Hydrology Map included in Appendix A of DEIR Appendix F shows that drainage on-site would flow in a southwest direction, stopping and redirecting south before reaching the right-of-way.

Response LATE-1d

The comment identifies concerns with landscaping including trees near the rail line. Based on the proposed site plans (Figures 3-6 and 3-7 of the DEIR), vegetation near the right-of-way would not include large trees which would overhang the railroad property or enter the right-of-way.

Response LATE-1e

The comment identifies that an acoustical assessment should be performed for the Project. An acoustical assessment was conducted for the Project in March 2021 and is included as Appendix G of the DEIR. The assessment analyzed potential noise and vibrational impacts as a result of Project implementation and included mitigation measures which were incorporated into the Project DEIR. Additionally, the Project has been designed to accommodate rail access for Building A adjacent to the spur line.

Response LATE-1f

The comment requests that the Project or future utility crossings be coordinated with the San Bernardino County Transportation Authority (SBCTA) and SCRRA. Comment noted. All planned and future utility crossings will be coordinated with SBCTA and SCRRA. Property owners will receive notice prior to any potential breaching of the railroad right-of-way.

Response LATE-1g

The comment requests that all development plans be routed for review to SCRRA. If appropriate, plans will be routed to SCRRA for review. Site plans and other Project design figures are included within the Appendices and as figures in the DEIR. Comment noted.

Response LATE-1h

The comment requests that plans be sent to SCRRA and provides a contact name and address. When appropriate, plans will be provided to SCRRA for review and noticing will be provided in instances of future updates to the Project or environmental documentation. The SCRRA's request for consultation and provided contacts are noted for the record.

Comment Letter LATE-2

Comment Letter LATE2



LAFCO

Local Agency
Formation Commission
for San Bernardino County

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Board of Supervisors

EXECUTIVE OFFICER

SAMUEL MARTINEZ

LEGAL COUNSEL

PALLA DE SOUSA

SENT VIA U.S. MAIL AND E-MAIL

September 28, 2021

Sean McPherson, Senior Planner
Planning Department
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

RE: Notice of Availability of a Draft Environmental Impact Report
for the Speedway Commerce Center (SCH #2020090076)

Dear Mr. McPherson:

Please accept the following comments from the Local Agency Formation Commission for San Bernardino County (LAFCO) on the Draft Environmental Impact Report (Draft EIR) for the Speedway Commerce Center. LAFCO will be acting as a Responsible Agency under the California Environmental Quality Act (CEQA) for this project, which will require the Commission to review and consider not only a reorganization proposal for multiple agencies but also companion sphere of influence amendments for a number of agencies serving the area.

Sphere of Influence Amendments for the City of Rancho Cucamonga (Expansion) and the City of Fontana (Reduction) and Annexation to the City of Rancho Cucamonga:

The overall Project will require annexation of additional area into the City of Rancho Cucamonga. The area to be annexed into the City of Rancho Cucamonga is comprised of: a 2.9 acre parcel, Assessor Parcel Number (APN) 0229-291-46; a portion of APN 0229-291-23 (0.69 acres of a total 61.88 acres); and additional right-of-way (ROW) area along Napa Street (to include the northern half of the Napa Street ROW from Etiwanda Avenue to the Project's easterly boundary) totaling approximately 4.8 acres.

As noted in the document, said 4.8-acre area is currently within the City of Fontana's existing sphere of influence. Therefore, in this case, the 4.8-acre area must first be removed from the City of Fontana's sphere of influence and added into the City of Rancho Cucamonga's sphere of influence before the area can be annexed into the City of Rancho Cucamonga. The following actions will be necessary in order to annex the said 4.8-acre area into the City of Rancho Cucamonga:

- Sphere of Influence amendments for the City of Rancho Cucamonga (expansion) and the City of Fontana (reduction); and,
- Annexation to the City of Rancho Cucamonga.

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Although the Draft EIR describes the annexation to the City of Rancho Cucamonga and the reduction of the sphere for the City of Fontana, it does not clearly describe the sphere of influence expansion for the City of Rancho Cucamonga. This flaw is evident throughout the document, i.e. Executive Summary, Project Description, Land Use and Planning Section, etc.

cont'd
b

In addition, the document does not identify that the sphere of influence expansion for the City of Rancho Cucamonga and the sphere of influence reduction for the City of Fontana require LAFCO approval. Some portions of the document do not identify this as part of the LAFCO action, i.e. Executive Summary (under Discretionary Actions and Approvals) or Introduction (under Responsible and Trustee Agencies). Also, the text in the Project Description (under Required Agency Approvals) needs to clearly describe the sphere of influence expansion for the City of Rancho Cucamonga.

Sphere of Influence Expansion and Annexation to the Cucamonga Valley Water District:

The document indicates that the Cucamonga Water District (Water District) is the wastewater collection service provider. However, please note that the entire project itself is not within the Water District's boundary. Therefore, this will require annexation of the area into the Cucamonga Valley Water District in order for the project to receive sewer service from the Water District. Per the Commission's policy regarding concurrent City-District annexation for all community based local agencies, the 4.8-acre area proposed for annexation into the City's boundary will also need to be annexed into the Cucamonga Valley Water District's boundary. This will also require expansion of the Cucamonga Valley Water District's sphere of influence since said area is not within the Water District's existing sphere of influence. The following actions will be necessary in order to annex the entire project area into the Cucamonga Valley Water District:

c

- Sphere of Influence Expansion for the Cucamonga Valley Water District (4.8-acre area); and,
- Annexation to the Cucamonga Valley Water District (entire Project Area + the 4.8-acre area).

The sphere of influence expansion and annexation to Water District should be clearly identified and discussed in the Draft EIR. In addition, both the sphere of influence expansion and annexation to the Water District should also be included as part of the LAFCO action, i.e. the Executive Summary (under Discretionary Actions and Approvals), the Introduction (under Responsible and Trustee Agencies), as well as the Project Description (under Required Agency Approvals).

Sphere of Influence Amendments for the Rancho Cucamonga Fire Protection District (Expansion) and the Fontana Fire Protection District (Reduction) and Annexation to the Rancho Cucamonga Fire Protection District:

d

The Commission's policy regarding concurrent City-District annexation for all community based local agencies will also require adjustment of the fire service providers in the area. The following actions will be necessary in order to annex the 4.8-acre area into the

Rancho Cucamonga Fire Protection District and detach said area from the Fontana Fire Protection District:

- Spheres of Influence Amendments for the Rancho Cucamonga Fire Protection District (expansion) and Fontana Fire Protection District (reduction); and,
- Reorganization to Include Annexation to the Rancho Cucamonga Fire Protection District and Detachments from Fontana Fire Protection District.

cont'd

The annexation to the Rancho Cucamonga Fire Protection District and detachment from Fontana Fire Protection District and their respective sphere of influence amendments should be clearly identified and discussed in the Draft EIR. In addition, both the annexation/detachment and the sphere of influence expansion/reduction for the fire agencies should also be included as part of the LAFCO action, i.e. the Executive Summary (under Discretionary Actions and Approvals), the Introduction (under Responsible and Trustee Agencies), as well as the Project Description (under Required Agency Approvals).

Sphere of Influence Expansion and Annexation to the West Valley Mosquito and Vector Control District:

The Commission's policy regarding concurrent City-District annexation for all community based local agencies will also require a sphere of influence expansion and annexation to the West Valley Mosquito and Vector Control District (WVMVCD) since this regional agency also serves the entire Rancho Cucamonga community. The following actions will be necessary in order to annex the 4.8-acre area into the West Valley Mosquito and Vector Control District:

- Spheres of Influence Expansion for the West Valley Mosquito and Vector Control District; and,
- Annexation to the West Valley Mosquito and Vector Control District.

e

The sphere of influence expansion and annexation to the West Valley Mosquito and Vector Control District should be clearly identified and discussed in the Draft EIR. In addition, both the sphere of influence expansion and annexation to the West Valley Mosquito and Vector Control District should also be included as part of the LAFCO action, i.e. the Executive Summary (under Discretionary Actions and Approvals), the Introduction (under Responsible and Trustee Agencies), as well as the Project Description (under Required Agency Approvals).

In addition, any annexation into the WVMVCD will also be annexed into one of its assessment districts and/or one of its benefit assessment zones to provide funding for the services of the District. Please check with MVMVCD staff as to which assessment district and/or benefit assessment zone the 4.8-acre area will be added into.

Detachment from County Service Area 70:

County Service Area (CSA) 70 is a multi-function countywide entity that overlays all unincorporated areas. As a function of the annexation to the City, the same area being annexed into the City will be detached from CSA 70.

f

Finally, it should be noted that the document may have incorrectly identified the current County General Plan Land Use Designation for the 4.8-acre area as General Industrial instead of Regional Industrial (*note: existing zoning classification accurately identifies the area as Regional Industrial; however, it is our understanding that the County's General Plan designation should also be Regional Industrial*). This flaw is evident throughout the document.

g

Thank you for allowing LAFCO to provide comments to the Draft EIR. If you have any questions concerning the information outlined above, please do not hesitate to contact me at (909) 388-0480. Please maintain LAFCO on your distribution list to receive further information related to this process. We look forward to working with the City on its future processing of this project.

h

Sincerely,



SAMUEL MARTINEZ
Executive Officer

cc: Mark Denny, City Manager, City of Fontana
John Bosler, General Manager/CEO, Cucamonga Valley Water District
Ivan Rojer, Fire Chief, Rancho Cucamonga Fire Protection District
Jeff Birchfield, Assistance Chief, Fontana Fire Protection District
Dr. Michelle Brown, District Manager, West Valley Mosquito and Vector Control District
Trevor Leja, Deputy Director, Public Works Department, San Bernardino County

Letter LATE-2 Local Agency Formation Commission for San Bernardino County

Samuel Martinez, Executive Officer
September 28, 2021

Response LATE-2a

Comment noted. The commenter provides general introductory information and greeting. The comment summarizes that the Local Agency Formation Commissions (LAFCO) is a Responsible Agency under CEQA. The City of Rancho Cucamonga appreciates and values these comments during the EIR participation process. The remaining comments are responded to below.

Response LATE-2b

The comment summarizes the general Project description and annexation proposal. The comment provides background overview of the description of the Project's annexations boundaries and the general process for annexation. The comment identifies concerns with the description of annexation and that the sphere of influence expansion should occur prior to annexation. Comment noted.

The comment further requests that the City of Rancho Cucamonga address the two discretionary actions related to the Project to consider as part of the action including 1) a Sphere of Influence amendment(s) and 2) the annexation into the City of Rancho Cucamonga. The comment provides additional direction on the process for the annexation to occur. Therefore, Section 3.0, Errata includes revisions to the DEIR, including revisions to DEIR Sections 1.0 Executive Summary, Section 2.0 Introduction, Section 3.0 Project Description, and Section 4.9 Land Use and Planning to address these clarifying comments on the LAFCO SOI and annexation process for the Project. These edits revise and clarify the Project's entitlement process, LAFCO's annexation process, and the SOI reduction and expansion process for the Project. There are no new impacts as a result of the revisions.

Response LATE-2c

The comment identifies concern with the identification of sewer service through the Cucamonga Valley Water District (CVWD) and that the Project description should clearly identify that the Project will require an SOI amendment and annexation to CVWD boundary. Section 3.0, Errata includes revisions to the DEIR, including revisions to DEIR Sections 1.0 Executive Summary, Section 2.0 Introduction, Section 3.0 Project Description, and Sections 4.5 Geology and Soils and 4.13 Utilities. These edits revise and clarify the SOI and annexation to CVWD District boundary and the Project's utilization of Inland Empire Utilities Agency (IEUA) resources and infrastructure. A Water Supply Assessment (WSA) was prepared for the Project (DEIR Appendix F) and determined that IEUA has adequate capacity to serve the Project. There are no new impacts as a result of the revisions to these Sections.

Response LATE-2d

The comment requests that the City of Rancho Cucamonga address the two discretionary actions related to the Project to consider as part of the action including 1) a Sphere of Influence amendment(s) for the Rancho Cucamonga Fire Protection District (expansion) and Fontana Fire Protection District (reduction) and 2) the reorganization to include annexation into the of Rancho Cucamonga Fire Protection District and detachment from the Fontana Fire Protection District. Therefore, Section 3.0, Errata includes revisions

to the DEIR, including revisions to DEIR Sections 1.0 Executive Summary, Section 2.0 Introduction, Section 3.0 Project Description, and Section 4.9 Land Use and Planning to address these clarifying comments on the fire protection districts' SOI amendment and annexation. These edits revise and clarify the Project's entitlement process, LAFCO's annexation process, and the SOI reduction and expansion process for the Project. There are no new impacts as a result of the revisions.

Response LATE-2e

The comment requests that the City of Rancho Cucamonga address the two discretionary actions related to the Project to consider as part of the action including 1) a Sphere of Influence expansion for the West Valley Mosquito and Vector Control District and 2) the annexation to the West Valley Mosquito and Vector Control District. Therefore, Section 3.0, Errata includes revisions to the DEIR, including revisions to DEIR Sections 1.0 Executive Summary, Section 2.0 Introduction, Section 3.0 Project Description, and Section 4.9 Land Use and Planning to address these clarifying comments on the District's SOI amendment and annexation. These edits revise and clarify the Project's entitlement process, LAFCO's annexation process, and the SOI reduction and expansion process for the Project. There are no new impacts as a result of the revisions.

Response LATE-2f

The comment requests that the City of Rancho Cucamonga address one discretionary action related to the Project to consider as part of the action including 1) detachment from County Service Area (CSA) 70. Therefore, Section 3.0, Errata includes revisions to the DEIR, including revisions to DEIR Sections 1.0 Executive Summary, Section 2.0 Introduction, Section 3.0 Project Description, and Section 4.9 Land Use and Planning to address these clarifying comments on the CSA's detachment. These edits revise and clarify the Project's entitlement process, LAFCO's annexation process, and the SOI reduction and expansion process for the Project. There are no new impacts as a result of the revisions.

Response LATE-2g

This comment notes that the DEIR may have incorrectly identified the current County General Plan Land Use Designation for the 4.8-acre area as General Industrial and not Regional Industrial. Using the Countywide Plan's LU-1 Land Use Map,⁴ the area was mistakenly identified by its land use category (General Industrial [GI]) and not its land use designation (Regional Industrial [IR]). This error has been remedied through discussion in Section 3.0, Errata which includes revisions to DEIR Sections 1.0 Executive Summary, Section 3.0 Project Description, and Section 4.9 Land Use and Planning.

Response LATE-2h

The comment requests that LAFCO be maintained on the distribution list and provides a contact name and address. The commenter provides an opportunity for consultation. Comments noted.

⁴ County of San Bernardino. 2020. *LU-1 Land Use Map*.
<https://www.arcgis.com/apps/webappviewer/index.html?id=f23f04b0f7ac42e987099444b2f46bc2> (accessed September 2021).

3.0 DRAFT EIR ERRATA

Revisions to the Speedway Commerce Center Project (Project) Draft Environmental Impact Report (DEIR) are noted below and are in response to comments on the DEIR, or are minor technical or typographical staff-initiated changes. The changes to the DEIR do not affect the overall conclusions of the environmental document, and instead represent changes to the DEIR that provide clarification, amplification and/or insignificant modifications as needed as a result of public and responsible agency comments on the DEIR. These clarifications and corrections do not warrant DEIR recirculation pursuant to CEQA Guidelines §15088.5. As set forth further below and elaborated upon in the respective Response to Comments, none of the Errata below reflect a new significant environmental impact, a “substantial increase” in the severity of an environmental impact for which mitigation is not be adopted to reduce the impact to a level of insignificance, or a new feasible Project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen significant environmental impacts but is not adopted, nor do the Errata reflect an “inadequate” or “conclusory” DEIR.

Changes in this Errata Section are listed by chapter, page, section, and (where appropriate) by paragraph. Added or modified text is shown with double underline (example) while the deleted text is shown in strikethrough (~~example~~) format.

General Statements

- Any reference to Heavy Industrial (HI) shall now be referred to as Industrial Employment (IE). On July 22, 2021, the City adopted Ordinance 982 amending the Rancho Cucamonga Municipal Code (RCMU) and updating the Industrial Development Standards during the preparation of this EIR. As such, the Heavy Industrial (HI) zone was amended to Industrial Employment (IE). However, the project applications were processed in accordance with the standards in place prior to the ordinances adoption.
- All discussions of Project applications will include the Conditional Use Permit application (DRC 2021-00317)

Section 1.0 Executive Summary

Page 1-1, Section 1.1, Introduction

This EIR evaluates the potential environmental impacts associated with the planning, construction, and operation of a proposed warehouse Project with a total of 655,878 square-foot (sf) located on Napa Street just east of Etiwanda Avenue and east of the San Sevaine Channel. The Project site is located on two contiguous parcels: Assessor Parcel Numbers (APN) 0229-291-54 and 0229-291-46. To enable the proposed development on the approximate 35-acre site, the Project includes a request for a General Plan Amendment (GPA) (DRC 2020-00184), Pre-Zone (DRC2020-00186), Annexation (DRC 2020-00185), Design Review (DRC 2020-00177), Tentative Parcel Map (SUB TPM20251), Conditional Use Permit (DRC 2021-00317), and Uniform Sign Program (DRC 2020-00178) for the Project site.

Page 1-2, Section 1.1, Introduction, 1st paragraph, last sentence

Therefore, the City of Fontana SOI ~~will~~ would be reduced by 4.8 acres and the City of Rancho Cucamonga’s SOI, and subsequently the City boundary, will would increase by 4.8 acres with the proposed annexation and SOI amendments.

Page 1-4, Section 1.2, Project Summary, Annexation Request, beginning with last sentence

The annexation and boundary amendment/SOI amendments ~~will~~ would increase ~~the boundary of the City of Rancho Cucamonga’s SOI, and subsequently the City boundary,~~ by approximately 4.8 acres in size and decrease the SOI for the City of Fontana by the same size.

The Project would also require SOI Amendments for the Cucamonga Valley Water District (expansion), Rancho Cucamonga Fire Protection District (expansion), Fontana Fire Protection District (reduction), and West Valley Mosquito and Vector Control District (expansion). As well as reorganization to include Annexations to the Cucamonga Valley Water District, Rancho Cucamonga Fire Protection District, and West Valley Mosquito and Vector Control District, and Detachments from Fontana Fire Protection District and County Service Area 70.

Page 1-4, Section 1.2, Project Summary, Existing General Plan Designation, last sentence

The San Bernardino County General Plan designation for parcel 0229-291-46 and an approximately 0.69-acre portion of parcel 0229-291-23 (not a part of the development project but analyzed in this EIR for annexation only), located in San Bernardino County is General Regional Industrial (GIR) and is designated in the City of Fontana General Plan as General Industrial (I-G).

Page 1-5, Section 1.2, Project Summary, Project Description

The Zoning classification for parcel 0229-291-54, located in the City of Rancho Cucamonga is zoned ~~Heavy Industrial (HI)~~ Industrial Employment (IE). The Zoning classification for parcel 0229-291-46 and a portion of parcel APN 0229-291-23 (not a part of the development project), located in the County of San Bernardino is Regional Industrial/Speedway RDA (IR) and is classified General Industrial (M-2) in the City of Fontana.

Page 1-5, Section 1.2, Project Summary, Project Description, Table 1-1: Existing Land Use Designations and Zoning Classifications

APN	GP Land Use Designation	Zoning Classification
0229-291-54 Rancho Cucamonga	Heavy Industrial (HI) and Flood Control/Utility Corridor	Heavy Industrial (HI) <u>Industrial Employment (IE)</u>
0229-291-46 San Bernardino <u>County</u> /City of Fontana Sphere of Influence (SOI)	<u>Regional Industrial (IR)</u>	Regional Industrial (IR)
	General Industrial (I-G)	General Industrial (M-2)
Sources: https://www.cityofrc.us/everything-we-do/general-plan-map ; https://www.arcgis.com/apps/webappviewer/index.html?id=87e70bb9b6994559ba7512792588d57a ; https://www.fontana.org/DocumentCenter/View/28163/General-Plan-Land-Use-Map---September-10-2019?bidId= ; https://www.fontana.org/DocumentCenter/View/30623/Zoning-District-Map ; https://regis.maps.arcgis.com/apps/webappviewer/index.html?id=7a1b248dd5fd4bc98bc0f9964a61c755 ; http://countywideplan.com/wp-content/uploads/2021/01/LU-Merged-Maps-201027_adopted.pdf		

Page 1-5, Section 1.2, Project Summary, General Plan and Pre-Zone Amendments

- Designate the area north of Napa Street, west of the San Sevaine Channel to Etiwanda Avenue and within the County of San Bernardino to ~~Heavy Industrial (HI)~~ Industrial Employment (IE) Land Use designation
- Amend the Flood Control/Utility Corridor designation along the west boundary of the parcel APN 0229-291-54 along the East Etiwanda Creek to ~~Heavy Industrial (HI)~~ Industrial Employment (IE)
- Remove the floating Park designation identified in Figure CS-1, Figure RC-1, and Figure PF-1, generally over the Project site from these figures and address necessary text amendments to the City's General Plan including the Community Service Element

The Pre-zone request include the following:

- Designate a portion of parcel 0229-291-23 and all of parcel 0229-291-46 to ~~Heavy Industrial (HI)~~ land use designation, consistent with the ~~Heavy Industrial (HI)~~ Industrial Employment (IE) and use zoning to the north within the City of Rancho Cucamonga limits

Page 1-13, Section 1.3, Discretionary Actions and Approvals

- Approval by the City of Rancho Cucamonga of a Conditional Use Permit.
- Approval by the City of Rancho Cucamonga of a Sphere of Influence Amendment (expansion) and Annexation application request.

Regional

- ~~San Bernardino County LAFCO—Approval of reorganization and annexation into the City of Rancho Cucamonga.~~
- Spheres of Influence Amendments for the City of Rancho Cucamonga (expansion), Cucamonga Valley Water District (expansion), Rancho Cucamonga Fire Protection District (expansion), City of Fontana (reduction), Fontana Fire Protection District (reduction), and West Valley Mosquito and Vector Control District (expansion).
- Reorganization to Include Annexations to the City of Rancho Cucamonga, Cucamonga Valley Water District, Rancho Cucamonga Fire Protection District, and West Valley Mosquito and Vector Control District, and Detachments from Fontana Fire Protection District and County Service Area 70.

Section 2.0 Introduction

Page 2-1, Section 2.1, Purpose and Type of Environmental Impact Report, 4th paragraph, final sentence

Therefore, the City of Fontana SOI ~~will~~ would be reduced by 4.8 acres and the City of Rancho Cucamonga City boundary and SOI will would increase by 4.8 acres with the proposed annexation and SOI amendments.

Page 2-8, Section 2.5, Responsible and Trustee Agencies, Trustee, Responsible, and Cooperating Agencies

Other federal, state, and local agencies are involved in the review and approval of the proposed Project, including trustee and responsible agencies under CEQA. Under CEQA, a trustee agency is a State agency

that has jurisdiction by law over natural resources affected by a project that are held in trust for the people of the State of California. A responsible agency is an agency other than the Lead Agency that has responsibility for carrying out or approving a project. Responsible and trustee agencies are consulted by the CEQA Lead Agency to ensure the opportunity for input and also review and comment on the Draft EIR. Responsible agencies also use the CEQA document in their decision-making. Several agencies other than the City of Rancho Cucamonga may require permits, approvals, and/or consultation in order to implement various elements of the Project. The Project includes a proposed annexation of approximately 4.8 acres into the City of Rancho Cucamonga that would require approval by the San Bernardino County LAFCO. Also requiring approval by LAFCO is the SOI amendments for the City of Fontana (reduction) and the City of Rancho Cucamonga (expansion). The City of Fontana would also be a responsible agency, as their SOI amendment to reduce their SOI is affected. Additional SOI amendments and reorganization are described further in Section 3.0, Project Description. The Project also includes infrastructure improvements that require consultation and permits from agencies such as San Bernardino County Flood Control District (SBCFCD), Metropolitan Water District (MWD), and Southern California Edison (SCE). A full list of agencies is listed in Section 3.8, Required Agency Approvals.

Section 3.0 Project Description

Page 3-2, Section 3.2, Project Overview, 2nd paragraph, final sentence

Therefore, the City of Fontana SOI ~~will~~ would be reduced by 4.8 acres and the City of Rancho Cucamonga SOI, and subsequently the City boundary, ~~will~~ would increase by 4.8 acres with the proposed annexation and SOI amendments. Additional SOI amendments would occur associated with the proposal including expansion of CVWD SOI, and Rancho Cucamonga Fire Protection District (RCFPD) SOI, and reduction of the Fontana Fire Protection District SOI. Reorganization would include annexation to CVWD, and the RCFPD, and detachments from the Fontana Fire Protection District and County Service Area 70.

Page 3-3, Section 3.3, Project Location, Relationship to Other Jurisdictions, 2nd to last sentence

The annexation ~~will~~ would increase the ~~boundary~~ of the City of Rancho Cucamonga's SOI, and subsequently its City boundary, by approximately 4.8 acres in size and decrease the SOI for the City of Fontana by the same size.

Page 3-7, Section 3.4, Project Setting, Surrounding Land Uses

While preparing this document, the City of Rancho Cucamonga was processing a comprehensive Development Code Update to the Industrial Development Standards of the RCMU. Adoption of Ordinance 982 was adopted by the City Council on July 22, 2021 amending the name of the zoning designation of the Project site from Heavy Industrial (HI) to Industrial Employment (IE).

The Project site is surrounded by ~~Heavy Industrial (HI)~~ Industrial Employment (IE) uses to the north and west, within the City of Rancho Cucamonga. Uses in these areas include warehousing, railroad, drainage channel, vacant land, and utilities.

Page 3-8, Section 3.4, Project Setting, Existing General Plan Designations, last sentence

The San Bernardino County GP designation for parcel 0229-291-23 located in San Bernardino County is ~~General~~ Regional Industrial (GIR) and is designated in the City of Fontana General Plan as Public Utility Corridor (P-UC).

Page 3-8, Section 3.4, Project Setting, Existing Zoning Classifications

The Zoning classification for parcel 0229-291-54 located in the City of Rancho Cucamonga is ~~Heavy Industrial (HI)~~ Industrial Employment (IE).¹

Pages 3-9, Section 3.4, Project Setting, Table 3-2: General Plan Designations and Zoning Classifications

APN/Agency	Existing Zoning Classification	Proposed Zoning Classification	Existing General Plan Designation	Proposed General Plan Designation
0229-291-54 Rancho Cucamonga	Heavy Industrial (HI) /Flood Control/Utility Corridor	Heavy Industrial <u>Industrial Employment (IE)</u>	Heavy Industrial (HI)	Heavy Industrial/ <u>Industrial Employment (IE)</u>
0229-291-46 San Bernardino/City of Fontana SOI	General Regional Industrial (GIR) /General Industrial (M-2)	Heavy Industrial <u>Industrial Employment (IE)</u>	General Regional Industrial (GIR) /General Industrial (I-G)	Heavy Industrial/ <u>Industrial Employment (IE)</u>
0229-291-23 San Bernardino/City of Fontana SOI	General Regional Industrial (GIR) / General Industrial (M-2)	Heavy Industrial <u>Industrial Employment (IE)</u>	General Regional Industrial (GIR) / Public Utility Corridor (P-UC)	Heavy Industrial/ <u>Industrial Employment (IE)</u>

Page 3-11, modified figure, DEIR Figure 3-3: Existing General Plan Designations. Updated County designation to Regional Industrial (IR).

see attached modified figure.

Page 3-11, modified figure, DEIR Figure 3-4: Existing Zoning Designation have been updated with Industrial Employment (IE).

See attached modified figure.

Page 3-12, modified figure, DEIR Figure 3-5: Proposed Zoning and General Plan Land Use Designation have been updated with Industrial Employment (IE).

See attached modified figure.

Page 3-22, Section 3.5, Proposed Project and Alternate Project, Site Utilities/Infrastructure

- Wastewater facilities (Inland Empire Utilities Agency [IEUA] and Cucamonga Valley Water District [CVWD])

Page 3-23, Section 3.6, Approvals Requested as Part of the Project, 1st paragraph

The City is the Lead Agency under CEQA and is responsible for reviewing and certifying the adequacy of the EIR for the Project. Prior to development of the Project, discretionary permits and approvals must be obtained from local, state and federal agencies, as listed below. It is expected that these agencies, at a minimum, would consider the data and analyses contained in this EIR when making their permit

¹ City of Rancho Cucamonga. 2020. My Community mapper. <https://regis.maps.arcgis.com/apps/webappviewer/index.html?id=7a1b248dd5fd4bc98bc0f9964a61c755> (accessed July 2020).

determinations. The proposed Project consists of applications for a GPA DRC 2020-00184, Annexation DRC 2020-00185, a Pre-Zone DRC 2020-00186, a Design Review DRC 2020-00177, a Tentative Parcel Map (TPM 20251), a Conditional Use Permit (CUP) DRC 2021-00317, and a Uniform Sign Program DRC 2020-00178. Each are discussed in additional detail below.

Page 3-23, Section 3.6, Approvals Requested as Part of the Project, 3rd paragraph

SOI Amendments/Annexation (DRC 2020-00185): The proposed annexation and boundary amendment/SOI amendments of a portion of parcel 0229-291-23 (approximately 0.69 acre), the adjacent property to the west (not a part of the development project and analyzed in this EIR for annexation only), and of parcel 0229-291-46 (approximately 2.9 acres) are located entirely within the County of San Bernardino and the City of Fontana SOI. The Project includes a request to annex the half width of Napa Street that extends along the centerline of Napa Street from San Sevaine Channel to Etiwanda Avenue. The City of Rancho Cucamonga’s SOI would increase in size by 4.8 acres, and subsequently, the City’s boundary will would increase in size by the area annexed (approximately 4.8 acres total), and the City of Fontana’s SOI would decrease in size by the equal amount through an SOI amendment. The proposed annexation and boundary amendment/SOI amendments would require review and approval by San Bernardino LAFCO, as well as the City of Fontana for the SOI amendment. Additional SOI amendments and reorganization needed for the Project are listed in Table 3-5: Agency Approvals for the Proposed Project.

Page 3-24, Section 3.6, Approvals Requested as Part of the Project

Conditional Use Permit (DRC-2021-00317): The Project is being developed for a speculative end-user and the future occupant(s) of the Project are unknown at this time. Therefore, a Conditional Use Permit (CUP) for Storage Warehouse has been included for the Project. Other uses such as Manufacturing Light- Large, and Fulfillment Center, Large, which require a Minor Use Permit would be permitted under this CUP. Ordinance 982, allows other uses, such as Wholesale, storage, and distribution- Medium and Research and Development, as permitted uses without a CUP within the Industrial Employment (IE) land use district. Impacts associated with uses permitted consistent with the CUP (including cold storage of up to 56,000 square feet) as these uses were anticipated in this EIR and evaluated in the technical studies.

Page 3-25, Section 3.6, Approvals Requested as Part of the Project, 3rd paragraph

LAFCO will consider the annexation of the subject parcels as described above, the reduction of the City of Fontana’s SOI by 4.8 acres; the expansion of the City of Rancho Cucamonga’s SOI by 4.8 acres; and the subsequent expansion of the City of Rancho Cucamonga’s city boundary by 4.8 acres. Additional SOI amendments and reorganization needed for the Project are listed in Table 3-5: Agency Approvals for the Proposed Project.

Page 3-26, Section 3.8 Required Agency Approvals, Table 3-5: Agency Approvals for the Proposed Project

Table 3-5: Agency Approvals for the Proposed Project

Agency	Approval/Permit
California Department of Fish and Wildlife (CDFW)	<ul style="list-style-type: none"> Approval of a streambed authorization agreements pursuant to Section 1602 of the California Fish and Game Code if impacting streambed. No impacts have been identified.

Agency	Approval/Permit
	<ul style="list-style-type: none"> Approval of incidental take permit (s) pursuant to Section 2081 (b) of the California Fish and Game Code, if required. No impacts have been identified.
City of Fontana	<ul style="list-style-type: none"> <u>Reorganization of SOI, Sphere of Influence reduction for the City of Fontana (Additional Area)*</u> Ceoordination of any other permits required.
City of Rancho Cucamonga	<ul style="list-style-type: none"> Final EIR Certification General Plan Amendment <u>Annexation to the City of Rancho Cucamonga (Additional Area)*</u> <u>Sphere of Influence expansion for the City of Rancho Cucamonga (Additional Area)*</u> Pre-Zone Development Agreement Tentative Parcel Map Building Plans/Permits Grading Plans/Permits Certificates of Occupancy Infrastructure Plans/Permits Local Jurisdiction Encroachment Permit Landscape Plan Drainage Plan Water and Sewer Plan Site Development Plan Water Quality Management Plan
County of San Bernardino	<ul style="list-style-type: none"> Approval of reorganization of boundary.
<u>County Service Area 70**</u>	<ul style="list-style-type: none"> <u>Detachment from County Service Area 70 (Additional Area)*</u>
<u>Cucamonga Valley Water District (CVWD)</u>	<ul style="list-style-type: none"> <u>Sphere of Influence expansion for the Cucamonga Valley Water District (Additional Area)*</u> <u>Annexation to the Cucamonga Valley Water District (Overall Area)*</u>
<u>Fontana Fire Protection District</u>	<ul style="list-style-type: none"> <u>Sphere of Influence reduction for the Fontana Fire Protection District (Additional Area)</u> <u>Detachment from the Fontana Fire Protection District (Additional Area)*</u>
Inland Empire Utilities Agency (IEUA)	<ul style="list-style-type: none"> Approval of agreement for water and sewer facilities.
Local Agency Formation Commission for San Bernardino (LAFCO)	<ul style="list-style-type: none"> <u>Spheres of Influence Amendments for the City of Rancho Cucamonga (expansion), Cucamonga Valley Water District (expansion), Rancho Cucamonga Fire Protection District (expansion), City of Fontana (reduction), Fontana Fire Protection District (reduction), and West Valley Mosquito and Vector Control District (expansion)</u> <u>Reorganization to Include Annexations to the City of Rancho Cucamonga, Cucamonga Valley Water District, Rancho Cucamonga Fire Protection District, and West Valley Mosquito and Vector Control District, and Detachments from Fontana Fire Protection District and County Service Area 70</u> Approval of a reorganization including:

Agency	Approval/Permit
	<ul style="list-style-type: none"> ▪ Annexation of approximately 4.8 acres into the City of Rancho Cucamonga from Unincorporated County of San Bernardino and City of Fontana SOI. ▪ Sphere of Influence Amendment for the City of Fontana. ▪ Boundary Amendment for the City of Rancho Cucamonga.
Metropolitan Water District (MWD)	<ul style="list-style-type: none"> • Approval and construction over existing MWD easement.
<u>Rancho Cucamonga Fire Protection District</u>	<ul style="list-style-type: none"> • <u>Sphere of Influence expansion for the Rancho Cucamonga Fire Protection District (Additional Area)*</u> • <u>Annexation to the Rancho Cucamonga Fire Protection District (Additional Area)*</u>
Rancho Cucamonga Municipal Utility (RCMU)	<ul style="list-style-type: none"> • Approval of Line Extension Agreement for electric service and Fiber to the Premise (FTTP).
Regional Water Quality Control Board (RWQCB)	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System Permit. • Approval of a Water Quality Certification under Section 401 of the Clean Water Act (If necessary).
San Bernardino County Flood Control District	<ul style="list-style-type: none"> • Approval of modifications to existing drainage facilities.
South Coast Air District	<ul style="list-style-type: none"> • Dust Control Plan, and other permits as necessary.
Southern California Edison (SCE)	<ul style="list-style-type: none"> • Relocation of transmission poles.
United States Fish and Wildlife Service (USFWS)	<ul style="list-style-type: none"> • Endangered Species Act (No Consultation is necessary/No impact).
United States Army Corps of Engineers (USACOE)	<ul style="list-style-type: none"> • Approval of permits under Section 404 of the Clean Water Act to alter Waters of the United States (if necessary). • Approval of permits under Section 408 through the Civil Works program for the alteration of a Civil Works project (if necessary).
West Valley Mosquito and Vector Control District	<ul style="list-style-type: none"> • Sphere of influence expansion for the West Valley Mosquito and Vector Control District (Additional Area)* • Annexation to the West Valley Mosquito and Vector Control District (Additional Area)*
<p>* = Development Area (APN 0229-291-54) = 32.83 acres <u>Additional Area (APN 0229-291-46 and APN 0229291-23 including additional right-of-way area along Napa St.) = 4.8 acres</u> <u>Overall Area (Development Area + Additional Area) = 37.63 acres</u> ** = CSA 70 is a multi-function countywide entity that overlays all unincorporated area; however, CSA 70 itself does not provide a service. This is detached for all annexations into cities/towns.</p>	

Section 4.1 Air Quality

Page 4.1-22, Section 4.1.4, MM AQ-6

MM AQ-6 Post signs at every truck exit driveway providing directional information to the truck route-, so that trucks will not travel on Arrow Route and Foothill Boulevard next to or near sensitive land uses (e.g., residences).

Section 4.2 Biological Resources

Page 4.2-28, Section 4.2.4, MM BIO-1

MM BIO-1: In accordance with the CDFG Staff Report on Burrowing Owl (2012), a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls between 30 and 14 days prior to site disturbance. If burrowing owls are detected on-site, the qualified biologist shall contact California Department of Fish and Wildlife (CDFW) and conduct an impact assessment in accordance with Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio and the owls shall be relocated/excluded from the site outside of the breeding season following accepted protocols, and subject to approval by CDFW. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities on-site. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

Prior to passive relocation, suitable replacement burrows site(s) shall be provided within adjacent open space lands and/or other off-site lands, as approved by CDFW at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. Monitoring and management of the replacement burrow site(s) shall be conducted and a reporting plan shall be prepared. The objective shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.

Page 4.2-28, Section 4.2.4, MM BIO-2

MM BIO-2: Vegetation clearing should be conducted outside of the nesting season (typically February 1 through August 31). If avoidance of the nesting season cannot be accomplished, then a qualified biologist shall conduct a nesting bird survey in all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures, at the appropriate time of day/night, during appropriate weather conditions within three days prior any disturbance of the site, including disking and grading. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks,

flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If active nests are identified, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Typically established buffers are greater for raptors than songbirds and depend upon the species, the nesting stage, and type of construction activity proposed. The buffer should generally be a minimum of 300 feet for raptors and 100 feet for songbirds; unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species.

Section 4.5 Geology and Soils

Page 4.5-20, Section 4.5.4, Impact 4.5-5

No septic tanks or other alternative wastewater disposal systems are planned for the Project site, as the Project would be connected to the ~~Cucamonga Valley Water District's~~ Inland Empire Utilities Agency's existing sewer system. Groundwater and wastewater systems are further discussed *in Section 4.13, Utilities and Service Systems*, of this EIR. No impact would occur.

Section 4.6 Greenhouse Gas Emissions

Page 4.6-9, Section 4.6.2, Regulatory Setting, Regional, South Coast Air Quality Management District

With the tiered approach, the Project is compared with the requirements of each tier sequentially and would not result in a significant impact if it complies with any tier. Tier 1 excludes projects that are specifically exempt from SB 97 from resulting in a significant impact. Tier 2 excludes projects that are consistent with a GHG reduction plan that has a certified final CEQA document and complies with AB 32 GHG reduction goals. Tier 3 excludes projects with annual emissions lower than a screening threshold. The SCAQMD has adopted a threshold of 10,000 metric tons of CO₂e (MTCO₂e) per year for industrial projects and a 3,000 MTCO₂e threshold was proposed for non-industrial projects but has not been adopted. During Working Group Meeting #7 it was explained that this threshold was derived using a 90 percent capture rate of a large sampling of industrial facilities. During Meeting #8, the Working Group defined industrial uses as production, manufacturing, and fabrication activities or storage and distribution (e.g., warehouse, transfer facility, etc.). The Working Group also noted that although the GHG significance threshold for industrial sources is based only on operation natural gas usage at facilities evaluated, the 10,000 MTCO₂e per year GHG threshold applies to both emissions from construction and operational phases plus indirect emissions (electricity, water use, etc.). SCAQMD concluded that projects with emissions less than the screening threshold would not result in a significant cumulative impact. ~~SCAQMD concluded that projects with emissions less than the screening threshold would not result in a significant cumulative impact.~~

Page 4.6-12, Section 4.6.3, Standards of Significance, South Coast Air Quality Management Thresholds

On December 5, 2008, the SCAQMD Governing Board adopted a 10,000 MTCO₂e industrial threshold for projects where the SCAQMD is lead agency. During the GHG CEQA Significance Threshold Working Group Meeting #15, the SCAQMD noted that it was considering extending the industrial GHG significance

threshold for use by all lead agencies. This working group was formed to assist SCAQMD's efforts to develop a GHG significance threshold and is composed of a wide variety of stakeholders including the State Office of Planning and Research, CARB, the Attorney General's Office, a variety of city and county planning departments in the SCAB, various utilities such as sanitation and power companies throughout the SCAB, industry groups, and environmental and professional organizations.

The SCAQMD has not announced when staff is expecting to present a finalized version of its GHG thresholds for land use projects where the SCAQMD is not the lead agency to the governing board. However, during Meeting #8, the Working Group defined industrial uses as production, manufacturing, and fabrication activities or storage and distribution (e.g., warehouse, transfer facility, etc.). Additionally, the SCAQMD GHG Significance Threshold Stakeholder Working Group has specified that a warehouse is considered to be an industrial project.² Furthermore, the Working Group indicated that the 10,000 MTCO₂e per year threshold applies to both emissions from construction and operational phases plus indirect emissions (electricity, water use, etc.). On September 28, 2010, the SCAQMD recommended an interim screening level numeric "bright-line" threshold of 10,000 metric tons per year of CO₂e for industrial land uses. During Meeting #8, the Working Group defined industrial uses as production, manufacturing, and fabrication activities or storage and distribution (e.g., warehouse, transfer facility, etc.). These efficiency-based thresholds were developed as part of the SCAQMD GHG CEQA Significance Threshold Working Group. This working group was formed to assist SCAQMD's efforts to develop a GHG significance threshold and is composed of a wide variety of stakeholders including the State Office of Planning and Research, CARB, the Attorney General's Office, a variety of city and county planning departments in the SCAB, various utilities such as sanitation and power companies throughout the SCAB, industry groups, and environmental and professional organizations. The numeric "bright line" was developed to be consistent with CEQA requirements for developing significance thresholds, are supported by substantial evidence, and provides guidance to CEQA practitioners in determining whether GHG emissions from a proposed project are significant.

Section 4.9 Land Use and Planning (Annexation)

Page 4.9-1, Section 4.9, 3rd sentence

In addition, the Project would include a General Plan Amendment (GPA), Sphere of Influence Amendments, Annexation, Pre-zoning, Development Agreement, Design Review, Tentative Parcel Map (TPM), and Uniform Sign Program which are discussed further within this section.

Page 4.9-2, Section 4.9.1, Environmental Setting, General Plan Designation

... The San Bernardino County General Plan designation for parcel 0229-291-46, located in San Bernardino County is General Regional Industrial (GIR) and is designated in the City of Fontana General Plan as General Industrial (I-G). The San Bernardino County General Plan designation for parcel 0229-291-23 (not a part of the development project and therefore analyzed in this EIR for annexation only), located in San Bernardino County is General Regional Industrial (GIR) and is designated in the City of Fontana General Plan as Public Utility (P-UC).

² South Coast Air Quality Management District, *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #8, 2009.*

Page 4.9-2, Table 4.9-1: Existing Land Use Designations and Zoning Classifications

Table 4.9-1: Existing Land Use Designations and Zoning Classifications

APN	Land Use Designation	Zoning Classification
0229-291-54 Rancho Cucamonga	Heavy Industrial (HI) and Flood Control/Utility Corridor	Heavy Industrial (HI)
0229-291-46 San Bernardino/City of Fontana Sphere of Influence (SOI)	General <u>Regional</u> Industrial (GIR)	General <u>Regional</u> Industrial (GIR)
	General Industrial (I-G)	General Industrial (M-2)
Sources: https://www.cityofrc.us/everything-we-do/general-plan-map ; https://www.arcgis.com/apps/webappviewer/index.html?id=87e70bb9b6994559ba7512792588d57a ; https://www.fontana.org/DocumentCenter/View/28163/General-Plan-Land-Use-Map---September-10-2019?bidid= ; https://www.fontana.org/DocumentCenter/View/30623/Zoning-District-Map ; https://regis.maps.arcgis.com/apps/webappviewer/index.html?id=7a1b248dd5fd4bc98bc0f9964a61c755 ; http://countywideplan.com/wp-content/uploads/2021/01/LU-Merged-Maps-201027_adopted.pdf .		

Page 4.9-3, Section 4.9.1, Environmental Setting

Sphere of Influence Amendments/Annexation

The Project is requesting an annexation that include the annexation and boundary amendment/Sphere of Influence (SOI) amendment of two parcels (or a portion thereof) and the half width right of way of Napa Street into the City of Rancho Cucamonga city limits. Annexation would require approval by the San Bernardino County Local Agency Formation Commission (LAFCO). LAFCO will consider the annexation of the subject parcels as described, the reduction of the City of Fontana’s SOI by 4.8 acres; the expansion of the City of Rancho Cucamonga’s SOI by 4.8 acres; and the subsequent expansion of the City of Rancho Cucamonga’s city boundary by 4.8 acres. A full discussion of all of the annexation/SOI amendments is provided in *Section 3.0, Project Description*.

Pages 4.9-18 to -19, Section 4.9.4, Project Impacts and Mitigation, Impact 4.9-2, County of San Bernardino Local Agency Formation Commission

A jurisdictional boundary change, SOI amendments, and annexation of the Project area (a portion of parcel 0229 291-23 and all of parcel 0229-291-46) not currently within the City into the City of Rancho Cucamonga is proposed. SOI amendments and Annexation into the City would require approval by the San Bernardino County LAFCO. Upon approval, the Project area would be under the jurisdiction of the City of Rancho Cucamonga and would be regulated by the City’s General Plan and Municipal Code. Specifically, the area would be detached from County and Fontana services (including the Fontana Fire Protection District and County Service Area 70) and would annex to any Special Districts within the City of Rancho Cucamonga (including the Rancho Cucamonga Fire Protection District and West Valley Mosquito and Vector Control District). The Project area is served by the Fontana Water Company, Metropolitan Water District (MWD), and the Inland Empire Utilities Agency (IEUA). The Project would require annexation to the Cucamonga Valley Water District in order to receive sewer service. Additional SOI amendments and reorganization needed for the Project are listed in *Section 3.0, Table 3-5: Agency Approvals for the Proposed Project*.

LAFCO will consider several factors when evaluated impacts associated with the SOI amendments and annexation. Factors include the existing and proposed boundaries of the SOIs and annexation area, the fiscal impacts of the SOI amendments and annexation on the affected jurisdictions and special districts impacts to the service capabilities and rations within the surrounding the SOI/annexation area. The County's LAFCO will make the determination upon LAFCO approval or denial as to whether or not the boundaries of the proposed SOI/annexation area are logical and consistent with orderly progression of growth with the County. The total area to be annexed from the centerline of Napa Street including the 2.9 acre parcel APN 0229-291-46, the 0.69 acre portion of APN 0229-291-23, and the area of right of way, is approximately 4.8 acres total. LAFCO will consider the annexation of the subject parcels as described above, the reduction of the City of Fontana's SOI by 4.8 acres, and the expansion of the City of Rancho Cucamonga's SOI, and subsequently the city boundary, by 4.8 acres.

The City provides a full range of public services including police, fire and other related emergency/non-emergency service, public works, community services, planning services, library services, and general governments. The Project impacts are further discussed in Section 4.1 through Section 4.13 of this EIR. The Project is required to pay all required impact fees as adopted by City Ordinance and the Project would contribute to annual revenues to the Rancho Cucamonga Fire Protection District from property taxes. The Project would be required to comply with all applicable LAFCO requirement related to the SOI amendments and annexation processes and the discussion contained in the EIR would serve to address the evaluation necessary for the SOI amendments and land annexation. The Project would comply with all applicable LAFCO requirements relative to the SOI amendments and annexation process.

With approval and implementation of the proposed GPA, Pre-zone, SOI amendments, and annexation, the Project would not result in a change in, or conflict with a land use or zoning designation that would result in potentially significant impacts. Therefore, impacts associated with any existing plan, policy, or regulation would be less than significant.

Section 4.10 Noise

Page 4.10-16, Section 4.10.3 Standards of Significance, Approach to Analysis, Operational Thresholds

The City of Rancho Cucamonga Municipal Code (~~Section~~ Chapter 17.66) includes regulations to control noise.

Section 4.11 Transportation

Page 4.11-42, Section 4.11.4 Standards of Significance, Impact 4.16-4

Impact 4.16-11-4: Would the Project result in inadequate emergency access?

Section 4.13 Utilities and Service Systems

Page 4.13-5, Section 4.13.1, Wastewater Infrastructure and Treatment

~~Table 0-5: Wastewater Treatment Plant Summary below summarizes IEUA's projected recycled water treatment plants average flow for 2015 to 2035.~~

Table 0-5: Wastewater Treatment Plant Summary

Wastewater Treatment Plant	Treatment Level	Projected Treatment Plant Flows (MGD)					
		Capacity	2015	2020	2025	2030	2035
Regional Plant No. 1	Tertiary to Title 22 Standards	44	28.3	29.4	30	30.5	32
Regional Plant No. 4	Tertiary to Title 22 Standards	14	9.7	11.4	12	13.5	13.5
Regional Plant No. 5	Tertiary to Title 22 Standards	16.3	9.5	10.4	11	12	13.5
Carbon Canyon Water Reclamation Facility	Tertiary to Title 22 Standards	11.4	7.2	7.4	8	9	10
Total		85.7	54.7	58.6	61	65	69

Source: CVWD. (2015). 2015 Urban Water Management Plan; Page 49 Table 35.

Page 4.13-16, Section 4.13.4, Wastewater, 1st paragraph

Cucamonga Valley Water District (CVWD) currently operates and maintains approximately 421 miles of wastewater collection system ranging from 8 to 36 inches in diameter. Wastewater by the Project would be transported through this the CVWD’s collection system and sent to IEUA Wastewater Treatment facilities where it is processed into recycled water. The entire Project area is not within CVWD; therefore, annexation to CVWD is required.

Page 4.13-17, Section 4.13.4, Wastewater, 3rd paragraph

IEUA owns and operates a system of regional trunk and interceptor sewers that transport wastewater to the regional wastewater treatment plants. In order to avoid overloading at any one facility, wastewater can be diverted from one regional plant to another. IEUA’s Regional Plant No.4, located nearest the Project site at the intersection of Etiwanda Avenue and 6th Street in the City of Rancho Cucamonga, treats an average flow of five 10 MGD of wastewater. This facility is operated in conjunction with RP-1 to provide recycled water to users in the service area. RP-4 was recently expanded to a treatment capacity of 14 MGD. According to the IEUA’s UWMP, RP-1 has a rated, permitted treatment capacity of 44 MGD, and is currently treating an average of 30.4 21 MGD, or 69 48 percent of its treatment capacity. As shown in *Table 4.13-6: Projected Wastewater Treatment and Capacity with Project*, sufficient wastewater treatment capacity exists with the proposed Project beyond 2035.

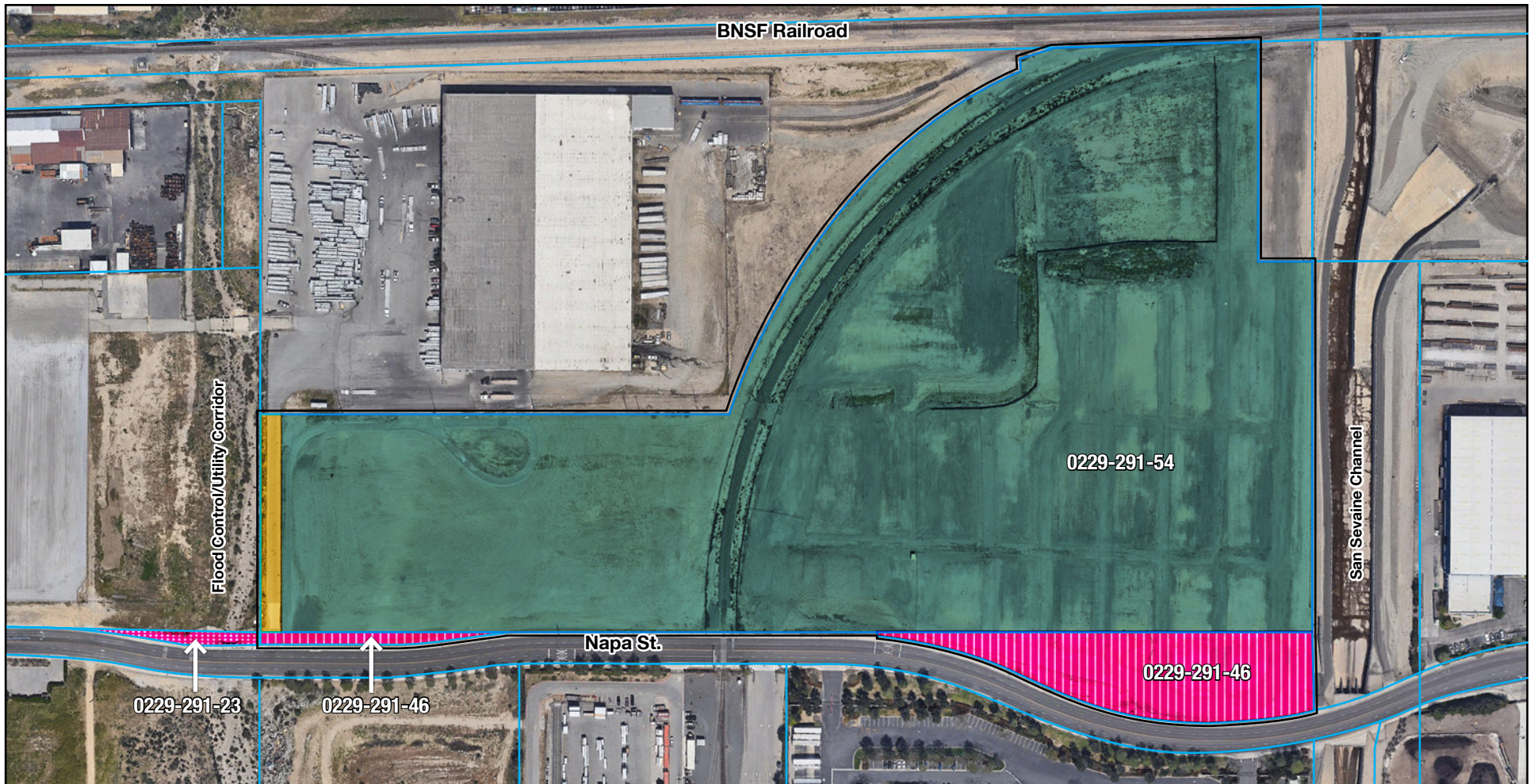
Page 4.13-17, Section 4.13.4, Table 4.13-6: Projected Wastewater Treatment and Capacity with Project

Table 4.13-6: Projected Wastewater Treatment and Capacity with Project

Wastewater Treatment/ Capacity	Average Treatment (MGD)	Existing Capacity (MGD)	Remaining Existing Capacity (MGD)	Proposed Project Wastewater Generation (MGD)	Average Daily Flow w/ Project (MGD)	2035 Projected Treatment w/ Project (MGD)
Regional Plant No. 1	30.4 <u>21</u>	44	13.6 <u>23</u>	0.024	40.4 <u>31</u> +	32
Regional Plant No. 4	10	14	4		.024	13.5
Total	40.4 <u>31</u>	58	17.6 <u>27</u>	0.024	40<u>31</u>.024	45.524*

* Total 2035 Projected Treatment with Project: 2035 projected treatment plant flows for RP-1 and RP-4 (Table 4.13-5), plus estimated project flow of .024 MGD.

Source: CVWD IEUA. (2015 2021). 2015 2020 Urban Water Management Plan; Page 5-4 49 Table 35.



Source: Public San Bernardino County Parcel Viewer, Rancho Cucamonga General Plan Viewer

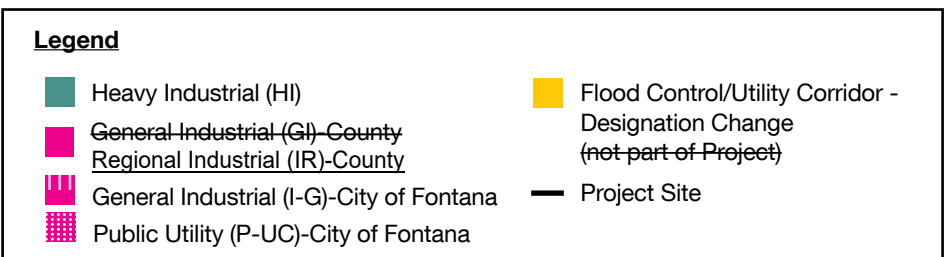
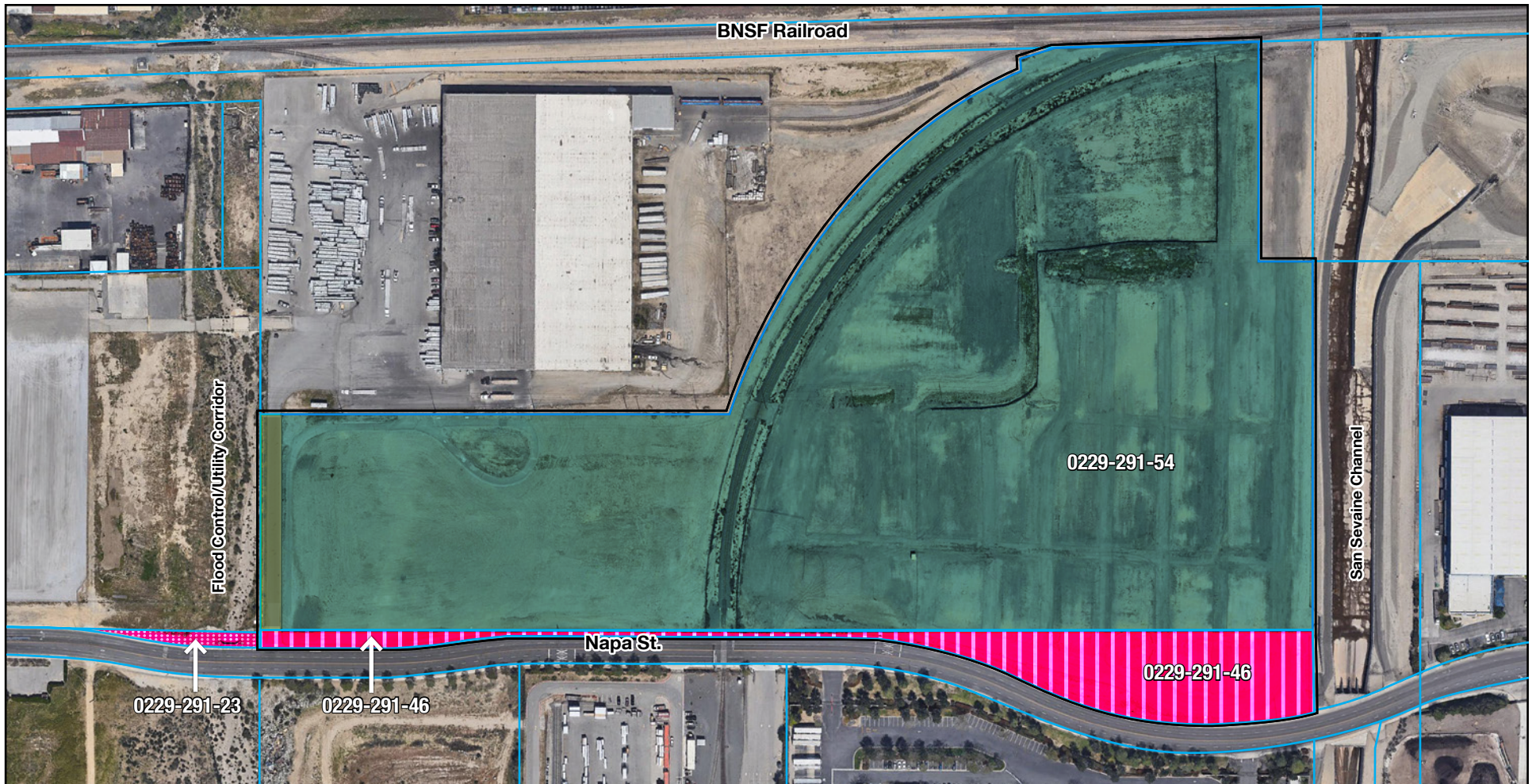


FIGURE 3-3: Existing General Plan Designations

Speedway Commerce Center
City of Rancho Cucamonga



Not to scale



Source: Public San Bernardino County Parcel Viewer, Rancho Cucamonga General Plan Viewer

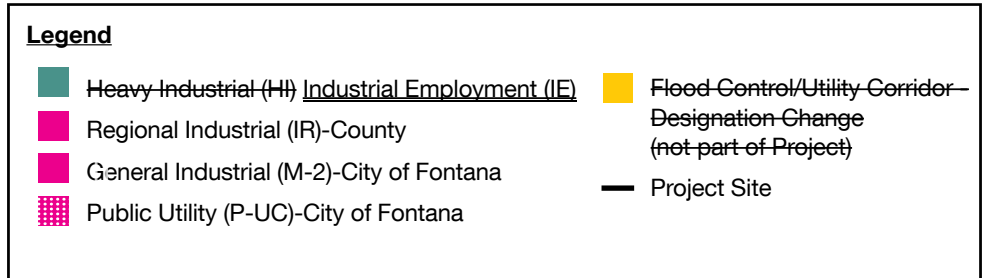
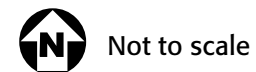
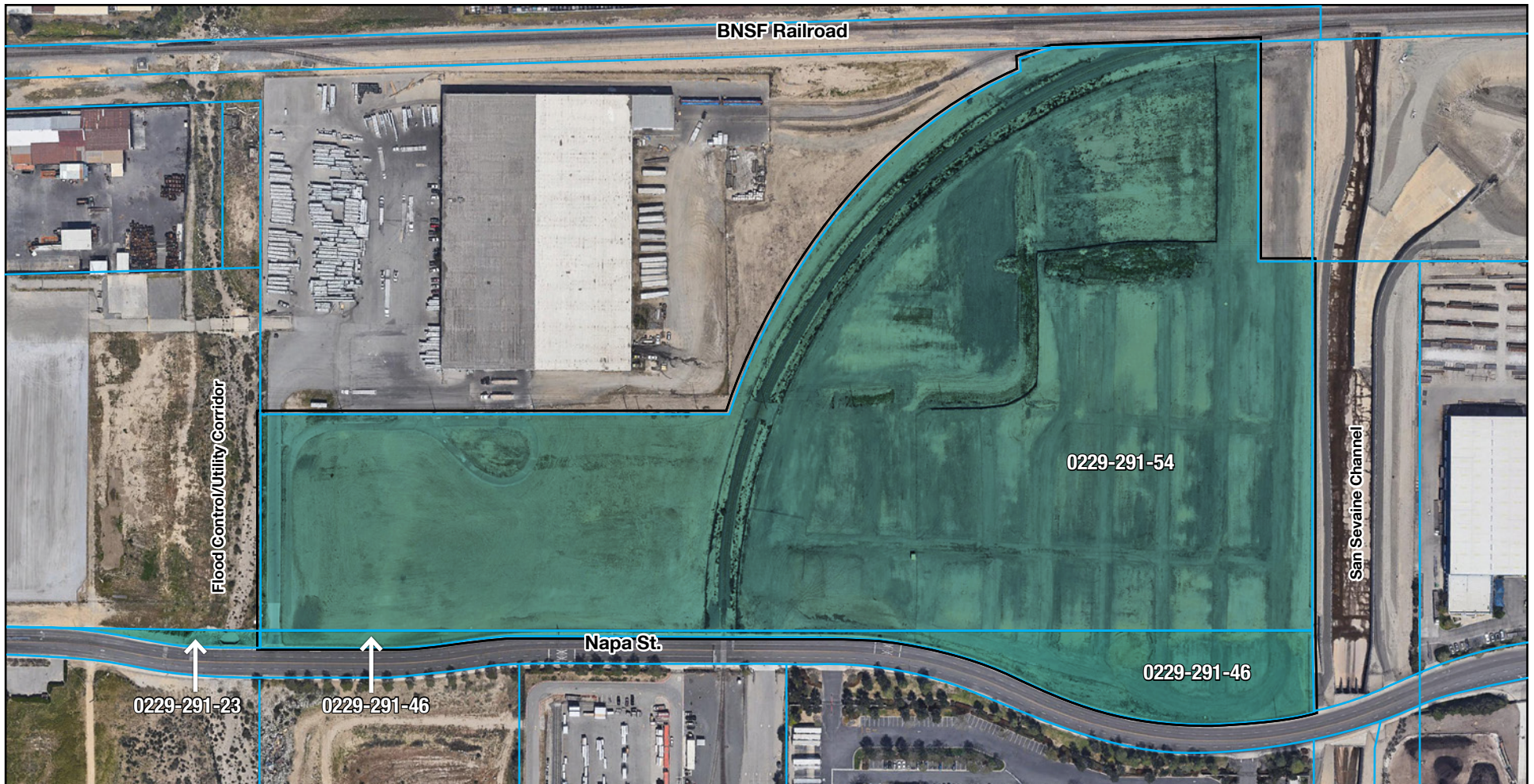


FIGURE 3-4: Existing Zoning Classification

Speedway Commerce Center
City of Rancho Cucamonga





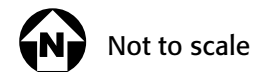
Source: Public San Bernardino County Parcel Viewer, Rancho Cucamonga General Plan Viewer

Legend

- Heavy Industrial (HI) Industrial Employment (IE)
- Project Site

Project site will be located entirely within the City of Rancho Cucamonga, with a General Plan and zoning designation of HI.

FIGURE 3-5: Proposed Zoning Classification and General Plan Land Use Designation
 Speedway Commerce Center
 City of Rancho Cucamonga



4.0 FINAL EIR APPENDICES

4.1 DRAFT EIR DISTRIBUTION PACKAGE

The following items are provided in the Affidavit of Distribution for the Draft EIR.

- Affidavit of Distribution
- NOA – San Bernardino County Clerk Filing Copy
- Proof of Publication - Inland Valley Daily Bulletin

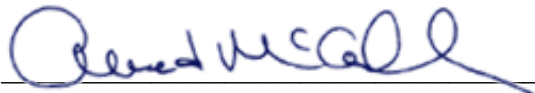
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AFFIDAVIT OF DISTRIBUTION

Date: August 20, 2021
Subject: Speedway Commerce Development Project DEIR
Affidavit of Mailing for Notice of Availability and Public Meeting Notice

AFFIDAVIT OF POSTING

I, Amanda McCallum, do hereby certify that a copy of the attached Notice of Availability for the Speedway Commerce Development Project DEIR was posted at the City of Rancho Cucamonga Planning Department, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730, and in the Office of the San Bernardino County Clerk of the Board on June 28, 2021. I declare under penalty of perjury that the foregoing is true and correct.



Amanda McCallum
Kimley-Horn and Associates

AFFIDAVIT OF NEWSPAPER PUBLICATION

I, Amanda McCallum, do hereby certify that a copy of the attached Notice of Availability for the Speedway Commerce Development Project DEIR was published by the City of Rancho Cucamonga in the Inland Valley Daily Bulletin on June 29, 2021. I declare under penalty of perjury that the foregoing is true and correct.



Amanda McCallum
Kimley-Horn and Associates

CITY OF RANCHO CUCAMONGA – PLANNING DEPARTMENT

NOTICE OF AVAILABILITY AND PUBLIC REVIEW

Date: June 29, 2021
To: Interested Agencies, Organizations, and Persons
Subject: Notice of Availability of a Draft Environmental Impact Report (DEIR) for the Speedway Commerce Center and EIR (State Clearinghouse # 2020090076)

Lead Agency:		Consulting Firm:	
Agency Name:	City of Rancho Cucamonga Planning Department	Firm Name:	Kimley-Horn and Associates
Street Address:	10500 Civic Center Drive	Street Address:	3880 Lemon Street, Ste. 420
City/State/Zip:	Rancho Cucamonga, CA 91730	City/State/Zip:	Riverside, CA 92501
Contact:	Sean McPherson	Contact:	Candyce Burnett
Phone:	(909) 477-2750, Ext. 4307	Phone:	951-824-8697

The **City of Rancho Cucamonga (“City”)**, as the Lead Agency, has prepared a Draft Environmental Impact Report (“DEIR”) for the Speedway Commerce Center Project (“Project”) identified below. This Notice of Availability (NOA) has been issued to notify interested parties that the DEIR is publicly available for review and comment. The City is requesting comments on the DEIR from responsible and trustee agencies, interested public agencies, organizations, and the general public.

Project Location: The Project is located partially in the City of Rancho Cucamonga and partially within unincorporated San Bernardino County. The Project site is located directly south of the Burlington Northern Santa Fe (BNSF) Railway, directly west of San Sevaime Channel, north of Napa Street in the City of Rancho Cucamonga and San Bernardino County, and east of the East Etiwanda Creek Channel. The Project site is located on two contiguous parcels: APNs 0229-291-54 and 0229-291-46. Parcel 0229-291-54 (approximately 32.83 acres) is located within the City of Rancho Cucamonga city limits. Parcel 0229-291-46 (approximately 2.9 acres) is located outside the City of Rancho Cucamonga city limits, within the County of San Bernardino and within the City of Fontana Sphere of Influence (SOI). A portion of an additional parcel, APN 0229-291-23, would be annexed as part of the Project, although no development is proposed on the site. The Project is situated approximately 1.3 miles east of Interstate 15 (I-15) and approximately 1.5 miles north of Interstate 10 (I-10).

Relationship to Other Jurisdictions: The Project includes a Pre-zone, annexation, and jurisdiction boundary change/SOI amendment for two parcels, APN 0229-291-23 and APN 0229-291-46. APN 0229-291-46, a parcel of approximately 2.9 acres in size, is part of the Project and is located within the County of San Bernardino and within the City of Fontana SOI. The annexation request includes a portion of parcel APN 0229-291-23, the adjacent property to the west, located outside of the City of Rancho Cucamonga limit. The annexation will increase the boundary of the City of Rancho Cucamonga by approximately 4.8 acres in size and decrease the SOI for the City of Fontana by the same size.

Project Description: The Project involves the development of two (2) warehouse buildings (Buildings A and B) including approximately 20,000 sf of ancillary office spaces and 635,878 sf of warehouse space for a total of 655,878 sf. The proposed Project, referred to as Speedway Commerce Center, would comprise

approximately 43 percent of the total Project site area. Each of the two warehouse buildings would include 10,000 square foot office spaces. Building A has a typical height of 46 feet and Building B has a typical height of 38 feet, with a maximum height not to exceed 58'-6" for Building A and 50'-6" for Building B. The Project applicant expects that two (2) buildings would be occupied by warehouse distribution uses.

The Project would create vehicular access points to the Project site by developing four (4) Project driveways, all along Napa Street. In addition, a new public street would be constructed, just west of Building B and east of East Etiwanda Creek. The new public street would replace the existing driveway access from Napa Street to Aguilar Trucking, Inc. (APN 0229-291-55) and would include two additional driveway entrances to the Project site for accessing Building B.

This new road would be the primary access point for the Aguilar Trucking, Inc. (APN 0229-291-55) property located just north of Building B and would serve as a future extension of a roadway network that would connect to a future east/west road. This future east/west road would run just south of the Metrolink rail line and connect to Etiwanda Avenue, consistent with the new circulation pattern proposed as part of the General Plan Update, currently underway. All entrances to the Project site would be unsignalized.

Alternate Project

An Alternate Project scenario has also been analyzed as part of the Draft EIR. The Alternate Project (an E-Commerce use) would include a single building that was analyzed for the purpose of informed decision making. The site would be developed with the single 500,648 sf building (approximately 33 percent of the total proposed Project site area) with the remainder of the site developed with parking to support the E-Commerce use.

The Alternate Project would generally create the same vehicular access to the Project site by developing four (4) Project driveways, all along Napa Street with the addition of the new public street constructed just west of the proposed parking lot located on the western portion of the site and just east of East Etiwanda Creek. This new road would be the primary access point for the property located just north of the parking lot and would serve as a future extension of a roadway network that would connect to a future east/west road, as described under the Project above. All entrances to the Project site would be unsignalized.

General Plan and Zoning: The current General Plan designation for parcel 0229-291-54 located in the City of Rancho Cucamonga is Heavy Industrial (HI). Additionally, the western edge (approximately 50 feet) of the Project site is designated as Flood Control/Utility Corridor. The San Bernardino County General Plan designation for parcel 0229-291-46 located in San Bernardino County is General Industrial (GI) and is designated in the City of Fontana General Plan as General Industrial (I-G). The San Bernardino County GP designation for parcel 0229-291-23 located in San Bernardino County is General Industrial (GI) and is designated in the City of Fontana General Plan as Public Utility Corridor (P-UC).

The current Zoning classification for parcel 0229-291-54 located in the City of Rancho Cucamonga is Heavy Industrial (HI). The Zoning classification for parcel 0229-291-46 located in the County of San Bernardino is Regional Industrial (IR) and is classified General Industrial (M-2) in the City of Fontana. The Zoning classification for parcel 0229-291-23 located in San Bernardino County is Regional Industrial/Speedway RDA (IR) and is classified in the City of Fontana General Plan as General Industrial (M-2).

Project Approvals: The City is the Lead Agency under CEQA and is responsible for reviewing and certifying the adequacy of the EIR for the Project. The proposed Project consists of applications for a GPA DRC 2020-00184, Annexation DRC 2020-00185, a Pre-Zone DRC 2020-00186, a Development Agreement DRC 2021-00175, a Design Review DRC 2020-00177, a Tentative Parcel Map (TPM 20251), and a Uniform Sign Program DRC 2020-00178.

The Project requires a GPA to designate a portion of parcel APN 0229-291-23 (approximately 0.69 acre) and all of parcel APN 0229-291-46 (approximately 2.9 acres) to Heavy Industrial (HI) Land Use designation, consistent with the HI land use designation to the north within the City of Rancho Cucamonga limits. The GPA will amend the Flood Control/Utility Corridor designation along the west boundary of the parcel APN Parcel 0229-291-54 along the East Etiwanda Creek to Heavy Industrial. The Project would require a Pre-zone to designate a portion of parcel 0229-291-23 and all of parcel 0229-291-46 within the County of San Bernardino to Heavy Industrial (HI) land use designation, consistent with the Heavy Industrial (HI) land use zoning to the north within the City of Rancho Cucamonga limits. An annexation is proposed to annex these parcels into the City of Rancho Cucamonga. The Project also includes a request to annex the half width of Napa Street that extends along the centerline of Napa Street from San Sevaïne Channel to Etiwanda Avenue.

Project Environmental Impacts

The Draft Environmental Impact Report evaluates the proposed Project's potential individual- and cumulative-level environmental impacts on the following resource areas: aesthetics, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public services, transportation, tribal cultural resources, utilities and services systems, and wildfire. The DEIR indicates that implementation of the proposed Project would result in potentially environmental impacts related to:

Air Quality | Biological Resources | Cultural Resources | Energy | Geology and Soils | Greenhouse Gas Emissions | Hazards and Hazardous Materials | Hydrology and Water Quality | Land Use and Planning | Noise | Transportation | Tribal Cultural Resources | Utilities and Services

Mitigation measures are identified in the Draft EIR that would minimize these impacts to less than significant levels.

Cortese List Notice: Pursuant to Public Resources Code 21092.6(a), the project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (California Department of ToxicSubstances Control list of various hazardous sites).

The DEIR and its technical appendices will be made available to downloaded from the City's website: <https://www.cityofrc.us/current-projects#other-projects>

The Draft EIR and all documents incorporated by reference in the Draft EIR are available for public review Monday through Thursday, between 7 AM and 6 PM at the following location:

City of Rancho Cucamonga
Planning Department
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

The Draft EIR is also available to the general public for review at the following locations (please note hours may be subject to change):

Archibald Library
7368 Archibald Avenue
Rancho Cucamonga, CA 91730
Hours: 10:00 A.M. – 6:00 P.M.
(Closed Sundays and Mondays)

Paul A. Biane Library
12505 Cultural Center Drive
Rancho Cucamonga, CA 91739
Hours: 10:00 A.M. – 6:00 P.M.
(Closed Sundays and Mondays)

Public Review Period

The Draft EIR is available for public review for a period of 45 days. In accordance with CEQA Guidelines §15105, should you have any comments, please provide written comments on the Draft EIR within the 45-day period between **June 29, 2021 and August 13, 2021**.

Pursuant to the California Governor's Executive Orders, electronic copies of the Draft EIR and documents referenced therein are available for download on the City's website at <https://www.cityofrc.us/current-projects#other-projects>. Should you have trouble accessing these documents, please contact Sean McPherson at the telephone number or e-mail provided under Lead Agency Contact, listed below.

Public Comments

Written comments on the Draft Environmental Impact Report must be received no later than 6:00 p.m. on August 13, 2021. **Comments in response to this notice shall be submitted via e-mail, U.S. Postal Service, or courier service.**

Lead Agency Contact

All comments shall be submitted in writing to:

Sean McPherson - Senior Planner
Planning Department
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730
Email: Sean.McPherson@cityofrc.us

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Public Review Period

The Draft EIR is available for public review for a period of 45 days. In accordance with CEQA Guidelines §15105, should you have any comments, please provide written comments on the Draft EIR within the 45-day period between **June 29, 2021 and August 13, 2021**.

Pursuant to the California Governor's Executive Orders, electronic copies of the Draft EIR and documents referenced therein are available for download on the City's website at <https://www.cityofrc.us/current-projects#other-projects>. Should you have trouble accessing these documents, please contact **Sean McPherson** at the telephone number or e-mail provided under Lead Agency Contact, listed below.

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**STATE OF CALIFORNIA
County of San Bernardino**

I am a citizen of the United States, I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of INLAND VALLEY DAILY BULLETIN, a newspaper of general circulation printed and published daily for the City of Ontario, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, on the date of August 24, 1951, Case Number 70663. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

06/29/2021

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at Rancho Cucamonga, San Bernardino Co., California, on this 14th day of July, 2021.



Signature

City of Rancho Cucamonga
Planning Department
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

The Draft EIR is also available to the general public for review at the following locations (please note hours may be subject to change):

Archibald Library
7368 Archibald Avenue
Rancho Cucamonga, CA 91730
Hours: 10:00 A.M. – 6:00 P.M.
(Closed Sundays and Mondays)

Paul A. Biane Library
12505 Cultural Center Drive
Rancho Cucamonga, CA 91739
Hours: 10:00 A.M. – 6:00 P.M.
(Closed Sundays and Mondays)

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