POPLAR SOUTH DISTRIBUTION CENTER

SCH: 2022090611

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October 2023

Final Environmental Impact Report

EPD SOLUTIONS, INC

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ACRONYMS AND ABBREVIATIONS

ADT	average daily trip
AERMOD	atmospheric dispersion modeling system
AG	Attorney General
AQ	Air quality
AQMP	Air Quality Management Plan
Basin	South Coast Air Quality Basin
BMPs	Best Management Practices
CalEEMod	California Emissions Estimator Model
CalEnviroScreen	California Communities Environmental Health Screening Tool
CALGreen	California Green Building Standards Code
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CBC	California Building Code
CBECC	California Building Energy Code Compliance
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
CUPA	California Accidental Release Prevention
dBA	A-weighted decibels
DEIR	Draft Environmental Impact Report
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
FEIR	Final Environmental Impact Report
GHG	greenhouse gas
GPA	General Plan Amendment
HCA	Housing Crisis Act of 2019
HHD	Heavy Duty Trucks
HPLV	High Pressure Low Volume
HRA	Health Risk Assessment
LOS	level of service
LSTs	localized significance thresholds
MEI	maximally exposed individual
MMRP	Mitigation and Monitoring Reporting Program
MT CO_2e	metric tons of carbon dioxide equivalent
NIO	Notice of Intent
NOP	Notice of Preparation
NO_x	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
OEHHA	California Office of Environmental Health Hazard Assessment
OPR	Office of Planning and Research
PPP	Plan, Policy, Program
$PM_{2.5}$	particulate matter less than 2.5 micrometers in aerodynamic diameter
PM_{10}	particulate matter less than 10 micrometers in aerodynamic diameter
PRC	Public Resources Code
PRIMP	Paleontological Resource Impact Mitigation

RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Needs Allocation
ROG	reactive organic gas
RTP	Regional Transportation Plan
SB	Senate Bill
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCS	Sustainable Communities Strategy
SF	square feet
SO_x	sulfur oxides
SP	Specific Plan
SPA	Specific Plan Amendment
SRA	Source Receptor Area
SWIP	Southwest Industrial park
SWPPP	Storm Water Pollution Prevention Plan
TACs	toxic air contaminants
TIA	Traffic Impact Analysis
TRU	Transportation refrigeration unit
URF	unit risk factor
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
UST	Underground Storage Tank
VMT	vehicle miles travelled
VOC	volatile organic compounds
WQMP	Water Quality Management Plan

1. Introduction

This Final Environmental Impact Report (FEIR; Final EIR) has been prepared in conformance with the environmental policy guidelines for the implementation of the California Environmental Quality Act (CEQA) to evaluate the environmental effects that may result from construction and operation of the proposed South Poplar Distribution Center Project (proposed Project).

Project Overview

The proposed Project would include development of a one-story, 490,565 SF warehouse building on the 19.08-acre site. The proposed warehouse building would have a building footprint of 480,565 SF and a mezzanine of 10,000 SF. The building would include 42 loading dock doors along the southern side of the building and 98 trailer stalls located along the southern side of the building and along the southern property line. Additionally, the building would provide 210 vehicle parking stalls inclusive of electric vehicle (EV) and accessible (ADA) spaces. The proposed building would result in a FAR of 0.6. Additional improvements would include landscaping, sidewalks, utility connections, implementation of stormwater facilities, and pavement of parking areas and driveways. A detailed description of the Project is contained in the Draft EIR in Chapter 3, Project Description. As described below, the Draft EIR is incorporated herein as part of the FEIR but provided under a separate cover.

1.1 Contents and Use of Final EIR

As described in CEQA and the CEQA Guidelines, public agencies are charged with the duty to avoid or substantially lessen significant environmental effects, with consideration of other conditions, including economic, social, technological, legal, and other benefits. As required by CEQA, this FEIR assesses the significant direct and indirect environmental effects of the Project, as well as the significant cumulative impacts that could occur from implementation of the Project. This FEIR is an informational document only, the purpose of which is to identify the significant effects of the Project on the environment; to indicate how those significant effects could be avoided or significantly lessened, including feasible mitigation measures; to identify any significant and unavoidable adverse impacts that cannot be mitigated to less than significant; and to identify reasonable and feasible alternatives to the Project that would avoid or substantially lessen any significant adverse environmental effects associated with the Project and achieve the fundamental objectives of the Project.

According to CEQA Guidelines Section 15132, the FEIR shall consist of:

(a) The Draft Environmental Impact Report (DEIR; Draft EIR) or a revision of the Draft EIR;

(b) Comments and recommendations received on the Draft EIR, either verbatim or in summary;

(c) A list of persons, organizations, and public agencies commenting on the Draft EIR;

(d) The responses of the lead agency to significant environmental points raised in the review and consultation process;

(e) Any other information added by the lead agency.

This document contains responses to comments received on the Draft EIR during the public review period, which began July 14, 2023, and ended on August 28, 2023. This document has been prepared in accordance with CEQA, the State CEQA Guidelines, and represents the independent judgment of the lead agency, the City of Riverside. This document and the circulated Draft EIR comprise the Final EIR in accordance with CEQA Guidelines, Section 15132.

1.2 Format of the Final EIR

The following chapters are contained within this document:

Chapter 1, Introduction. This chapter describes CEQA requirements and the content of the Final EIR.

Chapter 2, Errata. This chapter contains revisions made to the Draft EIR as a result of the comments received by agencies and organizations as described in Chapter 3, and/or errors and omissions discovered subsequent to release of the Draft EIR for public review.

The City of Fontana has determined that none of this material constitutes significant new information that requires recirculation of the Draft EIR for further public comment under CEQA Guidelines Section 15088.5. The additional material clarifies existing information prepared in the Draft EIR and does not present any new substantive information. None of this new material indicates that the project would result in a significant new environmental impact not previously disclosed in the Draft EIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that would not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

Chapter 3, Response to Comments. This chapter provides a list of agencies, organizations and/or members of the public who commented on the Draft EIR, as well as copies of their comment letters received during and following the public review period, and individual responses to their comments.

Chapter 4, Mitigation, Monitoring, and Reporting Program. This chapter includes the Mitigation Monitoring and Reporting Program (MMRP). CEQA requires lead agencies to "adopt a reporting and mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment" (CEQA Section 21081.6, CEQA Guidelines Section 15097). The MMRP was prepared based on the mitigation measures included in this Final EIR and has been included as Chapter 4.0.

1.3 CEQA Requirements Regarding Comments and Responses

CEQA Guidelines Section 15204(a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of Draft EIRs should be "*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 … 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.*"

CEQA Guidelines Section 15204(c) further advises, "*Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.*" *Section 15204 (d) also states, "Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility." Section 15204 (e) states, "This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.*"

In accordance with CEQA, Public Resources Code (PRC) Section 21092.5, copies of the written responses to public agencies are being forwarded to those agencies at least 10 days prior to certification of the Final EIR, with copies of this Final EIR document, which conforms to the legal standards established for response to comments on the Draft EIR pursuant to CEQA.

2. Errata

2.1 Introduction

As provided in Section 15088(c) of the CEQA Guidelines, responses to comments may take the form of a revision to a Draft EIR or may be a separate section in the Final EIR. This section complies with the latter option and provides changes to the Draft EIR in this chapter shown as strikethrough text (i.e., ~~strikethrough~~) signifying deletions and red underlined text (i.e., **underline**) signifying additions. These changes are meant to provide clarification, corrections, or minor revisions made to the Draft EIR initiated by the Lead Agency, City of Fontana, reviewing agencies, the public, and/or consultants based on their review. Text changes are presented in the section and page order in which they appear in the Draft EIR. None of the corrections or additions constitutes significant new information or substantial project changes that, in accordance with CEQA Guidelines Section 15088.5, would trigger the need to recirculate portions or all of the Draft EIR.

2.2 Changes to the Draft Environmental Impact Report

2.2.1 SECTION 1.0 EXECUTIVE SUMMARY

Location: Executive Summary, pp. 1-21

Explanation for Change and Discussion:

Table 1-1, *Summary of Impacts, Mitigation Measures, and level of Significance*, provided in the Executive Summary included repeat and misnumbered impact statements for Impacts HYD-4 through HYD-8. Revisions have been made so that the Executive Summary now accurately reflects the Hydrology and Water Quality DEIR Section.

Changes to DEIR:

Impact	Applicable Standard Conditions, Plan, Program, Policy (PPP), or Project Design Feature (PDF)	Level of Significance before Mitigation	Mitigation Measures	Significance after Mitigation
Impact HYD-4: ~~Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through addition of impervious surfaces, in a manner which would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?~~ **Would the Project, in flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?**	~~**PPP HYD-1: Comply with NPDES,** listed above.~~ ~~**PPP HYD-2: NPDES/SWPPP,** as listed above.~~ ~~**PPP HYD-3: WQMP,** as listed above.~~	Less than significant	None required	Less than significant
Impact HYD-5: ~~Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the~~	**PPP HYD-1: Comply with NPDES,** as listed above.	Less than significant	None required	Less than significant

~~course of a stream or river or through addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?~~ **Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**	**PPP HYD-2: NPDES/SWPPP**, as listed above. **PPP HYD-3: WQMP**, as listed above.			
~~**Impact HYD-6:** Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows?~~	~~**PPP HYD-1: Comply with NPDES,** as listed above.~~ ~~**PPP HYD-3: WQMP**, as listed above.~~	~~Less than significant~~	~~None required~~	~~Less than significant~~
~~**Impact HYD-7:** Would the Project be located in flood hazard, tsunami, or seiche zones, and risk release of pollutants due to Project inundation?~~		~~Less than significant~~	~~None required~~	~~Less than significant~~
~~**Impact HYD-8:** Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?~~	~~**PPP HYD-1: Comply with NPDES,** as listed above.~~ ~~**PPP HYD-2: NPDES/SWPPP**, as listed above.~~ ~~**PPP HYD-3: WQMP**, listed above.~~	~~Less than significant~~	~~None required~~	~~Less than significant~~

2.2.2 SECTION 3.0 PROJECT DESCRIPTION

Location: Project Description, pp. 3-1

Explanation for Change and Discussion:

The footnote below is being added to the Project Description in order to clarify the baseline condition of the DEIR.

Changes to DEIR:

[1]At the time the NOP was circulated for public review on September 30, 2022, the existing residences were inhabited. Following the publishing of the NOP, in October 2022, the residences were vacated in anticipation of the development of the Project. Pursuant to State CEQA Guidelines Section 15125(a)(1), the environmental baseline for the Draft EIR is September 30, 2022, the date the NOP was published. As of September 30, 2022, the residences were inhabited. As such, the Draft EIR environmental baseline condition assumes the residences were inhabited.

2.2.3 SECTION 5.14 TRANSPORTATION

Location: Transportation, pp. 5.14-7

Explanation for Change and Discussion:

The determination of Impact TR-2 within the DEIR included a typo that indicated the impact was "Less Than Significant with Incorporation of Mitigation"; however, the analysis beneath correctly determines that the Project would result in a less than significant impact and would not require mitigation.

Changes to DEIR:

IMPACT TR-2: WOULD THE PROJECT CONFLICT OR BE INCONSISTENT WITH CEQA GUIDELINES SECTION 15064.3, SUBDIVISION (B) REGARDING VEHICLE MILES TRAVELED?

Less than Significant Impact ~~with Mitigation Incorporated~~. As described previously, State CEQA Guidelines Section 15064.3(b) focus on determining the significance of VMT-related transportation impacts. As detailed previously, the City of Fontana's *Transportation Impact Analysis Guidelines* contain the following screening thresholds to assess whether a project has the potential to result in an impact and further VMT analysis is required. If the Project meets any of the following screening thresholds, then the VMT impact of the Project is considered less than significant and further VMT analysis is not required.

2.2.3 SECTION 5.9 HYDROLOGY AND WATER QUALITY

Location: Hydrology and Water Quality, pp. 5.9-16

Explanation for Change and Discussion:

The cumulative impacts discussion within the DEIR included a typo that indicated that implementation of the Project would increase the pervious surfaces on the site; however, the opposite it true and the revision below corrects this typo.

Changes to DEIR:

Drainage: The geographic scope for cumulative impacts related to stormwater drainage includes the geographic area served by the existing stormwater infrastructure for the Project area, which would include the City of Fontana. As described above, with implementation of the Project the onsite **impervious** ~~pervious~~ surfaces would increase, and stormwater runoff would be accommodated by the proposed stormwater drainage basin infrastructure, as required by the NPDES MS4 Permit. Additionally, existing drainage flow patterns would be maintained. As a result, the proposed Project would not generate runoff that could combine with additional runoff from cumulative projects that could cumulatively combine to impact drainage. Projects in the cumulative study area would be required to comply with the NPDES MS4 permit and would be anticipated to result in less than significant impacts on drainage. Thus, cumulative impacts related to drainage would be less than significant.

3. Response to Comments

This chapter of the Final Environmental Impact Report (EIR) for the South Poplar Distribution Center Project (Project) includes a copy of all comment letters that were submitted for the DEIR, along with responses to comments in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088. The 45-day review period for the Draft Environmental Impact Report (DEIR) began on July 14, 2023, and ended on August 28, 2023. A total of three comment letters were received in response to the Draft EIR during the 45-day public review period, and two comment letters were received after the close of the public review period.

The responses amplify or clarify information provided in the DEIR and/or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues (e.g., opinions on the merits of the Project unrelated to its environmental impacts) are noted for the record. Where text changes in the DEIR are warranted based on comments received, updated Project information, or other information provided by City staff, those changes are noted in the response to comment and the reader is directed to Chapter 2, Errata, of this Final Environmental Impact Report (FEIR).

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

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

Table 3-1. Comments Received on the DEIR

Comment Letter	Commenter	Date
1	SCAQMD	August 18, 2023
2	Golden State Environmental Justice Alliance	August 25, 2023
3	CARE CA	August 28, 2023
4	CARB	August 30, 2023
5	Advocates for the Environment	September 27, 2023

To finalize the EIR for the Project, the following responses were prepared to address comments that were received during and after the public review period.

Comment Letter 1: SCAQMD, dated August 18, 2023.

From: Danica Nguyen <dnguyen1@aqmd.gov>
Sent: Friday, August 18, 2023 10:34 AM
To: Alejandro Rico <arico@fontanaca.gov>
Cc: Sam Wang <swang1@aqmd.gov>
Subject: Technical Data Request: Proposed Poplar South Distribution Center Project
Importance: High

CAUTION - EXTERNAL SENDER - THIS EMAIL ORIGINATED OUTSIDE OF THE CITY'S EMAIL SYSTEM
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Alejandro Rico,

South Coast AQMD staff received the Draft Environmental Impact Report (EIR) for the Proposed Poplar South Distribution Center Project (South Coast AQMD Control Number: SBC230817-03). The public commenting period is from 07/14/2023 – 08/28/2023.

Upon reviewing the files provided as part of the public review period, I was able to access the Draft EIR and its Appendices provided web links.

Please provide all technical documents related to air quality, health risk, and GHG analyses, electronic versions of all emission calculation files, and air quality modeling and health risk assessment files (complete files, not summaries) that were used to quantify the air quality impacts from construction and/or operation of the Proposed Project as applicable, including the following:

- CalEEMod Input Files (.csv or.json files);
- EMFAC output files (not PDF files);
- All emission calculation spreadsheet file(s) (not PDF files) used to calculate the Project's emission sources (i.e., truck operations);
- AERMOD Input and Output files, including AERMOD View file(s) (.isc);
- Any HARP Input and Output files and/or cancer risk calculation files (excel file(s); not PDF) used to calculate cancer risk and chronic and acute hazards from the Project;
- Any files related to post-processing done outside AERMOD to calculate pollutant-specific concentrations (if applicable).

1.1

You may send the files mentioned above via a Dropbox link which may be accessed and downloaded by South Coast AQMD staff by COB on Wednesday, 08/23/2023. Without all files and supporting documentation, South Coast AQMD staff will be unable to complete a review of the air quality analyses promptly. Any delays in providing all supporting documentation will require additional time for review beyond the end of the comment period.
If you have any ques ons regarding this request, please don't hesitate to contact me.

Regards,

Danica Nguyen
Air Quality Specialist, CEQA-IGR
Planning, Rule Development & Implementation
South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765
Phone: (909) 396-3531
E-mail: dnguyen1@aqmd.gov
Please note South Coast AQMD is closed on Mondays.

Comment Letter 1: SCAQMD, dated August 18, 2023.

Response to Comment 1.1: This comment states that South Coast Air Quality Management District (SCAQMD) was able to access the DEIR and appendices via a provided web link. In addition, the commenter makes a request that all technical documents related to air quality, health risk and GHG analyses be provided to SCAQMD, via a Dropbox link by Wednesday, August 23rd, 2023, in order for SCAQMD staff to complete a review. The City provided SCAQMD with all the requested technical documentation via the provided Dropbox link on Tuesday, August 22nd, 2023. Therefore, no further response is warranted.

Comment Letter 2: Golden State Environmental Justice Alliance, withdrawn October 6, 2023

Golden State Environmental Justice Alliance
Green Jobs & Clean Communities
P.O. Box 79222
Corona, CA 92877

October 6, 2023

Alejandro Rico
Associate Planner
City of Fontana
arico@fontanaca.gov

Re: Poplar South Distribution Center EIR Project, SCH Number 2022090611

Dear Mr. Rico:

On behalf of the Golden State Environmental Justice Alliance ("GSEJA"), I am writing to you regarding the Poplar South Distribution Center EIR Project, SCH Number 2022090611 ("Project").

GSEJA is withdrawing its comment letter on and opposition to the Project. The Project's developer has addressed GSEJA's concerns about environmental mitigation.

2.0

Sincerely,

Joe Bourgeois
Executive Director

Comment Letter 2: Golden State Environmental Justice Alliance, dated August 25, 2023.

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August 25, 2023

Alejandro Rico, Associate Planner
Community Development Department
Planning Division
8353 Sierra Avenue, Fontana
CA 92335

VIA EMAIL TO:
arico@fontanaca.gov

SUBJECT: COMMENTS ON POPLAR SOUTH DISTRIBUTION CENTER EIR (SCH NO. 2022090611)

Dear Mr. Rico,

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Poplar South Distribution Center. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance. Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877. 2.1

1.0 Summary

The project proposes the demolition of 40 existing residences and associated structures on the project site and a Tentative Tract Map to merge the 41 existing parcels into one 19.08-acre parcel. The proposed project requires a General Plan Amendment (GPA) to change the land use designation from Residential Trucking (R-T) to General Industrial (I-G) and a Specific Plan Amendment (SPA) to change the Southwest Industrial Park Specific Plan (SWIP) designation from Residential Trucking District (RTD) to Slover East Industrial District (SED). 2.2

The project also proposes the construction of an approximately 490,565 square foot (sf) building with approximately 480,565 sf of warehouse area and 10,000 sf of mezzanine office area. The building proposes 42 truck/trailer loading dock doors, 210 passenger car parking spaces, and 98 truck/trailer parking spaces. Operation of the proposed development is assumed to be operational 24 hours a day, 7 days a week.

1.1 Project Piecemealing

The EIR does not accurately or adequately describe the project, meaning "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CEQA § 15378). The proposed project is a piecemealed portion of a larger overall project to be developed within the larger Seefried Industrial Center in the City.

The EIR misleads the public and decision makers by circumventing adequate and accurate environmental analysis for the whole of the action - construction and operation of all Duke Realty Industrial Center buildings as a whole. At minimum, piecemealed projects include MCN 22-000105[1] (400,000 sf warehouse building located at 16025 Slover Ave.), MCN 15-000060[2] (424,427 sf warehouse building), MCN 17-000067[3] (376, 910 sf warehouse building), and MCN 22-000104[4] (398,034 sf warehouse building). 2.3

A project EIR must be prepared that accurately represents the whole of the action without piecemealing the project into separate, smaller development projects to present unduly low environmental impacts. CEQA Section 15161 describes project EIRs as examining "the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation." The specific development project is the construction and operation of all Seefried buildings.

Additionally, CEQA Section 15146 requires that the degree of specificity in an EIR "will correspond to the degree of specificity involved in the underlying activity which is described in the EIR. (a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive

[1] MCN 22-000105 https://aca-prod.accela.com/FONTANA/Cap/CapDetail.aspx?Module=Planning&capID1=22HIS&capID2=00000&capID3=07U4K&agencyCode=FONTANA
[2] MCN 15-000060 https://aca-prod.accela.com/FONTANA/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=15HIS&capID2=00000&capID3=07TJB&agencyCode=FONTANA&IsToShowInspection=
[3] MCN 17-000067 https://aca-prod.accela.com/FONTANA/Cap/CapDetail.aspx?Module=Planning&capID1=17HIS&capID2=00000&capID3=07TON&agencyCode=FONTANA
[4] MCN 22-000104 https://aca-prod.accela.com/FONTANA/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=22HIS&capID2=00000&capID3=07U4J&agencyCode=FONTANA&IsToShowInspection=

zoning ordinance because the effects of the construction can be predicted with greater accuracy." Because there are multiple proposed buildings as part of a single project, the project EIR must be more detailed in the specific effects of the project. A project EIR must be prepared which accurately represents the whole of the action without piecemealing the project into separate, smaller development projects or development areas to present unduly low environmental impacts. 2.3 Cont.

5.2 Air Quality, 5.5 Energy, and 5.7 Greenhouse Gas Emissions

Please refer to attachments from SWAPE for a complete technical commentary and analysis. 2.4

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. The EIR provides general information about the census tract's Calenviroscreen scores but does not provide meaningful analysis regarding the health impacts and effects of severe pollution rates. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0[5], CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6071002601) ranks worse than 97% of the rest of the state in overall pollution burden. The proposed project's census tract and surrounding community, including residences, Jurupa Hills High School, and Citrus High School to the northeast, bears the impact of multiple sources of pollution and is more polluted than average on several pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 95th percentile for ozone burden, the 94th percentile for PM 2.5 burden, the 78th percentile for diesel particulate matter burden, and the 80th percentile for traffic impacts. All of these environmental factors are attributed to heavy truck/trailer activity in the area. Ozone can cause lung irritation, inflammation, and worsening of existing chronic health conditions, even at low levels of exposure[6]. The very small particles of diesel PM can reach deep into the lung, where they can contribute to a range of health problems. These include irritation to the eyes, throat and nose, heart and lung disease, and lung cancer[7]. 2.5

The census tract ranks in the 96th percentile for contaminated drinking water. Poor communities are exposed to contaminants in their drinking water more often than people in other parts of the state[8]. The census tract ranks in the 85th percentile for toxic releases. People living near facilities

[5] CalEnviroScreen 4.0 https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40
[6] OEHHA Ozone https://oehha.ca.gov/calenviroscreen/indicator/air-quality-ozone
[7] OEHHA Diesel Particulate Matter https://oehha.ca.gov/calenviroscreen/indicator/diesel-particulate-matter
[8] OEHHA Contaminated Drinking Water https://oehha.ca.gov/calenviroscreen/drinking-water

that emit toxic releases may breathe contaminated air regularly or if contaminants are released during an accident[9].

The census tract also ranks in the 87th percentile for solid waste facility impacts and 94th percentile for hazardous waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilites are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations[10]. Hazardous waste generators and facilities contribute to the contamination of air, water and soil near waste generators and facilities can harm the environment as well as people[11].

The census tract also bears more impacts from cleanup sites than 83% of the state. Chemicals in the buildings, soil, or water at cleanup sites can move into nearby communities through the air or movement of water[12].

Further, the census tract is a diverse community including 66% Hispanic, 9% Asian-American and 8% African-American residents, whom are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 73% of the census tract over age 25 has not attained a high school diploma, which is an indication that they may lack health insurance or access to medical care. The community has a high rate of poverty, meaning 51% of the households in the census tract have a total income before taxes that is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care[13]. Poor communities are often located in areas with high levels of pollution[14]. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution[15]. Living in poverty is also an indication that residents may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 55th percentile for incidence of cardiovascular disease and 44th percentile for incidence of asthma.

2.5 Cont.

[9] OEHHA Toxic Releases https://oehha.ca.gov/calenviroscreen/indicator/toxic-releases-facilities
[10] OEHHA Solid Waste Facilities https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities
[11] OEHHA Hazardous Waste Generators and Facilities https://oehha.ca.gov/calenviroscreen/indicator/hazardous-waste-generators-and-facilities
[12] OEHHA Cleanup Sites https://oehha.ca.gov/calenviroscreen/indicator/cleanup-sites
[13] OEHHA Poverty https://oehha.ca.gov/calenviroscreen/indicator/poverty
[14] Ibid.
[15] Ibid.

California's Building Energy Code Compliance Software (CBECC) is the State's only approved energy compliance modeling software for non-residential buildings in compliance with Title 24[16]. CalEEMod is not listed as an approved software. The CalEEMod-based modeling in the EIR and appendices does not comply with the 2022 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made. A revised EIR with modeling using the approved software (CBECC) must be circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not the approved software. 2.6

Notably, the Greenhouse Gas Emissions analysis provides emissions analysis and calculations for "existing uses." The analysis provides the proposed project's GHG emissions with reduction credits for the existing uses. It is not appropriate to model the existing vacant site utilizing default rates/average rates and provide emission reduction credits based on existing uses that do not actually exist. The Project Description characterizes the existing conditions of the site in stating that "The Project site is currently developed with 40 existing vacant and uninhabited single-family residential units and accessory structures." In contrast, the Environmental Setting description for the Greenhouse Gas Emissions section states that "The 19.08-acre Project site is currently developed with 40 single-family residential units. Some of the residences operate an additional use or business, such as truck transportation, auto storage, and auto repair facilities. GHG emissions are currently generated by the operation of these uses and the related vehicle trips." The EIR is inconsistent in that it picks and chooses the level of occupancy/operations of the site at its convenience to artificially reduce environmental impacts. The EIR is inadequate as an environmental document as the Project Description states that the site is vacant and uninhabited while several sections of the document, including the Air Quality, Greenhouse Gas Emissions, and Energy analysis, model the project site as fully occupied and operational with residences and commercial/industrial activity in order to present unduly low "net" operational emissions of the proposed project that are below significance thresholds. The EIR and all analysis employing reductions credits for "existing uses" must be revised to remove any credit given in order to accurately and adequately analyze the project's significant environmental impacts in accordance with CEQA. 2.7

[16] California Energy Commission 2022 Energy Code Compliance Software https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1

5.10 Land Use and Planning

The EIR erroneously concludes that the project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Table 5.10-2: General Plan Consistency also does not consider the proposed project's required land use changes and associated significant and unavoidable cumulatively considerable impacts to Air Quality (AQMP Inconsistency) in its discussion and analysis. The project a General Plan Amendment to change the General Plan land use designation from Residential Trucking (R-T) to General Industrial (I-G) and a Specific Plan Amendment (SPA) to change the Southwest Industrial Park Specific Plan (SWIP) designation from Residential Trucking District (RTD) to Slover East Industrial District (SED). Therefore, the proposed project is not consistent with the AQMP, which is adopted for the purpose of avoiding or mitigating an environmental effect and a significant and unavoidable direct impact occurs. A revised EIR must be prepared to disclose this significant and unavoidable impact to the public and decision makers. 2.8

A revised EIR must also be prepared to provide a consistency analysis with all Fontana General Plan objectives, goals, policies, and actions, including but not limited to the following:

1. EJ Goal 2: The City of Fontana incorporates health considerations into the development review process.
2. Policy: Support including Healthy Fontana development analysis in relevant development project reviews.
3. Sustainability and Resilience Element Goal 4: Reduce GHG emissions by 2030.
4. Housing Element Goal #1: Adequate housing to meet the needs of all residents in Fontana.
5. Housing Element Policy 1.1: Establish a range of rental and for sale housing opportunities in the city.
6. Housing Element Policy 1.2: Maintain an adequate land inventory to accommodate the City's Regional Housing Needs allocation for the years 2021 to 2029.
7. Housing Element Policy 1.3: Promote the development and access to housing affordable to all income levels in Fontana.
8. Housing Element Policy 1.4: Maintain open discussion and coordination with stakeholders, residents and interested parties regarding housing opportunity in the City.
9. Housing Element Goal #4: Affirmatively further fair housing in Fontana.
10. Housing Element Policy 4.1: Enhance opportunities for affordable housing for all segments of Fontana's population.

2.9

11. Sustainability and Resilience Element Goal 4: Reduce GHG emissions by 2030.
12. Circulation Element Goal 5: Fontana's commercial and mixed-use areas include a multifunctional street network that ensures a safe, comfortable, and efficient movement of people, goods, and services to support a high quality of life and economic vitality.
13. Circulation Element Policy: Maintain levels of service for passenger vehicles, transit vehicles, trucks, bicyclists, and pedestrians that are appropriate for the context of the area.

2.9 Cont.

Table 5.20-1 SCAG RTP/SCS Consistency Analysis provides a misleading and erroneous consistency analysis with SCAG's 2020-2045 Connect SoCal RTP/SCS. The 2016 RTP/SCS is notably adopted for the purpose of avoiding or mitigating an environmental effect, as required by California law (SB 375 to reduce greenhouse gas emissions), detailed through the plan itself and Resolution No. 16-578-2 adopting the plan[17]. Due to errors in modeling, modeling without supporting evidence (as noted throughout this comment letter and attachments), and the EIR's conclusion the project will result in significant and unavoidable impacts to Air Quality, the proposed project is directly inconsistent with Goal 5 to reduce greenhouse gas emissions and improve air quality, Goal 6 to support healthy and equitable communities, and Goal 7 to adapt to a changing climate. The EIR must be revised to include a finding of significance due to these direct inconsistencies with SCAG's 2020-2045 Connect SoCal RTP/SCS.

2.10

The project faces significant inconsistencies with statutory requirements. The project involves major conflicts with the HCA/SB 330. The Housing Crisis Act (HCA) of 2019/Senate Bill (SB) 330[18] require replacement housing sites when land designated for housing development is changed to a non-housing use to ensure no net loss of housing capacity. Government Code Section 66300(b)(1)(A) requires that agencies shall not "change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use below what was allowed under the land use designation and zoning ordinances in effect on January 1, 2018." Under Government Code Section 66300(b)(1)(A), a "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. Pursuant to SB 330, replacement capacity for any displaced residential units must be provided at **the time of project approval**.

2.11

This is applicable because the proposed project would remove the site's existing General Plan land use designation of "Residential Trucking (R-T)" and change it to a non-residential designation of

[17] SCAG 2016 RTP/SCS http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS.pdf
[18] Housing Crisis Act of 2019/SB 330
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330

"General Industrial (I-G)," and change the existing Zoning within the Southwest Industrial Park Specific Plan (SWIP) from "Residential Trucking District (RTD)" to "Slover East Industrial District (SED)". Due to these land use changes, the site would not be used for the development of residential units and replacement sites must be proposed and analyzed as part of the project. The EIR does not act in conformance with these laws and has not identified replacement sites for housing. Approval of the EIR and the proposed project will result in a net loss of housing. Specifically, the site includes 40 existing onsite residences and the existing General Plan and Zoning designations permit the development of up to 38 residential dwelling units as detailed below:

R-T = 2 du/ac
Project site = 19.08 ac
Total project site capacity = 38 units

The lost capacity of 38 dwelling units is a significant environmental impact in violation of the HCA/SB 330. The EIR must be revised to include a finding of significance due to this inconsistency.

2.11 Cont.

Due to the land use changes required for project implementation and its proposed exclusively industrial development, the site would not be used for the development of residential dwelling units and replacement sites must be proposed and analyzed as part of the project. The EIR does not act in conformance with these laws and has not identified replacement sites for housing. Approval of the EIR and the proposed project will result in a net loss of housing capacity of 38 dwelling units. This is a significant environmental impact in violation of the HCA/SB 330 and State Housing Element Law. The EIR must be revised to include a finding of significance due to this inconsistency. Additionally, deferring the identification of replacement sites to a later date is project piecemealing in violation of CEQA. The EIR does not accurately or adequately describe the project, meaning "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CEQA § 15378). The whole of the action must statutorily and legally include identified replacement sites to accommodate the lost capacity of 38 dwelling units.

The EIR relies upon the City's new Ordinance No. 1906[19] adopted on October 25, 2022. Ordinance No. 1906 created Article XV: No Net Loss Program within Chapter 30 of the Municipal Code. The No Net Loss Program (NNL) creates a "bank" of residential units that compose the lost housing unit capacity created by projects with residential designations that develop projects

[19] Fontana Ordinance No. 1906
https://library.municode.com/ca/fontana/ordinances/code_of_ordinances?nodeId=1184255

below the Housing Element projections. These units are distributed to developers that request Density Bonuses as part of their other, unrelated housing projects. First, Ordnance No. 1906 is nonsensical and illegal. As stated above, SB 330 requires replacement capacity for any displaced residential units must be provided at the **time of project approval**. Creating a "bank" of lost capacity units for future use is in direct violation of this requirement. Next, developers of density bonus housing projects are statutorily entitled to certain quantities of additional housing units above the base density. This is not dependent upon those density bonus units being available in the City's "NNL bank." Further, the "bank" does not identify a list of sites that meet HCD's site inventory criteria[20] to replace those lost by the proposed project and the City is not able to accommodate its RHNA at any time during the planning period. This is a significant and unavoidable environmental impact and a finding of significance must be made in a revised EIR.

2.11 Cont.

5.12 Population and Housing

SCAG's Connect SoCal Demographics and Growth Forecast[21] notes that the City will add 18,400 jobs between 2016 - 2045. Utilizing the EIR's calculation of 411 employees, the project represents 2.2% of the City's employment growth from 2016 - 2045. SCAG's Growth Forecast notes that the City's population will increase by 75,700 residents between 2016 - 2045. Utilizing SCAG's Employment Density Study calculation of 411 employees and Fontana's household size of 4.10 people[22], the project will generate 1,685 residents; this represents 2.2% of the City's population growth from 2016 - 2045. A single project accounting for this amount of the projected employment and/or population over 29 years represents a significant amount of growth. The EIR must be revised to include this information for analysis.

2.12

The EIR must also provide a cumulative analysis discussion of projects approved since 2016 and projects "in the pipeline" to determine if the project will exceed SCAG's employment or population growth forecast for the City. For example, the 3,736,156 sf of warehousing proposed by the five recent Alere Realty projects (Citrus Commerce Center (3 industrial buildings totaling 1,830,000 sf), 16270 Jurupa Avenue (631,000 sf industrial building), 13032 Slover Avenue (672,000 sf industrial building), Master Case No. 20-049/Tentative Parcel Map No. 20235 (TPM

[20] HCD Housing Element Sites Inventory Guidebook https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf
[21] SCAG Connect SoCal Demographics and Growth Forecast adopted September 3, 2020 https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocal_demographics-and-growth-forecast.pdf?1606001579
[22] Fontana Demographic Information https://www.fontana.org/761/Business-Resources

No. 20-014), and Design Review No. 20-019 (247,786 sf industrial building)[23], Fontana Corporate Center (355,370 sf industrial building), Sierra Business Center[24] (510 employees), Citrus and Oleander at Santa Ana Avenue[25] (595 employees), and Cypress and Slover Warehouse [26](531 employees) combined with the proposed project's 411 employees, these nine industrial projects alone will generate 5,180 employees. This represents 28% of the City's job growth over 29 years accounted for by only nine industrial projects. This total increases exponentially when commercial development activity and other industrial projects are added to the calculation. The EIR must be revised to include this information for analysis and also include a cumulative development analysis of projects approved since 2016 and projects "in the pipeline" to determine if the proposed project exceeds the General Plan growth estimates, SCAG's growth forecasts, and/or the buildout scenario and employment projections of the SWIP.

2.12 Cont.

The EIR concludes that "the employees that would fill these roles are anticipated to come from the region, as the unemployment rate of the City of Fontana as of November 2022 was 3.9 percent, City of Rialto was 4.6 percent, City of Rancho Cucamonga was 3.0 percent, and the County of San Bernardino was 4.1 percent (State Employment Development Department 2023). Due to these levels of unemployment, it is *anticipated* that new employees at the Project site would already reside within *commuting distance* and would not generate needs for any housing." The "commuting distance" of the project site is undefined and relying on the entire labor force within an undefined distance, notably the greater SCAG region, to fill the project's construction and operational jobs will increase already significant rates of VMT and emissions during all phases of construction and operations and a revised EIR must be prepared to account for longer worker trip distances. Further, economic industry standards consider unemployment rates below 5% for any geographic area as "full employment," meaning that there is not a need to induce employment growth. Additionally, a revised EIR must also provide demographic and geographic information on the location of qualified workers to fill these positions in order to provide an accurate environmental analysis.

2.13

[23] Fontana Planning Commission August 17, 2021 Agenda Packet https://fontana.legistar.com/View.ashx?M=PA&ID=872341&GUID=A694AA6F-F236-4B53-B537-025338533AF9
[24] Sierra Business Center https://ceqanet.opr.ca.gov/2020100256/3
[25] Citrus and Oleander at Santa Ana Avenue https://ceqanet.opr.ca.gov/2022110389/2
[26] Cypres and Slover Warehouse https://ceqanet.opr.ca.gov/2021120059/2

5.14 Transportation

Table 1: Project Trip Generation within Appendix M: Transportation and VMT provide trip generation reduction credits for "existing uses." It is not appropriate to model the existing vacant site utilizing default rates/average rates and provide emission reduction credits based on "existing uses" that do not actually exist. The Project Description characterizes the existing conditions of the site in stating that "The Project site is currently developed with 40 existing vacant and uninhabited single-family residential units and accessory structures." The Environmental Setting description for the Transportation section does not describe or characterize the state of the project site. The EIR is inconsistent in that it picks and chooses the level of occupancy/operations of the site at its convenience to artificially reduce environmental impacts. The EIR is inadequate as an environmental document as the Project Description states that the site is vacant and uninhabited while several sections of the document, including the Air Quality, Greenhouse Gas Emissions, Energy, and Transportation analysis, model the project site as fully occupied and operational with residences and commercial/industrial activity in order to present unduly low "net" operational impacts of the proposed project that are below significance thresholds. The EIR and all analysis employing reductions credits for "existing uses," including the Transportation analysis, must be revised to remove any credit given in order to accurately and adequately analyze the project's significant environmental impacts in accordance with CEQA. 2.14

It is clear that this is an effort to artificially appease the City's Traffic Impact Analysis Guidelines[27]. Appendix M states that "Section 3.0 of the City's Traffic Impact Analysis Guidelines provides criteria to determine when a level of service (LOS) traffic analysis should be prepared. According to the guidelines, if a project exceeds the CMP threshold of 250 two-way peak hour trips generated or adds 50 two-way peak hour trips to a state highway facility, then a LOS analysis would be required. As shown in Table 1, the project would generate 23 new PCE trips during the AM peak hour and 25 new PCE trips during the PM peak hour. Therefore, the project would not meet the criteria for requiring preparation of a LOS traffic analysis." 2.15

However, Appendix M leaves out that Section 3.0 of the City's Traffic Impact Analysis Guidelines states that "industrial, warehousing and truck projects shall convert trucks to PCE's before applying the above threshold." Removing the "existing uses" trip generation credits indicates that the project will generate 52 PCE Trips during the AM Peak Hour and 64 PCE Trips during the PM Peak Hour. Therefore, a TIA and LOS analysis are required and must be included as part of a revised EIR.

[27] Fontana Traffic Impact Analysis Guidelines
https://www.fontanaca.gov/DocumentCenter/View/35928/TIA-Guidelines---VMT-Assessment

The EIR has not analyzed the project in accordance with the City Guidelines and utilizes an artificially low "net new trips" generated by the project in order to exempt itself from conducting a project-specific LOS/VMT analysis. The project trip generation must be revised to remove any credit given for the existing buildings in order to accurately and adequately analyze the project's trip generation in accordance with the City's Guidelines and the City's General Plan LOS requirements. 2.15 Cont.

Further, the EIR has underreported the quantity VMT generated by the proposed project operations. The operational nature of industrial/warehouse uses involves high rates of truck/trailer/delivery van VMT due to traveling from large import hubs to regional distribution centers to smaller industrial parks and then to their final delivery destinations. Once employees arrive at work at the proposed project, they will conduct their jobs by driving delivery vans across the region as part of the daily operations as a warehouse, which will drastically increase project-generated VMT. The project's truck/trailer and delivery van activity is unable to utilize public transit or active transportation and it is misleading to the public and decision makers to exclude this activity from VMT analysis. The project's actual VMT generated is not consistent with the significance threshold and legislative intent of SB 743 to reduce greenhouse gas emissions by reducing VMT. A revised EIR must be prepared to reflect a quantified VMT analysis that includes all truck/trailer and delivery van activity. 2.16

The EIR has not adequately analyzed the project's potential to substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses; or the project's potential to result in inadequate emergency access. Appendix M includes Figure 2: Site Plan depicting truck access at two project driveways. Figure 2 shows lines that depict each of the trucks (1 truck exiting the site and 1 truck entering the site) overlapping (on the adjacent curbs and the lines of the other truck as well) while utilizing each of the driveways to access the proposed building. The overlapping lines mean that if two trucks were to enter and exit the site using the driveway at the same time, they would collide because there is not adequate maneuvering space. A finding of significance must be made as part of a revised EIR due to this. 2.17

There are no exhibits adequately depicting the onsite turning radius available for trucks maneuvering throughout the site. Notably, the truck/trailer parking stalls are adjacent to the south of the truck/trailer loading docks within the truck court. These parking stalls that may be in use at any time and further restrict truck/trailer movement. A revised EIR must be prepared to include a finding of significance due to these significant and unavoidable impacts.

Additionally, the EIR has not provided any analysis of the available horizontal and vertical sight distance at the intersection of the project driveways and adjacent streets. Sight distance is the

continuous length of street ahead visible to the driver. At unsignalized intersections, corner sight distance must provide a substantially clear line of sight between the driver of the vehicle waiting on the minor road (driveway) and the driver of an approaching vehicle. A revised EIR must be prepared with this analysis based on the American Association of State Highway and Transportation Officials (AASHTO) Stopping Sight Distance requirements. 2.17 Cont.

6.0 Other CEQA Considerations

6.2 Growth Inducement and 6.3 Significant Irreversible Effects

The EIR relies upon erroneous Energy modeling to determine that the project will meet sustainability requirements. As noted above, the EIR did not model the project's energy consumption in compliance with Title 24 modeling software. Further, the EIR states here that "this commitment of resources would not be substantial and would be consistent with regional and local growth forecasts and development goals for the area." The EIR does not discuss the project's significant and unavoidable Air Quality impacts or the project's required changes in land use designations (General Plan Amendment and Zone Change). The EIR must be revised to include a finding of significance due to the project's significant and unavoidable Air Quality impacts and direct contribution to climate change. 2.18

Further, erroneous modeling and providing the proposed project with emissions reductions credits for "existing uses" that do not actually exist at the vacant and uninhabited site results in unduly low "net" emissions that are below significance thresholds for Air Quality, Energy, Greenhouse Gas Emissions, and Transportation modeling. The EIR must be revised to remove these credits for "existing uses" that do not actually exist and disclose the significant Air Quality, Energy, Greenhouse Gas Emissions, and Transportation impacts associated with the proposed project and adequately discuss those impacts in this section. 2.19

The EIR does not adequately discuss or and analyze the commitment of resources is not consistent with regional and local growth forecasts. As noted throughout this comment letter, the project represents a significant amount of growth in the City and in tandem with only eight other recent industrial projects account for a significant amount of the City's employment growth over 29 years. The EIR must also include a cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting. 2.20

The EIR does not meaningfully discuss or analyze the project's required land use designation changes (General Plan Amendment and Zone Change) from high density residential to industrial. This increases the developable nonresidential area of the City without providing any information 2.21

or analysis on the buildout conditions of the General Plan or SWIP. The growth generated by the proposed project was not anticipated by the General Plan, SWIP, RTP/SCS, or AQMP. A revised EIR must be prepared with a finding of significance. 2.21 Cont.

The EIR has not provided an adequate or accurate cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting. For example, the 3,736,156 sf of warehousing proposed by the five recent Alere Realty projects (Citrus Commerce Center (3 industrial buildings totaling 1,830,000 sf), 16270 Jurupa Avenue (631,000 sf industrial building), 13032 Slover Avenue (672,000 sf industrial building), Master Case No. 20-049/Tentative Parcel Map No. 20235 (TPM No. 20-014), and Design Review No. 20-019 (247,786 sf industrial building)[28], Fontana Corporate Center (355,370 sf industrial building), Sierra Business Center[29] (510 employees), Citrus and Oleander at Santa Ana Avenue[30] (595 employees), and Cypress and Slover Warehouse [31](531 employees) combined with the proposed project's 411 employees, these nine industrial projects alone will generate 5,180 employees. This represents 28% of the City's job growth over 29 years accounted for by only nine industrial projects. This total increases exponentially when commercial development activity and other industrial projects are added to the calculation. The EIR must be revised to include this information for analysis and also include a cumulative development analysis of projects approved since 2016 and projects "in the pipeline" to determine if the proposed project exceeds the General Plan growth estimates, SCAG's growth forecasts, and/or the buildout scenario and employment projections of the SWIP. 2.22

8.0 Alternatives

The EIR is required to evaluate a reasonable range of alternatives to the proposed project which will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.) The alternatives chosen for analysis include the CEQA required "No Project" alternative and only one other - Reduced Project Alternative. The EIR does not evaluate a reasonable range of alternatives as only one alternative beyond the required No Project alternative is analyzed. The EIR does not include an alternative that meets the project objectives and also eliminates all of the project's significant and unavoidable impacts. The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA § 15126.6). This could include alternatives such as development of the site with a project that reduces all of the proposed project's significant and unavoidable impacts to less than significant level, and/or a 2.23

[28] Fontana Planning Commission August 17, 2021 Agenda Packet https://fontana.legistar.com/View.ashx?M=PA&ID=872341&GUID=A694AA6F-F236-4B53-B537-025338533AF9
[29] Sierra Business Center https://ceqanet.opr.ca.gov/2020100256/3
[30] Citrus and Oleander at Santa Ana Avenue https://ceqanet.opr.ca.gov/2022110389/2
[31] Cypress and Slover Warehouse https://ceqanet.opr.ca.gov/2021120059/2

mixed-use project that provides affordable housing and local-serving commercial uses that may reduce VMT, GHG emissions, and improve Air Quality. 2.23 Cont.

Conclusion

For the foregoing reasons, GSEJA believes the EIR is flawed and a revised EIR must be prepared for the proposed project and circulated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877. 2.24

Sincerely,



Gary Ho
Blum, Collins & Ho LLP

Attachment: SWAPE Analysis

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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August 25, 2023

Gary Ho
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Subject: Comments on the Poplar South Distribution Center Project (SCH No. 2022090611)

Dear Mr. Ho,

We have reviewed the June 2023 Draft Environmental Impact Report ("DEIR") for the Poplar South Distribution Center Project ("Project") located in the City of Fontana ("City"). The Project proposes to construct 490,565-square-feet ("SF") of warehouse space including 10,000-SF of office space, 98 trailer parking spaces, and 210 passenger vehicle spaces. 2b.1

Our review concludes that the DEIR fails to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. A revised Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the environment.

Air Quality

Failure to Provide Complete CalEEMod Output Files

Land use development projects under the California Environmental Quality Act ("CEQA") typically evaluate air quality impacts and calculate potential criteria air pollutant emissions using the California Emissions Estimator Model ("CalEEMod").[1] 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 2b.2

[1] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide.

can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. 2b.2 Cont.

According to the DEIR, CalEEMod Version 2022.1 is relied upon to estimate Project emissions (p. 5.7-13). However, this poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files.[2] Specifically, the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values (see excerpt below) (Appendix B, pp. 168, 249, 250):

8. User Changes to Default Data

Screen	Justification
Land Use	Project would construct a 499,595 sq ft warehouse with 62,000 sq ft of landscape on a 19.68 acre site
Construction: Construction Phases	Construction will start April 2024 and last approximately 10 months, ending in January 2025. Overlap of building construction and architectural coating phases.
Construction: Off-Road Equipment	Default equipment with Tier 4 Final engine
Operations: Vehicle Data	Vehicle trips only. Based on a total of 603 ADT
Operations: Fleet Mix	Vehicle trips only. Based on a total of 603 ADT with 32 medium truck trips
Operations: Energy Use	Project would not utilize natural gas
Operations: Emergency Generators and Fire Pumps	project would include a 200 hp diesel fire pump

2b.3

However, previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values (see example excerpt below):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	230.00	167.00
tblConstructionPhase	PhaseEndDate	11/22/2023	8/25/2023
tblConstructionPhase	PhaseEndDate	9/27/2023	6/30/2023
tblConstructionPhase	PhaseEndDate	10/25/2023	7/28/2023
tblConstructionPhase	PhaseStartDate	10/26/2023	7/29/2023
tblConstructionPhase	PhaseStartDate	9/28/2023	7/1/2023
tblLandUse	LandUseSquareFeet	160,000.00	160,371.00
tblLandUse	LandUseSquareFeet	119,000.00	41,155.00
tblLandUse	LotAcreage	3.67	3.68
tblLandUse	LotAcreage	2.73	2.74

The output files associated with CalEEMod Version 2022.1 fail to present the exact parameters used to calculate Project emissions. To remedy this issue, the DEIR should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.[3] Without access to the complete output files, including the specific numeric changes to the default values, we

[2] "CalEEMod California Emissions Estimator Model Soft Release." California Air Pollution Control Officers Association (CAPCOA), 2022, *available at:* https://caleemod.com/.
[3] "Video Tutorials for CalEEMod Version 2022.1." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/tutorials.

cannot verify that the DEIR's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, a revised EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod.[4] 2b.3 Cont.

Unsubstantiated Input Parameters Used to Estimate Project Emissions

As previously discussed, the DEIR relies on CalEEMod Version 2022.1 to estimate the Project's air quality emissions and fails to provide the complete output files required to adequately evaluate model's analysis (p. 5.7-13). Regardless, when reviewing the Project's CalEEMod output files, provided in the Air Quality, Health Risk, Greenhouse Gas, and Energy Impact Report ("AQ & GHG Report") included as Appendix B to the DEIR, we were able to identify several model inputs that are inconsistent with information disclosed in the DEIR. As such, the Project's construction and operational emissions are underestimated. A revised EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality. 2b.4

Underestimated Parking Land Use Size

According to the DEIR:

> "The Project would provide a total of 98 trailer parking spaces located along the southern side of the building and along the southern property line. Additionally, 210 passenger vehicle spaces" (p. 1-2).

As such, the model should have included a 308 parking spaces.[5] However, review of the CalEEMod output files demonstrates that the "Poplar South Distribution Center Project - Vehicles and Light Duty Truck Trips" and "Poplar South Distribution Center Project - Heavy Heavy Truck Trips" models include only 210 parking spaces (see excerpt below) (Appendix B, pp. 97, 178). 2b.5

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)
Unrefrigerated Warehouse-No Rail	490	1000sqft	14.5	490,595	62,000
Parking Lot	210	Space	4.58	0.00	0.00

As demonstrated above, the amount of parking spaces included in the models is underestimated by 98 spaces.[6] This underestimation presents an issue, as the square footage of parking land uses is used for certain calculations such as determining the area to be painted and stripped (i.e., volatile organic compounds ("VOC") emissions from architectural coatings), volume to be ventilated, and area to include

[4] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* http://www.aqmd.gov/caleemod/download-model.
[5] Calculated: (210 passenger vehicle spaces) + (98 trailer stalls) = 308 parking spaces.
[6] Calculated: (308 total vehicle spaces) – (210 modeled spaces) = 98 underestimated spaces.

lighting (i.e., energy impacts).[7] By underestimating the proposed parking land use size, the models may underestimates the Project's construction-related and operational emissions and should not be relied upon to determine Project significance.

2b.5 Cont.

Unsubstantiated Changes to Individual Construction Phase Lengths

Review of the CalEEMod output files demonstrates that the "Poplar South Distribution Center Project - Vehicles and Light Duty Truck Trips" and "Poplar South Distribution Center Project - Heavy Heavy Truck Trips" models include changes to the default construction schedule (see excerpt below) (Appendix B, pp. 168, 249, 250).

2b.6

8. User Changes to Default Data

Screen	Justification
Land Use	Project would construct a 480,595 sq ft warehouse with 62,000 sq ft of landscape on a 19.08 acre site
Construction: Construction Phases	Construction will start April 2024 and last approximately 10 months, ending in January 2025. Overlap of building construction and architectural coating phases.
Construction: Off-Road Equipment	Default equipment with Tier 4 Final engine
Operations: Vehicle Data	Vehicle trips only. Based on a total of 603 ADT
Operations: Fleet Mix	Vehicle trips only. Based on a total of 603 ADT with 32 medium truck trips
Operations: Energy Use	Project would not utilize natural gas
Operations: Emergency Generators and Fire Pumps	project would include a 200 hp diesel fire pump

As a result of these changes, the model includes the following construction schedule (see excerpt below) (Appendix B, pp. 151, 232):

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Demolition	Demolition	4/1/2024	4/26/2024	5.00	20.0
Site Preparation	Site Preparation	4/29/2024	5/17/2024	5.00	15.0
Grading	Grading	5/20/2024	6/7/2024	5.00	15.0
Building Construction	Building Construction	6/10/2024	1/3/2025	5.00	150
Paving	Paving	1/6/2025	1/17/2025	5.00	10.0
Architectural Coating	Architectural Coating	10/14/2024	1/24/2025	5.00	75.0

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[8] As demonstrated above in the "User Changes to Default Data" table, the justification provided for these changes is:

2b.6 Cont.

> "Construction will start April 2024 and last approximately 10 months, ending in January 2025. Overlap of building construction and architectural coating phases." (Appendix B, pp. 168, 250).

Regarding the Project's anticipated construction duration, the DEIR confirms:

> "Project development is estimated to take approximately 10 months, beginning April 2024 and concluding January 2025" (p. 3-33).

[7] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 29.
[8] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 1, 14.

Furthermore, the AQ & GHG Report provides the following construction schedule (see excerpt below) (p. 3-33, Table 3-2):

Table 3-2: Construction Schedule

Construction Activity	Working Days
Demolition	20
Grading and Excavation	15
Site Preparation	15
Building Construction	150
Landscaping	10
Architectural Coating	75

However, the changes to the individual construction phase lengths remain unsubstantiated. While the DEIR justifies a total length of Project construction of 10 months, the DEIR fails to provide a source for the individual construction phase lengths outlined in Table 3-2. Until a proper source is provided, the model should have included proportionately altered individual phase lengths to match the proposed construction duration of 10 months.[9]

The construction schedule included in the model presents an issue, as the construction emissions are improperly spread out over a longer period of time for some phases, but not for others. According to the CalEEMod User's Guide, each construction phase is associated with different emissions activities (see excerpt below).[10] 2b.6 Cont.

> *Demolition* involves removing buildings or structures.
>
> *Site Preparation* involves clearing vegetation (grubbing and tree/stump removal) and removing stones and other unwanted material or debris prior to grading.
>
> *Grading* involves the cut and fill of land to ensure that the proper base and slope is created for the foundation.
>
> *Building Construction* involves the construction of the foundation, structures and buildings.
>
> *Architectural Coating* involves the application of coatings to both the interior and exterior of buildings or structures, the painting of parking lot or parking garage striping, associated signage and curbs, and the painting of the walls or other components such as stair railings inside parking structures.
>
> *Paving* involves the laying of concrete or asphalt such as in parking lots, roads, driveways, or sidewalks.

By disproportionately altering and extending some of the individual construction phase lengths without proper justification, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. Until we are able to verify the revised construction schedule, the model may underestimate the peak daily emissions associated with some phases of construction and should not be relied upon to determine Project significance.

[9] See Attachment A for proportionately altered construction schedule.
[10] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 32.

Unsubstantiated Changes to Operational Vehicle Fleet Mix Percentages

Review of the CalEEMod output files demonstrates that the "Poplar South Distribution Center Project - Vehicles and Light Duty Truck Trips" and "Poplar South Distribution Center Project - Heavy Heavy Truck Trips" models include changes to the default operational vehicle fleet mix percentages (see excerpt below) (Appendix B, pp. 168, 249, 250).

8. User Changes to Default Data

Screen	Justification
Land Use	Project would construct a 490,695 sq ft warehouse with 62,000 sq ft of landscape on a 19.08 acre site
Construction: Construction Phases	Construction will start April 2024 and last approximately 10 months, ending in January 2025. Overlap of building construction and architectural coating phases.
Construction: Off-Road Equipment	Default equipment with Tier 4 Final engine
Operations: Vehicle Data	Vehicle trips only. Based on a total of 603 ADT
Operations: Fleet Mix	Vehicle trips only. Based on a total of 603 ADT with 32 medium truck trips
Operations: Energy Use	Project would not utilize natural gas
Operations: Emergency Generators and Fire Pumps	project would include a 200 hp diesel fire pump

2b.7

However, these changes remain unsubstantiated. As previously discussed, the output files for CalEEMod 2022.1 do not present the numeric changes to any model defaults. Upon further review of the output files, changes to fleet mix percentages are not mentioned outside of the "User Changes to Default Data" table. Until the DEIR verifies the breakdown of heavy-heavy duty ("HHD"), medium-heavy duty ("MHD"), light-heavy duty ("LHD1, LDH2"), trucks used by the Project, we cannot verify that the values included in the model are accurate.[11]

These unsubstantiated changes present an issue, as CalEEMod uses operational vehicle fleet mix percentages to calculate the Project's operational emissions associated with on-road vehicles.[12] By including several unsubstantiated changes to the default operational vehicle fleet mix percentages, the model may underestimate the Project's mobile-source operational emissions and should not be relied upon to determine Project significance.

Incorrect Application of Tier 4 Final Mitigation

Review of the CalEEMod output files demonstrates that the "Poplar South Distribution Center Project - Vehicles and Light Duty Truck Trips" model includes changes to the default off-road equipment engine tiers (see excerpt below) (Appendix B, pp. 168, 249, 250).

2b.8

[11] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 38.
[12] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 36.

6

8. User Changes to Default Data

Screen	Justification
Land Use	Project would construct a 490,595 sq ft warehouse with 82,000 sq ft of landscape on a 19.08 acre site
Construction: Construction Phases	Construction will start April 2024 and last approximately 10 months, ending in January 2025. Overlap of building construction and architectural coating phases.
Construction: Off-Road Equipment	Default equipment with Tier 4 Final engine
Operations: Vehicle Data	Vehicle trips only. Based on a total of 603 ADT
Operations: Fleet Mix	Vehicle trips only. Based on a total of 603 ADT with 32 medium truck trips
Operations: Energy Use	Project would not utilize natural gas
Operations: Emergency Generators and Fire Pumps	project would include a 200 hp diesel fire pump

As a result, the model assumes that the Project's off-road construction equipment fleet would meet Tier 4 final emissions standards (see excerpt below) (Appendix B, pp. 151, 152).

Phase Name	Equipment Type	Fuel Type	Engine Tier	Number per Day	Hours Per Day	Horsepower	Load Factor
Demolition	Concrete/Industrial Saws	Diesel	Tier 4 Final	1.00	8.00	33.0	0.73
Demolition	Excavators	Diesel	Tier 4 Final	3.00	8.00	36.0	0.38
Demolition	Rubber Tired Dozers	Diesel	Tier 4 Final	2.00	8.00	367	0.40
Site Preparation	Rubber Tired Dozers	Diesel	Tier 4 Final	3.00	8.00	367	0.40
Site Preparation	Tractors/Loaders/Backhoes	Diesel	Tier 4 Final	4.00	8.00	84.0	0.37
Grading	Excavators	Diesel	Tier 4 Final	2.00	8.00	36.0	0.38

Note: Screenshot does not include all the applicable changes.

2b.8 Cont.

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[13] According to the "User Entered Comments & Non-Default Data" table, the justification provided for these changes is:

> "Default equipment with Tier 4 Final engine" (Appendix B, pp. 168, 250).

However, the assumption that the Project's off-road construction equipment fleet would meet Tier 4 final emissions standards remains unsupported as the DEIR fails to explicitly require these standards through a formal mitigation measure. This is incorrect, as according to the Association of Environmental Professionals ("AEP") *CEQA Portal Topic Paper* on mitigation measures:

> "While not 'mitigation', a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact" (emphasis added).[14]

As demonstrated in the excerpt above, measures that are not formally included in the mitigation monitoring and reporting program ("MMRP") may be eliminated from the Project's design altogether.

[13] "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 1, 14.
[14] "CEQA Portal Topic Paper Mitigation Measures." AEP, February 2020, *available at:* https://ceqaportal.org/tp/CEQA%20Mitigation%202020.pdf, p. 6.

7

As the use of construction equipment with Tier 4 final emissions standards are not formally included as mitigation measures, we cannot guarantee that these standards would be implemented, monitored, and enforced on the Project site. Consequently, the model's assumption that the off-road construction equipment fleet would adhere to Tier 4 final emissions standards is incorrect. 2b.8 Cont.

Updated Analysis Indicates a Potentially Significant Air Quality Impact

In an effort to more accurately estimate the Project's construction-related and operational emissions, we prepared an updated air model using CalEEMod Version 2020.4.0, as well as the Project-specific information provided by the DEIR.[15] We omitted the unsubstantiated changes to the operational vehicle fleet mix and the unsubstantiated inclusion of tier 4 mitigation; included the correct parking land use size; and proportionately altered the individual construction phase lengths to match the 10-month construction schedule.[16]

Our updated analysis estimates that the Project's construction-related VOC emissions would exceed the applicable South Coast Air Quality Management District ("SCAQMD") threshold of 75-pounds per day ("lbs/day"), as referenced by the DEIR (see table below) (p. 5.2-21, Table 5.2-4).[17] 2b.9

SWAPE Criteria Air Pollutant Emissions	
Construction	**VOC** (lbs/day)
DEIR	63.4
SWAPE	413.7
% Increase	553%
SCAQMD Threshold	75
Exceeds?	*Yes*

As demonstrated in the table above, the Project's construction-related VOC emissions, as estimated by SWAPE, increase by approximately 553% and exceed the applicable SCAQMD significance threshold. Our updated model demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed in the DEIR. A revised EIR should be prepared to adequately assess and mitigate the potential air quality impacts that the Project may have on the surrounding environment.

[15] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), March 2022, *available at:* http://www.aqmd.gov/caleemod/download-model.
[16] See Attachment B for updated air modeling.
[17] "South Coast AQMD Air Quality Significance Thresholds." SCAQMD, April 2019, *available at:* https://www.aqmd.gov/docs/default-source/ceqa/handbook/south-coast-aqmd-air-quality-significance-thresholds.pdf?sfvrsn=25.

Diesel Particulate Matter Emissions Inadequately Evaluated

The DEIR conducts a health risk analysis ("HRA") evaluating impacts from exposure to diesel particulate matter ("DPM") emissions during Project construction and operations. Specifically, the DEIR estimates that the maximum cancer risk posed to nearby, existing residential sensitive receptors as a result of Project construction and operation would be 0.23 and 2.34 in one million, respectively (see excerpts below) (p. 5.2-31, Table 5.2-11, Table 5.2-12).

Table 5.2-11: Health Risks from Project Construction

Location	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Acute Inhalation Hazard Index
Worker Receptor Risk	0.04	0.003	0.000
Sensitive Receptor Risk	0.23	0.000	0.000
SCAQMD Significance Threshold	**10.0 in one million**	**1.0**	**1.0**
Significant?	**No**	**No**	**No**

Source: LSA (January 2023)

Table 5.2-12: Health Risks from Project Operations

Location	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Acute Inhalation Hazard Index
Worker Receptor Risk	0.40	0.001	0.000
Sensitive Receptor Risk	2.34	0.001	0.000
SCAQMD Significance Threshold	**10.0 in one million**	**1.0**	**1.0**
Significant?	**No**	**No**	**No**

Source: LSA (January 2023)

2b.10

However, the DEIR's evaluation of the Project's potential health risks, as well as the subsequent less-than-significant impact conclusion, is unreliable for two reasons.

First, the DEIR's HRAs are unreliable, as they rely upon emissions estimates from a flawed air model, as discussed above in the section titled "Unsubstantiated Input Parameters Used to Estimate Project Emissions." As such, the HRAs are based on potentially underestimated DPM concentrations to calculate the health risk associated with Project construction. As a result, the DEIR's HRAs and resulting cancer risk should not be relied upon to determine Project significance.

Second, the DEIR fails to mention or provide the exposure assumptions for the HRA, such as the age sensitivity factors ("ASF") or fraction of time at home ("FAH") values whatsoever. Until the DEIR substantiates the use of correct exposure assumptions, the HRA may underestimate the cancer risk posed to nearby, existing sensitive receptors because of Project construction. Furthermore, according to the *Risk Assessment Guidelines* provided by the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, the DEIR's models should have used the following equation:[18]

[18] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-7 Equation 8.2.4.

A. **Equation 8.2.4 A:** **$RISK_{inh\text{-}res} = DOSE_{air} \times CPF \times ASF \times ED/AT \times FAH$**

7. $RISK_{inh\text{-}res}$ = Residential inhalation cancer risk
8. $DOSE_{air}$ = Daily inhalation dose (mg/kg-day)
9. CPF = Inhalation cancer potency factor ($mg/kg\text{-}day^{-1}$)
10. ASF = Age sensitivity factor for a specified age group (unitless)
11. ED = Exposure duration (in years) for a specified age group
12. AT = Averaging time for lifetime cancer risk (years)
13. FAH = Fraction of time spent at home (unitless)

2b.10 Cont.

However, the DEIR and associated documents fail to include a dose and risk equation to calculate the Project's construction cancer risks. As such, we cannot verify that the DEIR's HRA is accurate, and the Project's cancer risks may be underestimated.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR estimates that the Project would generate net annual GHG emissions of 2,893.3 metric tons of carbon dioxide equivalents per year ("MT CO_2e/year"), which would not exceed the SCAQMD threshold of 3,000 MT CO_2e/year (see excerpt below) (p. 5.7-15, Table 5.7-1).

Table 5.7-1: Project Generated Greenhouse Gas Emissions

Emissions Source	Operational Emissions				
	CO_2	CH_4	N_2O	CO_2e	Percentage of Total
Existing Uses GHG Emissions					
Area Sources	13.1	<0.1	0.0	13.5	2
Energy Sources	140.0	<0.1	<0.1	140.0	19
Mobile Sources	548.0	<0.1	<0.1	558.0	77
Waste Sources	3.4	0.3	0.0	12.0	2
Water Sources	3.3	<0.1	<0.1	5.0	<1
Total Existing Uses Emissions				**728.5**	
Proposed Project GHG Emissions					
Area Sources	10.0	<0.1	<0.1	10.0	<1
Energy Sources	42.2	<0.1	<0.1	42.3	1
Mobile Sources – Vehicle and Light Duty Trucks	1,060.0	<0.1	0.1	1,078.0	30
Mobile Sources – Heavy Duty Trucks	1,883.0	0.2	0.3	1,980.0	55
Waste Sources	41.1	4.1	0.0	144.0	4
Water Sources	223.0	3.7	0.1	342.0	10
Stationary Sources	0.9	<0.1	<0.1	0.9	<1
Total Project Operational Emissions				**3,597.2**	-
Amortized Construction Emissions				24.6	-
Total Annual Emissions				**3,621.8**	-
Total Net Annual Emissions				**2,893.3**	
SCAQMD Threshold				3,000	-
Exceed?				**No**	-

Source: LSA (January 2023)

2b.11

Furthermore, the DEIR's analysis relies upon the Project's consistency with the California Air Resources Board ("CARB") 2017 *Scoping Plan* to conclude that the Project would result in a less-than-significant GHG impact (p. 5.7-15). However, the DEIR's analysis, as well as the subsequent less-than-significant impact conclusion, is incorrect for four reasons. 2b.11 Cont.

(1) The DEIR's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model;
(2) The DEIR's quantitative GHG analysis relies upon an outdated threshold;
(3) The DEIR fails to identify a potentially significant impact; and
(4) The DEIR fails to consider the performance-based standards under CARB's *Scoping Plan*.

1) Incorrect and Unsubstantiated Quantitative Analysis of Emissions

As previously stated, the DEIR estimates that the Project would generate net annual GHG emissions of 2,893 MT CO_2e/year (p. 5.7-15, Table 5.7-1). However, the DEIR's quantitative GHG analysis is unsubstantiated. As previously discussed, when we reviewed the Project's CalEEMod output files, provided in the AQ & GHG Report as Appendix B to the DEIR, we found that several of the values inputted into the models are not consistent with information disclosed in the DEIR. As a result, the models underestimate the Project's emissions, and the DEIR's quantitative GHG analysis should not be relied upon to determine Project significance. A revised EIR should be prepared that adequately assesses the potential GHG impacts that construction and operation of the proposed Project may have on the environment. 2b.12

2) Incorrect Reliance on an Outdated Quantitative GHG Threshold

As previously stated, the DEIR estimates that the Project would generate net annual GHG emissions of 2,893 MT CO_2e/year, which would not exceed the SCAQMD bright-line threshold of 3,000 MT CO_2e/year (p. 5.7-15, Table 5.7-1). However, the guidance that provided the 3,000 MT CO_2e/year threshold, SCAQMD's 2008 *Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans* report, was developed when the Global Warming Solutions Act of 2006, commonly known as "AB 32", was the governing statute for GHG reductions in California. AB 32 requires California to reduce GHG emissions to 1990 levels by 2020. [19] Furthermore, AEP guidance states: 2b.13

> "[F]or evaluating projects with a post 2020 horizon, the threshold will need to be revised based on a new gap analysis that would examine 17 development and reduction potentials out to the next GHG reduction milestone." [20]

As it is currently August 2022, thresholds for 2020 are not applicable to the proposed Project and should be revised to reflect the current GHG reduction target. As such, the SCAQMD bright-line threshold of 3,000 MT CO_2e/year is outdated and inapplicable to the proposed Project, and the DEIR's less-than-significant GHG impact conclusion should not be relied upon. Instead, we recommend that the Project

[19] HEALTH & SAFETY CODE 38550, *available at:* https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=38550.
[20] "Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California." Association of Environmental Professionals (AEP), October 2016, *available at:* https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf, p. 39.

apply the SCAQMD 2035 service population efficiency target of 3.0 metric tons of carbon dioxide equivalents per service population per year ("MT CO_2e/SP/year"), which was calculated by applying a 40% reduction to the 2020 targets.[21] 2b.13 Cont.

3) *Failure to Identify a Potentially Significant GHG Impact*

In an effort to quantitatively evaluate the Project's GHG emissions, we compared the Project's GHG emissions, as estimated by the DEIR, to the SCAQMD 2035 efficiency target of 3.0 MT CO_2e/SP/year. When applying this threshold, the Project's incorrect and unsubstantiated air model indicates a potentially significant GHG impact. According to CAPCOA's *CEQA & Climate Change* report, a service population ("SP") is defined as "the sum of the number of residents and the number of jobs supported by the project."[22] According to the DEIR, the Project would support up to 411 employees (p. 5.12-8). As the Project is not expected to support any residents, we estimate an SP of 411.[23] When dividing the Project's net annual GHG emissions, as estimated by the DEIR, by a SP of 411 people, we find that the Project would emit approximately 7.0 MT CO_2e/SP/year (see table below).[24] 2b.14

DEIR Greenhouse Gas Emissions	
Annual Emissions (MT CO_2e/year)	2,893
Service Population	411
Service Population Efficiency (MT CO_2e/SP/year)	7.0
SCAQMD Threshold	**3.0**
Exceeds?	*Yes*

As demonstrated above, the Project's service population efficiency value, as estimated by the DEIR's net annual GHG emissions estimates and SP, exceeds the SCAQMD 2035 efficiency target of 3.0 MT CO_2e/SP/year, indicating a potentially significant impact not previously identified or addressed by the DEIR. As a result, the DEIR's less-than-significant GHG impact conclusion should not be relied upon. A revised EIR should be prepared, including an updated GHG analysis and incorporating additional mitigation measures to reduce the Project's GHG emissions to less-than-significant levels.

4) *Failure to Consider Performance-based Standards Under CARB's 2017 Scoping Plan*

As previously discussed, the DEIR concludes that the Project would be consistent with CARB's 2017 Climate Change Scoping Plan (p. 5.7-15). However, this is incorrect, as the DEIR fails to consider performance-based measures proposed by CARB. 2b.15

[21] "Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #15." SCAQMD, September 2010, *available at:* http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf, p. 2.
[22] "CEQA & Climate Change." California Air Pollution Control Officers Association (CAPCOA), January 2008, *available at:* https://www.ourair.org/wp-content/uploads/CAPCOA-CEQA-and-Climate-Change.pdf, p. 71-72.
[23] Calculated: 0 residents + 411 employees = 411 total SP.
[24] Calculated: (2,893 MT CO_2e/year) / (411 SP) = (7.0 MT CO_2e/SP/year).

i. Passenger & Light Duty VMT Per Capita Benchmarks per SB 375

In reaching the State's long-term GHG emission reduction goals, CARB's 2017 *Scoping Plan* explicitly cites to SB 375 and the VMT reductions anticipated under the implementation of Sustainable Community Strategies.[25] CARB has identified the population and daily VMT from passenger autos and light-duty vehicles at the state and county level for each year between 2010 to 2050 under a "baseline scenario" that includes "current projections of VMT included in the existing Regional Transportation Plans/Sustainable Communities Strategies (RTP/SCSs) adopted by the State's 18 Metropolitan Planning Organizations (MPOs) pursuant to SB 375 as of 2015."[26] By dividing the projected daily VMT by the population, we calculated the daily VMT per capita for each year at the state and county level for 2010 (baseline year), 2025 (Project operational year), and 2030 (target years under SB 32) (see table below). 2b.15 Cont.

2017 Scoping Plan Daily VMT Per Capita

	San Bernardino County			State		
Year	Population	LDV VMT Baseline	VMT Per Capita	Population	LDV VMT Baseline	VMT Per Capita
2010	2,043,484	55,741,307.23	27.28	37,335,085	836,463,980.46	22.40
2025	2,352,322	62,515,993.89	26.58	42,326,397	929,443,512.65	21.96
2030	2,478,888	65,538,854.28	26.44	43,939,250	957,178,153.19	21.78

As the DEIR fails to evaluate the Project's consistency with the CARB 2017 *Scoping Plan* performance-based daily VMT per capita projections, the DEIR's claim that the proposed Project would not conflict with the CARB 2017 *Scoping Plan* is unsupported. A revised EIR should be prepared for the proposed Project to provide additional information and analysis to conclude less-than-significant GHG impacts. 2b.15 Cont.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality and GHG impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures from the California Department of Justice Warehouse Project Best Practices document that are applicable to the proposed Project.[27] To reduce the Project's emissions, consideration of the following measures should be made: 2b.16

[25] "California's 2017 Climate Change Scoping Plan." CARB, November 2017, *available at*: https://ww3.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf, p. 25, 98, 101-103.
[26] "Supporting Calculations for 2017 Scoping Plan-Identified VMT Reductions," California Air Resources Board (CARB), January 2019, *available at*: https://ww2.arb.ca.gov/resources/documents/carb-2017-scoping-plan-identified-vmt-reductions-and-relationship-state-climate; *see also:* https://ww2.arb.ca.gov/sites/default/files/2019-01/sp_mss_vmt_calculations_jan19_0.xlsx.
[27] "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." State of California Department of Justice, September 2022, *available at*: https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf, p. 8 – 10.

- Requiring off-road construction equipment to be hybrid electric-diesel or zero emission, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Prohibiting off-road diesel-powered equipment from being in the "on" position for more than 10 hours per day.
- Using electric-powered hand tools, forklifts, and pressure washers, and providing electrical hook ups to the power grid rather than use of diesel-fueled generators to supply their power.
- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than three minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.
- Requiring all heavy-duty vehicles engaged in drayage to or from the project site to be zero-emission beginning in 2030.
- Requiring all on-site motorized operational equipment, such as forklifts and yard trucks, to be zero-emission with the necessary charging or fueling stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the local air district, and the building manager.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.

2b.16 Cont.

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- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.
- Running conduit to designated locations for future electric truck charging stations.
- Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide refrigerated warehouse space, constructing electric plugs for electric transport refrigeration units at every dock door and requiring truck operators with transport refrigeration units to use the electric plugs when at loading docks.
- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Constructing and maintaining electric light-duty vehicle charging stations proportional to the number of employee parking spaces (for example, requiring at least 10% of all employee parking spaces to be equipped with electric vehicle charging stations of at least Level 2 charging performance)
- Running conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Designing to LEED green building certification standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.

2b.16 Cont.

15

- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.
- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

2b.16 Cont.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

2b.17

A revised EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The revised EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

2b.18

Disclaimer

SWAPE has received limited discovery regarding this project. 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.

2b.19

Sincerely,



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

Paul E. Rosenfeld, Ph.D.

Attachment A: Updated Construction Schedule
Attachment B: Updated CalEEMod Output Files
Attachment C: Matt Hagemann's CV
Attachment D: Paul Rosenfeld's CV

2b.20

Response to Comment Letter 2: Golden State Environmental Justice Alliance, dated August 25, 2023

Response to Comment 2.0: This letter formally withdrawals Golden State Environmental Justice Alliance's previous comment letter on the Project. The letter states the applicant has addressed Golden State's concerns about environmental mitigation. Nonetheless, as a showing of good faith and full disclosure, all of Golden State Environmental Justice Alliance's comments are being responded to. See Responses 2.1 through 2b.20 below.

Response to Comment 2.1: This comment states that the Golden State Environmental Justice Alliance appreciates the opportunity to comment on the DEIR and formally requests to be added to the mailing list for all environmental documents, public notices, public hearings, and notices of determination related to the Project. This comment is introductory in nature and does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 2.2: This comment provides a summary of the Project Description. This comment is introductory in nature and does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 2.3: This comment expresses a concern that the Project is a piecemealed portion of a larger project to be developed within a larger Seefried Industrial Center in the City and states that at a minimum, all Duke Realty Industrial Center Buildings should be analyzed.

The comment does not provide any substantial evidence of an environmental impact or substantial evidence of other projects, and therefore the commenter's assertions that Project is part of a larger piecemealed project are based on speculation. The commenter's explanation of piecemealing is inaccurate. Generally, Courts have considered distinct activities as one CEQA project and required them to be reviewed together: (1) when the project under review is designed to provide the necessary first step toward a larger development, and (2) when development of the project under review requires or presumes completion of another activity. Neither scenario is appliable here. Instead each of the projects identified have independent utility. That is, the approval or denial of one project has no effect on the other projects, and none of the projects are dependent upon the existence of any of the other projects. Each project listed by the commenter was submitted separately from the proposed Project and are not phases of the proposed Project. Additionally, Duke Realty is a separate entity from the Project applicant, and the two entities are not at all related.

The Project analyzed in the DEIR consists of the demolition of the existing 40 residences, and associated structures, on the site, vacation of Rose Avenue, and a Tentative Tract Map for the merger of the 41 existing parcels into one 19.08-acre parcel, as well as the construction of an approximately 490,565 square foot building. The proposed Project would also include a General Plan Amendment to change the land use designation from Residential Trucking (R-T) to General Industrial (I-G) and a Specific Plan Amendment to change the Southwest Industrial Park (SWIP) Specific Plan (SP) designation from Residential Trucking District (RTD) to Slover East Industrial District (SED).

The City disagrees with the assertion that the Project is a piecemealed portion of a larger Seefried Industrial Center. Activities that will operate independently of one another and can be implemented separately may be treated as separate projects under CEQA if one activity is not a foreseeable consequence of the other. (See, e.g., *Aptos Council v County of Santa Cruz* (2017) 10 Cal.App.5th 266, 281.) The proposed Project is not part of a larger project within the City of Fontana and applications for all of the projects listed by the commenter were submitted separately from the proposed Project and are not phases of the proposed Project nor are they reasonably foreseeable consequences of the proposed Project. Therefore, the DEIR accurately analyzes all potential environmental impacts from the Project and does not present unduly low environmental impacts.

Response to Comment 2.4: The comment refers to comments provided by SWAPE, which are included as an attachment to the comment letter. Refer to Responses to Comments 2-b.1 through 2b.20 in which the comments presented by SWAPE are addressed.

Response to Comment 2.5: This comment states that the DEIR does not include analysis of relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed Project to the surrounding community. The comment states that the Project is within a census tract ranked in the 95th percentile for ozone burden, the 94th percentile for PM 2.5 burden, the 78th percentile for diesel particulate matter burden, and the 80th percentile for traffic impacts which are all typically attributed to heavy truck activity in the area. The comment also states that the census tract is ranks in the 96th percentile for contaminated drinking water, the 85th percentile for toxic releases, the 87th percentile for solid waste facility impacts and the 94th percentile for hazardous waste facility impacts. The comment also states that the census tract consists of a diverse community that is especially vulnerable to impacts of pollution.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR.

CEQA is an environmental protection statute that is concerned with physical changes to the environment (CEQA Guidelines Section 15358(b)). The environment includes land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (CEQA Guidelines Section 15360). The Project's potential environmental justice effects are not considered effects on the environment (CEQA Guidelines Sections 15064(e) and 15131(a)). Thus, consistent with CEQA, the DEIR includes an analysis of the Project's potentially significant physical impacts on the environment and does not include substantial discussion of environmental justice. However, the DEIR provides a detailed evaluation of the potential cumulative air quality related impacts of the proposed Project upon the surrounding community (localized impacts) pursuant to SCAQMD methodology and thresholds, which is the appropriate due to the project's location within the South Coast Air Basin. The DEIR also provides a detailed evaluation of the potential cumulative water supply, water quality, hazardous waste, and solid waste impacts of the proposed Project. The comment concerning heavy truck traffic, regarding possible traffic impacts, no longer constitutes a significant environmental impact under CEQA Guidelines section 15064.3. CalEnviroscreen is a general policy tool. It is generally inappropriate for CEQA review. Regarding the existing pollution burden, the existing air quality in the Project area is described in DEIR Section 5.2, *Air Quality*. Table 5.2-2 provides data from the closest air quality monitoring station to the Project site (located at 14360 Arrow Boulevard, Fontana, California) between 2019 and 2021. Data from the air quality monitoring stations indicates that the PM2.5 federal standard had 3 exceedances in 2019, 4 exceedances in 2020, and no exceedances in 2021. The 1-hour ozone State standard was exceeded 41 times in 2019, 56 times in 2020, and an unknown number of times in 2021. The 8-hour ozone State standard was exceeded 71 times in 2019, 91 times in 2020, and an unknown number of times in 2021. The 8-hour ozone federal standard was 67 times in 2019, 89 times in 2020, and 81 times in 2021. While the Project vicinity has experienced exceedances of State and federal standards, the thresholds set forth by the SCAQMD are intended to be health protective and are based on Clean Air Act standards and recommendations by the EPA. Although there has been an increase in development in the South Coast Area Basin, emissions concentrations have declined, and air quality has generally improved over the last 30 years. As detailed under Impact AQ-2 in Section 5.2, *Air Quality*, of the DEIR, pollutant emissions associated with construction and operation of the Project would be below SCAQMD thresholds and the Project would not result in a net increase of a pollutant for which the region in in non-attainment.

As detailed on page 5.2-30 of the DEIR, a Construction Health Risk Assessment (included as Appendix B to the DEIR) was prepared to evaluate the health risk impacts as a result of exposure to diesel particulate matter (DPM) as a result of heavy-duty diesel trucks and equipment activities from Project construction. The results of the health risk assessment determined the maximum cancer risk for the sensitive receptor maximally effected individual (MEI) would be 0.23 in one million, which would not exceed the SCAQMD cancer risk threshold of 10 in one million. The work receptor risk would be 0.04 in one million, which would also not exceed the SCAQMD cancer risk thresholds. The total chronic hazard index would be 0.003 for the worker receptor MEI and 0.000 for the sensitive receptor MEI, which is below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0. As such, the Project would not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction activity.

An operational diesel mobile source health risk (included as Appendix B to the DEIR) was prepared to evaluate the operational health risk impacts as a result of exposure to DPM as a result of heavy-duty diesel trucks traveling to and from the Project site, maneuvering onsite, and entering and leaving the site during operation of the proposed industrial uses. Results of the operational health risk assessment identified the maximum cancer risk for the sensitive receptor MEI would be 2.34 in one million, which is below the SCAQMD threshold of 10 in one million. The worker receptor risk would be lower at 0.4 in one million. The total chronic hazard index would be 0.001 for the worker receptor MEI and 0.001 for the sensitive receptor MEI, which is below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0. Therefore, all health risk levels to nearby residents from operation-related emissions of TACs would be well below the SCAQMD's HRA thresholds and impacts would be less than significant.

The DEIR also included a long-term microscale (CO Hot Spot) analysis which determined Project-related vehicles are not expected to contribute significantly to result in the CO concentrations exceeding the State or federal CO standards. Therefore, as concluded in the DEIR, the Project would not impact nearby residences or schools.

Response to Comment 2.6: The comment claims that the CalEEMod-based modeling used in the DEIR does not comply with the 2022 Building Energy Efficiency Standards and under-reports the Project's significant energy impacts and fuel consumption to the public and decision makers. The comment states that since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made and that a revised EIR with modeling using the California Building Energy Code Compliance Software (CBECC) must be circulated for public review in order to adequately analyze the Project's significant environmental impacts.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The commenter incorrectly assumes the purpose of Title 24 and California Energy Commission approved software programs. The approved programs serve the purpose of being used under the performance approach (energy budget) method of compliance for the 2022 Energy Standards. Specifically, CBECC was approved for demonstrating compliance with the provisions of the 2022 Energy Code for an actual nonresidential building in operation and not for providing an estimate of overall energy use associated with a development project. The programs mentioned are not utilized for CEQA analysis because they do not provide construction and operational emissions or overall energy use associated with a particular project. CalEEMod, the California Emissions Estimator Model, 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 GHG emissions and energy use associated with both construction and operations from a variety of land use projects. CalEEMod contains default values for estimating water and energy use which may be useful for preparing hydrology and energy analyses in other sections of a CEQA document. The model was developed for the California Air Pollution Officers Association (CAPCOA) in collaboration with the California Air Districts. Additionally, the Project would be compliant with measures set forth in Title 24. Compliance with Title 24 would be verified through the plan check process. The comment does not contain any information requiring changes to the DEIR. No further response is warranted.

Response to Comment 2.7: This comment states that it is inappropriate for the Project's greenhouse gas (GHG) emissions modeling to take credit for the existing residences when the baseline of the DEIR states the residences are vacant and uninhabited. The comment states that the DEIR is inconsistent as it chooses the level of occupancy/operation of the site based on the ability to reduce environmental impacts. The comment states that the DEIR should be revised to remove any credit given to existing uses in order to accurately and adequately analyze the Project's environmental impacts.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

CEQA Guidelines Section 15125 provides that "the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published. As demonstrated in Chapter 2, *Errata*, of this Final EIR, DEIR Chapter 3, *Project Description*, properly discussed that at the time the DEIR was published, the homes were vacant and uninhabited. However, at the time the NOP was circulated for public review on September 30, 2022, the existing homes were inhabited. Following the publishing of the NOP, as of October 2022 the homes were i vacated to address public health and safety considerations and in anticipation of the development of the proposed Project. Thus, because the homes were inhabited at the time the NOP was published, it is appropriate to take into account the GHG emissions stemming from the existing residential uses.

Pursuant to State CEQA Guidelines Section 15125, the environmental baseline for the DEIR is September 30, 2022, the date the NOP was published.. As such, the GHG analysis conducted as part of the DEIR

properly takes credit for the existing emissions associated with the use of and the trips associated with onsite residences.

Response to Comment 2.8: The comment states that the DEIR does not consider the Project's required land use changes and associated significant and unavoidable cumulatively considerable impacts to air quality in its discussion and analysis related to consistency with land use plans, policies, and regulations.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As disclosed on page 5.2-24 of the DEIR, the Project would result in a conflict with implementation of the AQMP as buildout of the site would result in greater employment increases than included in the 2022 AQMP growth projections. As such, impacts related to conflict with the AQMP were determined to be significant and unavoidable. However, the commenter erroneously concludes that the AQMP serves as a land use plan, policy, or regulation. The AQMP is not considered a land use plan but instead is a regional blueprint for achieving air quality standards and healthful air. The 2022 AQMP represents a comprehensive analysis of emissions, meteorology, regional air quality modeling, regional growth projections, and the impact of control measures. The AQMP is regularly updated to reflect General Plan land use designations that occur. Therefore, a conflict with the AQMP does not constitute a significant impact related to land use and the analysis provided in Section 5.10, *Land Use and Planning*, properly discloses potential impacts related to conflict with any applicable land use plan, policy, or regulation and no revisions are necessary to the DEIR.

Response to Comment 2.9: This comment states that the DEIR does not include a consistency analysis for all the applicable goals and policies of the Fontana General Plan; the comment lists objectives, goals, policies, and actions from the Fontana General Plan.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Section 5.7, *Greenhouse Gases*, the Project includes sustainability measures that would minimize GHG impacts. Additionally, as demonstrated in DEIR Table 5.7-2, the Project is consistent with the CARB 2022 Scoping Plan and the policies contained within the document for the purposes of reducing GHG emissions.

Table 5.10-2 in Section 5.10, *Land Use and Planning,* provides a discussion of consistency with applicable policies from the Fontana General Plan. The goal of the consistency analysis is to provide the reader with a general overview of whether the Project is in harmony with the overall intent of the applicable goals and policies. It is within the City's purview to decide if the Project is consistent or inconsistent with applicable goals or policies.

CEQA only requires evaluation of potential goals and policies adopted to avoid or mitigate physical impacts on the environment. The remaining policies listed by the comment do not involve physical environmental impacts, and are focused on market trends, efficient use of land, economic benefits of development, and development location. Thus, evaluation of these policies is not required. CEQA is an environmental protection statute that is concerned with physical changes to the environment (CEQA Guidelines Section 15358(b)). The environment includes land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (CEQA Guidelines Section 15360). The Project's potential economic and social effects are not considered effects on the environment (CEQA Guidelines Sections 15064(e) and 15131(a)). The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes. Each section of the DEIR includes applicable City goals and policies as well as an analysis of the Project's consistency, as applicable, throughout the Project's impact analysis. Additionally, a compiled table of applicable goals and policies, along with the Project's consistency is included in Section 5.10, Land Use and Planning. No further response is required or provided.

Response to Comment 2.10: This comment claims that DEIR Table 5.10-1 SCAG RTP/SCS Consistency Analysis, does not provide an adequate consistency analysis with SCAG's 2020-2045 Connect SoCal RTP/SCS. The comment also mentions that there are errors in modeling and states that the Project is inconsistent with Goal 5, Goal 6, and Goal 7 of Table 5.10-1. The comment states that the EIR must be revised to include findings of significance due to inconsistency with the 2020-2045 RTP/SCS Connect SoCal document.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Responses 2b.3 through 2b.10 below, appropriate CalEEMod defaults were utilized and there are no errors in modeling. Substantial evidence supporting the SCAG RTP/SCS consistency analysis is provided in Section 5.2, *Air Quality* and Section 5.7, *Greenhouse Gas Emissions*. The Project consistency discussion within Table 5.10-1 provides justification for consistency with each goal. Thus, the DEIR does not need to be revised due to an inconsistency with the 2020-2045 RTP/SCS Connect SoCal document.

Response to Comment 2.11: This comment states that the Project conflicts with the statutory requirements of the Housing Crisis Act (HCA) of 2019/Senate Bill (SB) 330 and therefore must be revised to include a finding of significant due to the inconsistency.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The DEIR appropriately relies upon the City's Ordinance No. 1906 to comply with the provisions of SB 330. SB 330 requires in part that where a development project results in reducing the number of housing units allowed under existing City zoning, the City must identify a way in which an equivalent number of units could be accommodated in the city. In order to comply with SB 330, on October 11th, 2022, the Fontana City Council took action to approve Ordinance No. 1906; adding Article XV to Chapter 30 of the City's Municipal Code creating a No Net Loss Program. The article provides, concurrent with the approval of any change in zone from a residential use to a non-residential use, a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City. In doing so, the proposed ordinance will ensure that there is no net loss of residential capacity within the City as required by SB 330.

SB 330 specifically provides for alternative approaches beyond just rezoning property to ensure no net loss in residential capacity. Government Code 66300. Section (i)(1) states that "This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use *if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels* within the jurisdiction to ensure that there is no net loss in residential capacity". Ordinance 1906 ensures that upon rezoning properties subject to SB 330, the development standards, policies, and conditions applicable to other parcels are concurrently changed to ensure no net loss in residential capacity.

As it relates to the proposed Project, the applicant is utilizing this program to comply with the requirements of SB 330. The loss of 38 dwelling units, as allowed per the existing zoning of the Project site, or 40 dwelling units, which previously existed on the Project site, as a result of development of the Project would be added to the "No Net Loss Bank" to be used by subsequent residential developers to build their residential site at a higher density than what the zoning designation allows for. Ordinance No. 1906 has been deemed legally adequate; therefore, it is appropriate for the Project to rely on the use of the No Net Loss Bank in order to comply with SB 330. Further, the legality of Ordinance No. 1906 is outside of the purview of CEQA and this EIR.

Response to Comment 2.12: This comment states that utilizing the DEIR's calculation of 411 employees, the Project represents 2.2% of the City's employment growth from 2016 - 2045. The comment states that a single project accounting for this amount of projected growth over 29 years represents a significant amount of growth. The comment also states that the DEIR must include a cumulative analysis of the impact of the

proposed Project in combination with previous projects since 2016 and projects "in the pipeline" to determine if the Project would result in a cumulative exceedance of employment and population growth forecasts.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines states that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Section 5.12, *Population and Housing*, impacts from cumulative population growth are considered in the context of their consistency with local and regional planning efforts. The employment growth that is expected to occur from the Project is within the growth projections used to prepare SCAG's 2020-2045 RTP/SCS. Additionally, as shown on DEIR Table 5.12-4, the 2016 jobs-to-housing ratio for the City of Fontana was 1.10 and is projected to be 0.97 in 2045. This means that the City is housing rich. As described in DEIR Section 6.0, *Other CEQA Considerations*, the Project would improve the jobs-household ratio by providing employment within the housing-rich City of Fontana. The City of Fontana has an unemployment rate of 3.9% (Employment Development Department 2023), and most of the new jobs that would be created by the Project would be positions that do not require a specialized workforce, and this type of workforce exists in the City of Fontana and surrounding communities. Further, the projects referenced by the commenter would result in 5,180 employees or approximately 28 percent of the City's job growth over 29 years. However, these projects are all warehouse projects which, like the proposed Project, do not require a specialized workforce. Due to the significant amount of housing in comparison to jobs within the City, the workforce needed for the listed cumulative projects could be accounted for within the existing population of the City. Therefore, due to existing unemployment and the availability of a workforce, it is anticipated that new jobs generated from Project implementation and cumulative projects would be filled by people within the City of Fontana and surrounding communities and would not result in cumulatively considerable population growth resulting in an impact to the environment.

As provided by CEQA Guidelines Section 15064(c)(3), an indirect physical change, such as population growth, is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. An indirect physical change which is speculative or unlikely to occur is not reasonably foreseeable. Therefore, an estimate of construction workers relocating to the City or resulting in growth would be speculative and is not required under CEQA. Therefore, no further response is required or provided.

Response to Comment 2.13: The comment reiterates that the DEIR states future employees of the proposed Project are anticipated to come from within the region and would therefore not generate the need for additional housing. The comment also states the DEIR does not define "commuting distance" and notes that the commute needed to fill the Project's positions will increase significant rates of VMT and emissions.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion

supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As described in Response 2.12 above, most of the new jobs that would be created by the Project would be positions that do not require a specialized workforce, and this type of workforce exists in the City of Fontana and surrounding communities. DEIR Section 5.12, *Population and Housing*, notes it is possible that the demand for workers could induce some people to move to the region. However, this consideration would be highly speculative and de minimis, relative to the total number of workers in the region. The DEIR notes according to the U.S. Census Bureau, 9,473 individuals are employed in the construction industry in the City of Fontana and 60,801 individuals are employed in the construction industry in San Bernardino County as a whole (U.S. Census Bureau 2023). Therefore, the existing labor pool in the region can meet the construction needs of the Project, and this labor pool would increase with the continued projected growth of Fontana and surrounding communities. Additionally, the DEIR estimates operation of the Project would create up to 411 permanent jobs. The employees that would fill these roles are anticipated to come from the region, as the unemployment rate of the City of Fontana as of November 2022 was 3.9 percent, City of Rialto was 4.6 percent, City of Rancho Cucamonga was 3.0 percent, and the County of San Bernardino was 4.1 percent (State Employment Development Department 2023). Thus, due to existing unemployment and the availability of a workforce, it is anticipated that new jobs generated from Project implementation would be filled by people within the City of Fontana and surrounding communities and would not result in cumulatively considerable job growth.

Further, as noted in Response 2.12 above, as provided by CEQA Guidelines Section 15064(c)(3), an indirect physical change, such as population growth, is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. An indirect physical change which is speculative or unlikely to occur is not reasonably foreseeable. Therefore, an estimate of workers relocating to the City or resulting in growth would be speculative and is not required under CEQA. Additionally, the EIR is not required by CEQA to provide demographic or geographic information as to where these potential employees would come from, as such analysis would be speculative. Therefore, no further response is required or provided.

Response to Comment 2.14: The comment states that the Air Quality, Greenhouse Gas Emissions, Energy, and Transportation sections of the DEIR underestimate Project trips in order to reduce impacts to below significance thresholds. The comment asserts that credit for existing uses is inappropriate as the existing residences had been vacated at the time the DEIR was prepared.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate,

complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Response to Comment 2.7, and as demonstrated in Chapter 2, Errata, of this Final EIR, DEIR Chapter 3, *Project Description*, properly discussed that at the time the DEIR was published, the homes were vacant and uninhabited. However, at the time the NOP was circulated for public review on September 30, 2022, the existing homes were inhabited. After the NOP was published, the homes were vacated. CEQA Guidelines Section 15125 provides that "the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published." Thus, pursuant to State CEQA Guidelines Section 15125, the environmental baseline for the DEIR is September 30, 2022, the date the NOP was published. As such, the air quality, greenhouse gas emissions, energy, and transportation analysis conducted as part of the DEIR properly takes credit for the existing emissions associated with the use of and the trips associated with onsite residences.

Response to Comment 2.15: The comment states that preparation of LOS/VMT analyses would be required if credit for existing trips is not accounted.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As described in Response to Comment 2.14, the DEIR properly took credit for trips associated with the existing residences within the trip generation as occupation of the residences constitutes the environmental baseline for the Project. Therefore, no LOS analysis is required for the Project. Under Senate Bill (SB) 743, LOS, and similar measures of vehicular capacity or traffic congestion may no longer serve as the basis for determining significant impacts. As part of the 2019 amendments to the CEQA Guidelines, SB 743 directed that the revised CEQA Guidelines "shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses" (Public Resources Code Section 21099[b][1]); and that "automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment" (Public Resources Code Section 21099[b][2]). As such, pursuant to Public Resources Code Section 21099(b)(2), the DEIR is not required to include a LOS analysis.

Response to Comment 2.16: The comment states that the DEIR has underreported the quantity of VMT generated by the proposed Project. This is inaccurate as the Trip Generation and VMT Screening Analysis prepared by EPD on September 8, 2022 (Appendix M of the DEIR) does not report the quantity of VMT since the Project meets the City's small project screening threshold and no further VMT analysis was required.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion

supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

Regarding the assertion that truck VMT should be included in the analysis, *CEQA Guidelines § 15064.3* states the following:

> *"For the purposes of this section, "vehicle miles traveled" refers to the amount and distance of automobile travel attributable to a project. Other relevant considerations may include the effects of the project on transit and non-motorized travel"*

Additionally, the City of Fontana Traffic Impact Analysis (TIA) Guidelines for VMT and LOS Assessment is based on the California Governor's Office of Planning and Research (OPR) 2018 guidance for analyzing transportation impacts in CEQA. The OPR Guidance states that VMT is intended to be a measure of passenger vehicles (automobiles and light trucks), and not intended to measure truck trips intended for goods movement.

While SB 743's intent includes reducing GHG, it is not the sole intent of SB 743, as additional goals include encouraging the diversity of land uses, and encouraging alternative modes of transportation, etc. It should be noted that the GHG emissions from trucks are analyzed in DEIR Section *5.7, Greenhouse Gases*.

Further, the threshold adopted by Fontana was created by removing trucks and only analyzing passenger vehicles. As such, including trucks would not be consistent with the City's threshold, since it would not be an apples-to-apples comparison. Therefore, truck VMT was not included and is not warranted for CEQA.

Response to Comment 2.17: The comment states that the DEIR has not adequately analyzed the Project's potential to substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses; or the Project's potential to result in inadequate emergency access.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The comment incorrectly states that Figure 2 of DEIR Appendix M shows overlapping truck turning lines. Figure 2 was re-evaluated and it was determined that the Figure does not show any overlapping truck turning lines when considering ingress and egress of trucks as they turn. Additionally, the truck turning lines do not overlap at curves. Furthermore, the figures below show detailed truck turning templates. As seen in the figures below, sufficient spacing would be provided for trucks making turning movements as they enter and leave the site as well as circulating on-site.

The comment also mentions the lack of horizontal and vertical sight distance analysis in the DEIR. Regarding sight distance, Poplar Avenue and Catawba Avenue lack any horizontal curves since both roads are straight and lack any vertical curves since both roads are at grade. Additionally, the east and west Project driveways are perpendicular to Poplar Avenue and Catawba Avenue and on-street parking is not permitted; therefore, no objects would obstruct the view. As depicted in the Figures below, the line of sight shown at Project driveways clearly shows no view obstruction. The building plans will still go through additional plan checking to ensure sufficient sight distance is being provided in accordance with sight distance standards. As such, the DEIR correctly discloses potential impacts related to hazards from a geometric design features or emergency access and impacts would be less than significant.

Figure 1: Truck Turning Template A

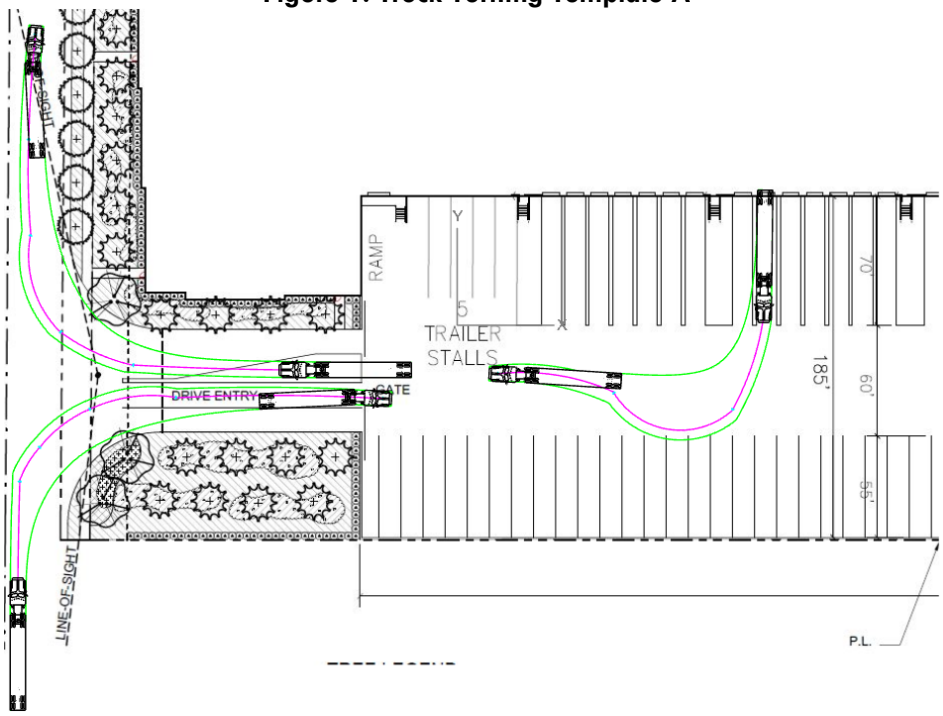
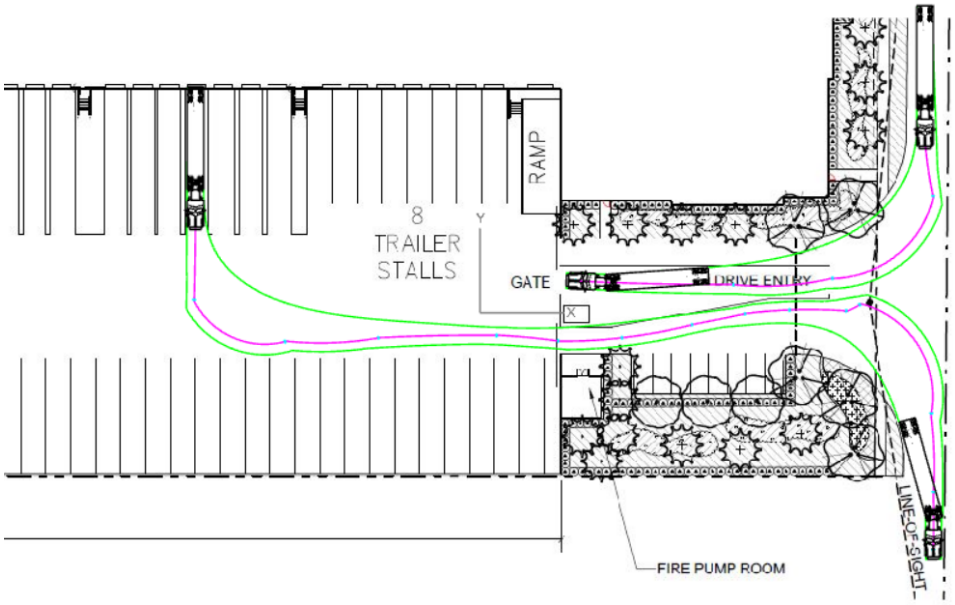


Figure 2: Truck Turning Template B



Response to Comment 2.18: The comment states the DEIR relies on erroneous energy modeling to determine the Project will meet sustainability requirements. The comment also states that the DEIR does not discuss the Project's significant and unavoidable impact related to air quality (consistency with AQMP) and the Project's required land use changes and therefore the DEIR must be revised.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Response 2.6 above, there is no requirement under CEQA that a project's energy modeling must be completed with CBECC. Thus, the City of Fontana affirms that the CalEEMod adequately discloses the Project's energy usage. The commenters' statement that the modeling provided in the DEIR does not comply with the 2022 Building Energy Efficiency Standards and under-reports the Project's significant energy impacts is incorrect. As noted in Section *5.5, Energy*, page 5.5-8, the Project would be required to comply with California Energy Code (Code of Regulations, Title 24 Part 6), demonstration of which is required prior to issuance of building permits). Additionally, the Project would be required to comply with idling limits imposed by CCR Title 13, Motor Vehicles, section 2449(d)(3) Idling and the City of Fontana's Industrial Commerce Centers Sustainability Standards. Therefore, the Project would comply with energy efficiency (Title 24) standards, idling restrictions imposed by CCR Title 13, and Fontana's Industrial Commerce Centers

Sustainability Standards and would not result in the inefficient, wasteful, or unnecessary consumption of building energy, and preparation of a revised or recirculated EIR is not necessary nor required.

As discussed in Chapter 6.0, Other CEQA Considerations, the Project includes a General Plan Amendment and Specific Plan Amendment that causes the Project land use designation to be inconsistent with the assumptions used to prepare the SCAQMD 2022 AQMP. However, while the Project has a significant and unavoidable air quality impact, the Project would comply with all other applicable City plans, policies, and ordinances. In addition, Project features and mitigation measures have been identified within the DEIR to ensure that the Project minimizes environmental impacts to all other environmental topic areas. As discussed in each respective environmental topic section within DEIR, the Project would not be anticipated to considerably contribute to other cumulative impacts. Therefore, no further response is required or provided.

Response to Comment 2.19: This comment states that the Project took credit for "existing uses" that are vacant and therefore the less than significant impact conclusions related to air quality, energy, greenhouse gas emissions, and transportation are invalid. The comment states that the DEIR should be revised to remove any credit given to existing uses in order to accurately and adequately analyze the Project's environmental impacts.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed in Response to Comment 2.7, and as demonstrated in Chapter 2, *Errata*, of this Final EIR, DEIR Chapter 3, *Project Description*, properly discussed that at the time the DEIR was published, the homes were vacant and uninhabited. However, at the time the NOP was circulated for public review on September 30, 2022, the existing homes were inhabited. After the NOP was published, the homes were vacated, As such, the GHG analysis conducted as part of the DEIR properly takes credit for the existing emissions associated with the use of and the trips associated with onsite residences.

Response to Comment 2.20: This comment also states that the DEIR did not include a cumulative analysis of the Project in combination with other planned projects in the city of Fontana and should be revised to include a cumulative analysis discussion.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues

addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The DEIR uses a combination of the list method and the projection method based on different topic areas. Table 5-1 of the DEIR lists cumulative projects utilized in the cumulative analysis of the Project. The list of cumulative projects was developed using a list of past, present and future projects within the Project vicinity. Cumulative impacts have been analyzed by environmental topic area within each respective environmental topic section (e.g., cumulative air quality impacts under Section 5.2, Air Quality etc.). In regard to employment growth associated with the Project and cumulative projects, as discussed in Section 5.12, *Population and Housing*, impacts from cumulative population growth are considered in the context of their consistency local and regional planning efforts. The employment growth that is expected to occur from the Project is within the growth projections used to prepare SCAG's 2020-2045 RTP/SCS. Additionally, as shown on DEIR Table 5.12-4, the 2016 jobs-to-housing ratio for the City of Fontana was 1.10 and is projected to be 0.97 in 2045. This means that the City is housing rich. As described in DEIR Section 6.0, *Other CEQA Considerations*, the Project would improve the jobs-household ratio by providing employment within the housing-rich City of Fontana. The City of Fontana has an unemployment rate of 3.9 (Employment Development Department 2023), and most of the new jobs that would be created by the Project would be positions that do not require a specialized workforce, and this type of workforce exists in the City of Fontana and surrounding communities. Further, the projects referenced by the commenter would result in 5,180 employees or approximately 28 percent of the City's job growth over 29 years. However, these projects are all warehouse projects which, like the proposed Project, do not require a specialized workforce. Due to the significant amount of housing in comparison to jobs within the City, the workforce needed for the listed cumulative projects could be accounted for within the existing population of the City. Therefore, due to existing unemployment and the availability of a workforce, it is anticipated that new jobs generated from Project implementation and cumulative projects would be filled by people within the City of Fontana and surrounding communities and would not result in cumulatively considerable population growth resulting in an impact to the environment. Therefore, cumulative impacts were disclosed within the DEIR, and determinations were made regarding the Project's cumulatively considerable impacts.

Response to Comment 2.21: This comment states that the DEIR does not adequately discuss that the Project's required land use designation changes increase the developable nonresidential area of the city. The comment states that due to the required land use changes, the growth generated by the Project was not anticipated by the General Plan, SWIP, RTP/SCS, or AQMP.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The proposed land use changes were analyzed throughout the DEIR as part of the proposed Project. While the Project requires a General Plan and Specific Plan amendment to change the zoning of the site, the proposed Project would be consistent with the General Plan land use designation and zoning designation after the amendment and consistent with the surrounding industrial uses. Additionally, as detailed within DEIR Table 5.10-2 and 5.10-3 below, the proposed Project would still be consistent with applicable City General Plan and SWIP Goals and Policies.

The Project would contribute to the economic and population growth in the City of Fontana and the surrounding areas. However, the growth would not be unexpected or constitute substantial unplanned growth. According to regional population projections included in SCAG's 2020-2045 RTP/SCS, the City of Fontana is projected to increase its population by 36 percent and its housing stock by 51 percent by 2045 at an annual growth rate of 1.76 percent (between 2016 and 2045). Over this same time period, employment in the City is expected to increase 1.1 percent annually. The Project's anticipated employment would make up approximately less than one percent of the city's annual population growth between 2016 and 2045. Thus, while the Project would contribute to employment growth through the proposed development within the Project site, projected increases in employment from the Project are within SCAG's 2020 RTP/SCS increases. Further, as detailed within DEIR Table 5.10-1, SCAG RTP/SCS Consistency Analysis, the Project as proposed would not conflict with the adopted RTP/SCS.

The DEIR determined that the Project would have a significant and unavoidable inconsistency with the AQMP because the required land use change from residential to industrial would be inconsistent with SCAG's forecast projections and therefore with the AQMP. Further, while the DEIR states that buildout would result in a greater employment generation in the air quality analysis and would result in "exceedance of SCAG's growth projections" for the designated land use, the DEIR does not state that this would result in "substantial" unplanned growth or that the Project would be inconsistent with SCAG's 2020-2045 RTP/SCS overall growth projection for the City of Fontana. Additionally, Section 5.12, Population and Housing of the DEIR discusses that the Project would generate approximately 411 jobs based on SCAG's employment generation factor of 1,195 SF of industrial space per employee, which would represent approximately 2.2 percent of SCAG's 2020-2045 RTP/SCS overall projected employment growth within the City of Fontana. Thus, while the Project would contribute to growth, it would be within the overall growth projections and would not be "substantial." Therefore, the Project's growth inducement analyses included in the DEIR are adequate and no further response is provided or required.

Response to Comment 2.22: This comment states that the DEIR does not provide an adequate analysis and discussion regarding the impact of the proposed Project in a cumulative setting. The comment provides a list of cumulative projects and warehouses in the vicinity of the proposed Project that the commenter asserts should have been included in the DEIRs cumulative Project analysis.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed Project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

Table 5-1 of the DEIR lists cumulative projects utilized in the cumulative analysis of the Project. The list of cumulative projects was developed using a list of past, present and future projects within the Project vicinity whose impacts would have the potential to combine with those associated with the proposed Project. The additional projects that the commenter provided were not included in the cumulative project list for the following reasons:

- Citrus Commerce Center was not included in the cumulative project list as it has been constructed and is currently fully operational. Therefore, the project is a current environmental condition and considered part of the proposed Project's environmental baseline.
- 16270 Jurupa Avenue was not included in the cumulative project list as it has been constructed and is currently fully operational. Therefore, the project is a current environmental condition and considered part of the proposed Project's environmental baseline.
- 13032 Slover Avenue was not included in the cumulative project list as it is located outside of the vicinity of the proposed Project and would utilize a different truck route to access Interstate 10, which would limit potential cumulative impacts from this project in combination with the proposed Project.
- Master Case No. 20-049 was not included in the cumulative project list as it is located north of Interstate 10 and would utilize a different truck route to access the Interstate, which would limit potential cumulative impacts from the project in combination with the proposed Project.

As discussed in Table 5-1 of the DEIR and shown in Figures 5-1a and 5-1b, Fontana Corporate Center was included as cumulative project number 1, Sierra Business Center was included as cumulative project number 26, Citrus and Oleander at Santa Ana Avenue was included as cumulative project number 40, and Cypress and Slover Warehouse was included as cumulative project number 24. These projects were therefore considered within the cumulative analysis throughout the DEIR.

Cumulative impacts have been analyzed by environmental topic area within each respective environmental topic section (e.g., cumulative air quality impacts under Section 5.2, Air Quality etc.). Therefore, cumulative impacts were disclosed within the DEIR, and determinations were made regarding the Project's cumulatively considerable impacts. In regard to cumulative population growth, the commenter is referred to Response to Comment 2.20.

Response to Comment 2.23: This comment states that the DEIR does not evaluate a reasonable range of alternatives as only one alternative beyond the required No Project alternative is analyzed.

The DEIR included a comprehensive analysis of Project Alternatives as required by CEQA Guidelines Section 15126.6. The "range of alternatives" to be evaluated is governed by the "rule of reason" and feasibility, which requires the EIR to set forth only those alternatives that are feasible and necessary to permit an informed and reasoned choice by the lead agency and to foster meaningful public participation (CEQA Guidelines Section 15126.6(f)). Additionally, State CEQA Guidelines Section 15126.6(b) emphasizes that the selection of project alternatives be based primarily on the ability to reduce impacts relative to the proposed project. As detailed in DEIR Section 8.0, *Alternatives*, two alternatives (Alternate Site Alternative and No Project/Buildout of Existing Land Use Alternative) were considered but ultimately rejected due to their infeasibility and failed ability to meaningfully reduce Project impacts while still meeting Project objectives. Instead, a No Project/No Development Alternative and a Reduced Project Alternative that would reduce the Project by 25 percent was considered. As such, the alternatives utilized by the EIR (No Project/No Development Alternative and Reduced Project Alternative) are sufficient pursuant to CEQA Guidelines Section 15126.6. No further response is required.

Response to Comment 2.24: This comment states that the commentor believes the DEIR is flawed and a revised EIR must be prepared for the proposed Project and circulated for public review. The commentor requests to be added to the public interest list regarding any subsequent environmental documents, public

notices, public hearings, and notices of determination for this Project. Therefore, no further response is required or provided.

The comment is conclusionary in nature and does not raise any specific concerns with the adequacy of the DEIR or raise any other specific CEQA issue. As substantiated by the responses above and below, none of the conditions arise which would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5. No new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented, there is no substantial increase in the severity of an environmental impact, no feasible project alternative or mitigation measure considerably different from others previously analyzed would lessen the environmental impacts of the proposed Project, and the Draft EIR is not fundamentally inadequate and conclusory in nature.

Response to Comment 2b.1: This comment states that SWAPE has reviewed the DEIR and states that the EIR fails to adequately evaluate the air quality, health risk, and greenhouse gas impacts.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As substantiated by the responses above and below, none of the conditions arise which would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5. No new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented, there is no substantial increase in the severity of an environmental impact, no feasible project alternative or mitigation measure considerably different from others previously analyzed would lessen the environmental impacts of the proposed Project, and the Draft EIR is not fundamentally inadequate and conclusory in nature.

Response to Comment 2b.2: This comment states that the CalEEMod default data was changed for modeling of the proposed Project and that CEQA requires such changes be justified by substantial evidence. The comment states that when default values in the program are changed, output files are produced which disclose to the reader which values within the program have been changed.

The comment is informational in nature and does not raise any specific concerns with the adequacy of the DEIR or raise any other specific CEQA issue. No revisions per this comment are required and no further response is required or provided.

Response to Comment 2b.3: This comment states that CalEEMod provides recommended default values based on site-specific information and that the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. The comment states that once all of the values are inputted into the model, the project's construction and operational emissions are calculated, and "output files" are generated that disclose what parameters are utilized in calculating the project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. The comment claims that CalEEMod version 2022.1 is relied upon to

estimate project emissions, which poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files. Further, the comment states that the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values and that previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values. The commenter claims that to remedy this issue, the DEIR should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

First, the commenter is incorrect that CalEEMod 2022.1 is a "soft release". As indicated in the CalEEMod release notes, CalEEMod version 2022.1 was approved for full launch on 12/21/2022 and the "soft release" message was removed[1]. As such, CalEEMod version 2022.1 is appropriate for use and previous CalEEMod versions, such as 2020.4.0 are outdated. Therefore, the appropriate version of CalEEMod was used and this analysis is adequate as presented.

In addition, as discussed on pages 10 and 11 of the CalEEMod User's Guide for CalEEMod version 2022.1, CalEEMod was designed to allow the user to change the defaults to reflect site- or project-specific information when available. As discussed in the CalEEMod User's Guide, if the user chooses to modify any defaults, an explanation will be required in the Justification box. Modifications to CalEEMod defaults are used when more detailed information is known about the project such as the construction timeline and the mix of equipment use. Modifications made to the CalEEMod defaults as a part of this Project were done in order to provide a more accurate snapshot of the Project's construction and operational details. Modifications to defaults and the explanations are noted in the output report. Further, the User's Guide states that comments are important because they show the user's justification for the modifications, which allows reviewers the ability to determine whether the modifications are appropriate and sufficiently justified. Page 81 of the CalEEMod outputs (Appendix A of the AQ/HRA/GHG/Energy Report) identifies the user changes that were made CalEEMod. The ".JSON" files are input files, not output files. As such, all output files were included in Appendix A of the AQ/HRA/GHG/Energy Report.

Response to Comment 2b.4: This comment states that the DEIR does not provide complete CalEEMod output files. The comment also states that several model inputs are not consistent with information disclosed in the DEIR. As a result, the Project's construction and operational emissions are underestimated and that an updated EIR should be prepared.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be

[1] California Air Pollution Control Officers Association (CAPCOA). Release Notes. Website: https://www.caleemod.com/release-notes (accessed September 2022).

accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

This comment is introductory in nature and does not raise any specific concerns with the adequacy of the DEIR or raise any other specific CEQA issue. Comments provided on CalEEMod inputs are further responded to in Responses 2b.5 through 2b.8 below. No revisions per this comment are required and no further response is required or provided.

Response to Comment 2b.5: This comment claims that the CalEEMod output includes only 210 parking spaces and that the DEIR should have modeled 308 total parking spaces to account for 210 vehicle parking spaces and 98 truck trailer parking spaces. This comment also states that by underestimating the proposed parking land use size, the models may underestimate the Project's construction-related and operational emissions and should not be relied upon to determine Project significance.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As shown in Appendix A of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), the CalEEMod output included 210 parking spaces to account for the passenger vehicle parking spaces. CalEEMod does not calculate parking area by the number of parking spaces. It is calculated by the acreage of the area. The DEIR Appendix B, page 97 details that 14.5 acres of the Project site would be used for the proposed warehouse building and 4.58 acres of the site would be used for parking lot. This totals 19.08 acres, which is the size of the Project site. Thus, development of the entire site has been included in the CalEEMod modeling and it does not underestimate the emissions from the construction or use of the parking area.

In addition, as shown on page 81 of the CalEEMod outputs, the overall acreage was adjusted to 19.08 acres to reflect the Project site acreage. Further, the default lot acreage for the parking lot land use was adjusted to reflect the Project site plan from 1.89 acres to 4.58 acres to account for the truck trailer parking spaces. As such, the proposed Project's parking lot was properly modeled and analyzed. The analysis conducted for the technical report and as presented in the DEIR is correct and is adequate.

Additionally, emissions from vehicles entering and leaving the site were quantified through the trip generation prepared for the Project (Table 8-1 of the DEIR) which was factored into the CalEEMod data. Therefore, the CalEEMod data for not underestimate the emissions from vehicles entering and leaving the site.

Response to Comment 2b.6: This comment states that the architectural coating phase was increased from the default value to 75 days and asserts that by altering and extending some of the individual construction phase lengths, the model assumes there are a greater number of days to complete the construction activities required by the extended phases resulting in less construction activities required per day and, consequently, less pollutants emitted per day.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The Project's construction duration in CalEEMod was based on the Project's anticipated construction schedule, as provided by the applicant, shown in Table 3-2 in the Project Description of the DEIR, which assumes that construction would be completed in 10 months. As such, the Project's construction schedule in CalEEMod is consistent with the Project Description. This is consistent with the instructions in the CalEEMod User's Guide that directs the user to use site-specific phasing. As discussed in the CalEEMod User's Guide, pages 33 through 35, the construction tab contains default information obtained from a survey of construction sites with a range of project types and sizes and provides default construction equipment lists and phase length data based on the total lot acreage of a project. The User's Guide states that if the user has more detailed site-specific equipment and phase information, the user should override the default values.

The analysis properly relied on Project-specific construction phases that accurately reflect the required construction activities necessary for Project buildout. The commenter has not provided any supporting documentation as to why the construction assumptions used in the analysis would not be representative of the Project's construction. This analysis is adequate as presented. Therefore, no further response is required or provided.

Response to Comment 2b.7: This comment claims that a review of the CalEEMod output files demonstrates that the "Poplar South Distribution Center Project - Vehicles and Light Duty Truck Trips" and "Poplar South Distribution Center Project - Heavy Heavy Truck Trips" models include changes to the default operational vehicle fleet mix percentages. The comment claims that these changes remain unsubstantiated and that the output files for CalEEMod 2022.1 do not present the numeric changes to any model defaults. Further, the comment claims that these unsubstantiated changes present an issue, as CalEEMod uses operational vehicle fleet mix percentages to calculate the Project's operational emissions associated with on-road vehicles and that by including several unsubstantiated changes to the default operational vehicle fleet mix percentages, the model may underestimate the Project's mobile-source operational emissions and should not be relied upon to determine Project significance.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As discussed on pages 46 and 47 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), trip generation rates used in CalEEMod for the Project were based on the Project's Vehicle Miles Traveled (VMT) Screening Analysis (Appendix M of the DEIR), which identifies that the proposed Project would generate approximately 687 average daily trips, including 547 passenger vehicle trips, 24 two-axle truck trips, 32 three-axle truck trips, and 84 four-axle truck trips. This analysis assumes that the four+-axle truck trips would travel approximately 40 miles. To be conservative, separate CalEEMod analyses were prepared for the operational analysis. One CalEEMod run evaluated operational and vehicle trip emissions and another CalEEMod run evaluated four+-axle truck trip emissions.

Therefore, the modeling is conservative as it increases the percentage of medium duty truck trips from the default 1.73% to 5.3% and increases the percentage of heavy heavy duty (HHD) truck trips from the default of 1.76% to assume 12.23% consistent with the VMT Screening Analysis prepared for the proposed Project. Further, the modeling increases the HHD trip length from the default lengths of 18.44 miles, 7.85 miles, and 6.39 miles to 40 miles consistent with SCAQMD recommendations for warehouse projects. As such, the commenter is incorrect that the modeling included unsubstantiated changes that may underestimate the Project's mobile source emissions. This analysis is adequate as presented. Therefore, no further response is required or provided.

Response to Comment 2b.8: This comment states that the use of Tier 4 Final construction equipment is not formally included as mitigation measures, and therefore the use of Tier 4 Final construction equipment cannot be verified.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

As identified on page 46 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), the proposed Project would utilize Tier 4 construction equipment as required by the City of Fontana's Industrial Commerce Center Sustainability Standards. As such, the use of Tier 4 construction equipment is considered part of the Project, not mitigation, and would be included in construction documents and specifications. Further, the use of Tier 4 construction equipment is required by the Fontana Industrial Commerce Sustainability Standards, which require that project applicants use the highest rated CARB Tier technology available at the time of construction. The Applicant has confirmed that the construction equipment on the Project would comply with Tier 4 Final emissions standards. As such, this analysis is adequate as presented. Therefore, no further response is required or provided.

Response to Comment 2b.9: This comment states that the commenter prepared an updated CalEEMod model, using the Project-specific information provided by the DEIR, omitting the unsubstantiated changes to the operational vehicle fleet mix and the inclusion of tier 4 mitigation and states that VOC emissions would increase by approximately 553% and exceed the applicable significance threshold resulting in a potentially significant air quality impact that was not previously identified or addressed in the DEIR.

As defined in State CEQA Guidelines Section 15384, argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, and evidence of social or economic impacts which does not contribute to or are not caused by physical impacts on the environment do not constitute substantial evidence. While the comment letter presents modeling that states that significant impacts would occur, this modeling is based on inaccurate data, erroneous fact, and speculation. Therefore, none of the modeling presented rises to the level of substantial evidence.

SWAPE Modeling Based on Clearly Erroneous Fact: This comment does not provide any substantial evidence that the Project would result in a significant environmental impact and relies on speculation and clearly erroneous fact that does not accurately represent Project-specific conditions. The commenter's analysis provided in Attachment A to the letter was carefully reviewed for purposes of considering the potential of the Project to result in air quality impacts. The CalEEMod model run prepared by the commenter does not accurately represent the proposed Project and does not include the specific construction details that the applicant has provided that have been utilized in the CalEEMod model run that was prepared for the project in order to provide the most accurate possible representation of the air quality and GHG impacts created by the Project. Further, the remodeling prepared improperly utilized an inaccurate, shorter construction schedule in CalEEMod. As shown, SWAPE incorrectly used a lower tier of construction equipment and decreased default construction timing, including construction timing for the architectural coating phase in order to intentionally and inaccurately increase construction impacts of VOCs. Further, SWAPE increased certain fleet mix defaults in order to further inflate impacts. Comment 2b.9 does not provide credible evidence of significant impacts that require the preparation of an EIR. No further response is warranted.

Response to Comment 2b.10: This comment asserts that the health risk assessment (HRA) is flawed due to the inputting of several purportedly incorrect values into the CalEEMod analysis. In addition, the comments claim that the DEIR fails to mention or provide the exposure assumptions for the HRA, such as age sensitivity factors or fraction of time at home, and that the HRA uses the incorrect equation when calculating the Project's cancer risks, and is therefore inconsistent with guidance set forth by the Office of Environmental Health Hazard Assessment (OEHHA).

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination

of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The HRA input parameters are included in Appendix B, HRA Model Output, of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR). The HRA was prepared to evaluate construction-period and operational health risk to off-site receptors associated with the proposed Project. The equation for calculating cancer risk as well as exposure assumptions used in the construction HRA was based on and consistent with OEHHA guidance.

The following limits for maximum individual cancer risk (MICR) and noncancer acute and chronic Hazard Index (HI) from project emissions of TACs are based on regulatory guidance for use in determining the health risk for projects in the South Coast Air Basin:

- **MICR:** MICR is the estimated probability of a maximally exposed individual (MEI) contracting cancer as a result of exposure to TACs over a period of 30 years for adults and 9 years for children in residential locations and over a period of 25 years for workers. The MICR calculations include multipathway consideration.

  The cumulative increase in MICR that is the sum of the calculated MICR values for all TACs would be considered significant if it would result in an increased MICR greater than 10 in 1 million (1 x 10-5) at any receptor location.

- **Chronic HI:** Chronic HI is the ratio of the estimated long-term level of exposure to a TAC for a potential MEI to its chronic reference exposure level. The chronic HI calculations include multipathway consideration.

  The Project would be considered to have a significant health risk impact if the cumulative increase in total chronic HI for any target organ system would exceed 1.0 at any receptor location.

- **Acute HI:** Acute HI is the ratio of the estimated maximum 1-hour concentration of a TAC for a potential MEI to its acute reference exposure level.

  The Project would be considered to have a significant health risk impact if the cumulative increase in total acute HI for any target organ system would exceed 1.0 at any receptor location.

For the purposes of an HRA, emissions are analyzed for acute health impacts, chronic, and carcinogenic health impacts. A multi-pathway assessment was conducted to evaluate the Project's emissions during construction following the modeling techniques recommended in the OEHHA *Air Toxic Hot Spots Program Risk Assessment Guidelines*[2]. The OEHHA has determined that long-term exposure to diesel exhaust particulates poses the highest cancer risk of any toxic air contaminant (TAC) it has evaluated. Exposure to diesel exhaust can also have immediate health effects. For risk assessment procedures, the OEHHA specifies that the surrogate for whole diesel exhaust is diesel particulate matter (DPM). The HRA analyses used PM10 emissions to represent DPM emissions, consistent with OEHHA guidance.

[2] California Environmental Protection Agency (CalEPA) Office of Environmental Health Hazard Assessment (OEHHA). 2015. *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments.* March. Website: https://oehha.ca.gov/air/air-toxics-hot-spots (accessed September 2023).

The conservative nature of this analysis is due primarily to the following three factors:

- The California Air Resources Board (CARB)-adopted diesel exhaust unit risk factor (URF) of 300 in 1 million per microgram per cubic meter (µg/m3) is based on the upper 95th percentile of estimated risk for each of the epidemiological studies used to develop the URF. Therefore, the risk factor is already representative of the conservative risk posed by DPM.

- The risk estimates assume sensitive receptors would be subject to DPM 24 hours per day, 350 days per year. As a conservative measure, the SCAQMD does not recognize indoor adjustments for residents. However, typical people spend the majority of their time indoors versus remaining outdoors 24 hours per day, 350 days per year.

- The exposure to DPM is assumed to be constant for the given period analyzed (i.e., 30 years for the residential receptors and 25 years for the worker receptors). However, emissions from DPM are expected to substantially decrease in the future with the implementation of standard regulatory requirements and technological advancement to reduce DPM.

As described on pages 47 and 48 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), a construction HRA, which evaluates construction-period health risk to off-site receptors, was performed for the proposed Project. To estimate the potential cancer risk associated with construction of the proposed Project from equipment exhaust (including DPM), a dispersion model was used to translate an emission rate from the source location to a concentration at the receptor location of interest (i.e., a nearby residence and worksites). The HRA analyses used PM10 emissions to represent DPM emissions, consistent with OEHHA guidance[3]. Dispersion modeling varies from a simpler, more conservative screening-level analysis to a more complex and refined detailed analysis. This refined assessment was conducted using the CARB exposure methodology with the air dispersion modeling performed using the United States Environmental Protection Agency (USEPA) dispersion model AERMOD. The model provides a detailed estimate of exhaust concentrations based on site and source geometry, source emissions strength, distance from the source to the receptor, and meteorological data. Meteorological and terrain model inputs are included in the AERMOD input files.

In addition, as described on pages 47 and 48 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), an operational HRA was conducted for the proposed Project using three models: (1) EMFAC2021 for on-road vehicle emissions factors and percentages of fuel type within the overall vehicle fleet; (2) the USEPA AERMOD air dispersion model to determine how the TACs would move through the atmosphere after release from sources both on site and on surrounding roadways; and (3) CARB's HARP2 model to translate the pollutant concentrations from AERMOD into individual health risks at any sensitive receptor locations surrounding the Project site. The proposed Project would generate approximately 687 average daily trips, including 547 passenger vehicle trips, 24 two-axle truck trips, 32 three-axle truck trips, and 84 four-axle truck trips. The trucks would access the site by two driveways located in Poplar Avenue and two driveways located in Catawba Avenue. The proposed Project would provide 42 dock doors; as the Project would contain multiple loading docks, off-site queuing of trucks is not anticipated. While the TAC emissions from gasoline-powered vehicles have a small health effect compared to DPM, the HRA included both gasoline- and diesel-powered vehicle emissions. For the diesel exhaust emissions, it is sufficient to only consider the DPM (PM10 and PM2.5) portions of the exhaust; all the TACs for the gasoline exhaust emissions are contained in the reactive organic gases (ROG) emissions. Using speciation data from CARB, the emission rates of the TAC components are derived from the total ROG emissions. EMFAC2021 was used to determine the emissions factors of idling and operating diesel trucks to determine the total emissions of DPM. As such, the commenter is incorrect that the HRA underestimated DPM concentrations to calculate the health risks.
The dose-response relationship for a specific pollutant describes the association between exposure and the observed response (health effect). In other words, the relationship estimates how different levels of exposure

[3] CalEPA OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. March. Website: http://oehha.ca.gov/air/hot_spots/hotspots2015.html (accessed September 2023).

to a pollutant change the likelihood and severity of health effects. The dose-response relationship (the response occurring with increasing doses) varies with each pollutant, individual sensitivity, and type of health effect. Combining the results of the emission characterization and dispersion modeling described above with the dose-response assessment gives an estimate of the increased health risk for an individual exposed to the maximum predicted long-term concentrations of TACs.

The residential risk incorporates both the risk for a child living in a nearby residence for 9 years (the standard period of time for child risk) and an adult living in a nearby residence for 30 years (considered a conservative period of time for an individual to live in any one residence). The HRA modeling utilized discrete variants for daily breathing rates, exposure frequency, and exposure duration based on default rates as presented in the OEHHA guidance document entitled *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*[4] and guidance from the SCAQMD.

The HRA analysis properly relied on OEHHA guidance, and the commenter has not provided any supporting documentation as to why the health risk assumptions and calculations used in the analysis would not be representative of the proposed Project. The analysis is adequate as presented and the DEIR correctly discloses potential DPM impacts to nearby sensitive receptors. No additional analysis is required.

Response to Comment 2b.11: This comment states that the DEIR GHG analysis is incorrect because it relies upon an incorrect and unsubstantiated air model, an outdated threshold, fails to identify a potentially significant impact, and fails to consider the performance-based standards under CARB's Scoping Plan.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

This comment is introductory in nature and does not provide substantial evidence of any environmental impact. Responses to the concerns brought up in this comment are addressed through Response to Comment 2b.12 through 2b.15.

Response to Comment 2b.12: This comment states that the DEIR's quantitative analysis is unsubstantiated because several of the values inputted into the models as referred to by previous comments are not consistent with information disclosed in the DEIR, and that emissions may be underestimated.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered

[4] CalEPA OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments*. March. Website: https://oehha.ca.gov/air/air-toxics-hot-spots (accessed September 2023).

significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

This comment refers to previous comments presented by SWAPE regarding CalEEMod inputs. As detailed previously in responses 2b.3 through 2b.10, modeling inputs are either Project detailed specific or CalEEMod defaults, which provide a conservative analysis of potential impacts of the Project. This comment does not provide specific details of which values may not be consistent; thus, no further response is required or provided.

Response to Comment 2b.13: This comment states that the use of a 3,000 MT CO2e is outdated and that a service population efficiency target of 3.0 MT CO2e/SP/year should be used which was calculated by applying a 40% reduction to the 2020 targets.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

CEQA Guidelines Section 15064.4 provides discretion to the lead agency to determine what methodology and threshold to use to determine if GHG emissions are potentially significant. SCAQMD used the Executive Order S-3-05-year 2050 goal as the basis for the 3,000 MT CO2e. Achieving the Executive Order's objective would contribute to worldwide efforts to cap CO_2 concentrations at 450 ppm, thus stabilizing global climate.

In addition, a non-zero threshold approach based on Approach 2 of the CAPCOA CEQA and Climate Change handbookis the 3,000 $MTCO_2e$ per year threshold. Threshold 2.5 (Unit-Based Thresholds Based on Market Capture) of the CAPCOA CEQA and Climate Change handbook establishes a numerical threshold based on capture of approximately 90 percent of emissions from future development. The latest threshold developed by SCAQMD using this method is the 3,000 $MTCO_2e$ per year screening threshold.

In setting the threshold at 3,000 MTCO2e per year, SCAQMD researched a database of projects kept by the Governor's Office of Planning and Research (OPR). That database contained 798 projects, 87 of which were removed because they were very large projects and/or outliers that would skew emissions values too high, leaving 711 as the sample population to use in determining the 90th percentile capture rate. The SCAQMD analysis of the 711 projects within the sample population combined commercial, residential, and

mixed-use projects. It should be noted that the sample of projects included warehouses and other light industrial land uses but did not include industrial processes (i.e., oil refineries, heavy manufacturing, electric generating stations, mining operations, etc.). Emissions from each of these projects were calculated by SCAQMD to provide a consistent method of emissions calculations across the sample population and from projects within the sample population. In calculating the emissions, the SCAQMD analysis determined that the 90th percentile ranged between 2,983 to 3,143 MTCO2e per year. The SCAQMD set their significance threshold at the low-end value of the range when rounded to the nearest hundred tons of emissions (i.e., 3,000 MTCO2e per year) to define small projects that are considered less than significant and do not need to provide further analysis.

The City understands that the 3,000 MTCO2e per year threshold was proposed by SCAQMD over a decade ago and was adopted as an interim policy; however, no permanent, superseding policy or threshold has since been adopted. The 3,000 MTCO2e per year threshold was developed and recommended by SCAQMD, an expert agency, based on substantial evidence as provided in the Draft Guidance Document – Interim CEQA Greenhouse Gas Significance Threshold (2008) document and subsequent Working Group meetings (latest of which occurred in 2010). SCAQMD has not withdrawn its support of the interim threshold and all documentation supporting the interim threshold remains on the SCAQMD website on a page that provides guidance to CEQA practitioners for air quality analysis (and where all SCAQMD significance thresholds for regional and local criteria pollutants and toxic air contaminants also are listed). Further, as stated by SCAQMD, this threshold "uses the Executive Order S-3-05 goal [80 percent below 1990 levels by 2050] as the basis for deriving the screening level" and, thus, remains valid for use in 2023 (SCAQMD, 2008, pp. 3-4). Lastly, this threshold has been used for hundreds, if not thousands of GHG analyses performed for projects located within the SCAQMD jurisdiction. Overall, the City has the discretion to select an evidence-based threshold, which is not outdated and is consistent with both regional and local evaluations of GHG emissions impacts and provides a conservative analysis of GHG related environmental effects. Therefore, no further response is required or provided.

Response to Comment 2b.14: This comment states that an analysis provided by the commenter exceeds the commenter recommended service population threshold and states that since there is no population, it included the employees as the population.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

The use of a service population threshold as described by the comment is not supported by substantial evidence that adequately explains how a service population threshold derived from Statewide data could constitute an appropriate GHG metric to be used for the proposed warehouse Project. As described in Response to Comment 2b.13, CEQA Guidelines Section 15064.4 provides discretion to the lead agency to determine what methodology and threshold to use to determine if GHG emissions are potentially significant,

and the City's use of the 3,000 MTCO2e per year threshold is supported by substantial evidence. Further, as detailed in DEIR Table 5.6-1, the proposed Project would result in net annual emissions of 2,893.3 MT/year CO2e. Therefore, operation of the proposed Project would not generate significant GHG emissions that would have a significant effect on the environment, impacts would be less than significant, and no mitigation measures are required.

Response to Comment 2b.15: This comment states that the DEIR failed to consider performance-based standards under CARB's 2017 Scoping Plan and therefore cannot claim that the Project would not conflict with the CARB 2017 Scoping Plan.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.

CARB does not set the VMT thresholds for the City. Instead, the City sets their own thresholds for determining VMT impacts as described in their City guidelines, as allowed under CEQA Guidelines Section 15064.7. As discussed in DEIR Section 5.14, Transportation, the proposed Project's VMT-related transportation impacts were evaluated using the City of Fontana's *Transportation Impact Analysis Guidelines* which contain four screening thresholds to assess whether a project has the potential to result in an impact and further VMT analysis is required. According to the City's guidelines, projects which would generate fewer than 500 average daily trips (ADT) would not cause a substantial increase in the total citywide or regional VMT. As shown in DEIR Table 5.14-1, the Project would result in an increase of 300 daily trips. Because the Project would generate an increase of less than 500 ADT, it would satisfy the requirements for Screening Criteria 4 – Net Daily Trips less than 500 ADT. Therefore, the Project is presumed to have a less than significant impact on VMT. Therefore, the Project would not conflict with CARB's performance standards for VMT as the Project TAZ's VMT/employee is below the performance standards set forth by CARB.

Response to Comment 2b.16: This comment states that the commenter's analysis in Comment 2b.13 shows that impacts would be potentially significant and provides a list of mitigation measures found in the California Department of Justice Warehouse Project Best Practices document.

As discussed throughout this Final EIR, the Project would not result in any significant impacts to air quality emissions (with the exception of conflict with the AQMP related to growth projections), greenhouse gas emissions, or health risks. Therefore, pursuant to CEQA Guidelines Section 15126.4, subd. (a)(4)(A)–(B), there is no nexus between mitigation outlined in the comment letter and impacts from the Project. Further, pursuant to CEQA Guidelines Section 15126.4(a)(3), mitigation measures are not required for impacts deemed less than significant. While the Project would result in a significant and unavoidable air quality impact due to the Project's required land use changes, all other air quality impacts were determined to be less than significant. There are no feasible mitigation measures available to reduce impacts related to the Project's conflict with the AQMP, therefore this impact remains significant and unavoidable. The comment provides the commenter's opinion and does not raise any specific concerns with the adequacy of the Draft EIR. Therefore, no further response is required.

Response to Comment 2b.17: This comment states that as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design.

As described on DEIR page 5.5-8, the proposed Project would be required to meet the CCR Title 24 energy efficiency standards in effect during permitting of the proposed Project. In addition, the Project would provide a solar-ready roof. Future building tenants would be able to install solar panels in order to offset 100 percent of the facility's future operational energy demands. Thus, solar power would be incorporated into the Project design. Therefore, no further response is required or provided. The comment provides the commenter's opinion and does not raise any specific concerns with the adequacy of the Draft EIR. Also, the comment provides no substantial evidence of a significant impact. Therefore, no further response is required.

Response to Comment 2b.18: This comment states that a revised EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds.

As detailed in previous responses herein and in DEIR Sections 5.2, *Air Quality*, and 5.7, *Greenhouse Gas Emissions*, the proposed Project would not exceed any of the SCAQMD or City thresholds for air quality and GHG emissions with incorporation of existing SCAQMD regulations for construction and operation of the proposed Project. Therefore, pursuant to CEQA Guidelines Section 15126.4, subd. (a)(4)(A)–(B), there is no nexus between mitigation outlined in the comment letter and impacts from the Project. The comment provides the commenter's opinion and does not raise any specific concerns with the adequacy of the Draft EIR. As substantiated by the responses above and below, none of the conditions arise which would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5. No new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented, there is no substantial increase in the severity of an environmental impact, no feasible project alternative or mitigation measure considerably different from others previously analyzed would lessen the environmental impacts of the proposed Project, and the Draft EIR is not fundamentally inadequate and conclusory in nature.

Response to Comment 2b.19: This comment states that the commenter has received limited discovery regarding the Project, additional information may become available in the future; and the commentor retains the right to revise or amend this report when additional information becomes available.

The comment is conclusionary in nature and does not raise any specific concerns with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is required.

Response to Comment 2b.20 Attachments A through D: These attachments to the comment letter provide multiple CalEEMod model runs used to substantiate the comments provided and responded to above and provides resumes of SWAPE professionals who provided the SWAPE comments.

The comment does not raise any specific concerns with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is required.

Comment Letter 3: CARE CA, dated August 28, 2023.

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August 28, 2023

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Re: Comments on the Draft Environmental Impact Report for the Poplar South Distribution Center (SCH No. 2022090611)

Dear Mr. Rico and Ms. Nevins:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") to provide comments on the Draft Environmental Impact Report ("DEIR") prepared by the City of Fontana ("City") for the Poplar South Distribution Center (SCH No. 2022090611) ("Project"), proposed by Seefried Industrial Properties ("Applicant").

The Project proposes the demolition of 40 existing residences and associated structures on the Project site and a Tentative Tract Map for the merger of 41 existing parcels into one 19.08-acre parcel, as well as the construction of a 490,565-square foot (SF) warehouse building. The proposed building would consist of a new 51-foot-tall industrial building that would support warehouse and office uses. The proposed building area would be 490,565 SF, inclusive of 480,565 SF of warehouse space and 10,000 SF of mezzanine, which would be used for office space. The Project site surrounds the existing Rose Avenue south of Santa Ana Avenue, west of Catawba Avenue, north of Jurupa Avenue, and east of Poplar Avenue in the City of Fontana, San Bernardino County, California. The Project site encompasses approximately 19.08 gross acres (18.82 net acres) and is comprised of 41 parcels

3.1

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identified as Assessor's Parcel Numbers 0237-171-01 through -19, 0237-172-01 through -12, -19, -22, -23, -26, -27, -28, and -30 through -33.

Based on our review of the DEIR and supporting documentation, we conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA")[1]. The DEIR fails to adequately analyze the Project's cumulative impacts in light of the community's existing pollution burden resulting from similar warehouse projects, and fails to propose feasible and enforceable mitigation measures to reduce those impacts to a less than significant level, as required by CEQA. The DEIR also fails to identify significant noise and growth inducement impacts. We reviewed the DEIR and its technical appendices with the assistance of noise expert Jack Meighan.[2] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[3]

3.1 Cont.

As explained in these comments, the DEIR lacks substantial evidence to support its conclusions with regard to the Projects' impacts relating to air quality, health risks, greenhouse gases, noise, and growth inducement. The City may not approve the Project until the City revises the Project's DEIR to adequately analyze the Project's significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts to the greatest extent feasible.

I. STATEMENT OF INTEREST

CARE CA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental impacts of the Project. The coalition includes Fontana residents Joel Miller, Rafael Fuentes and Ricardo Alvarado, the District Council of Ironworkers and Southern California Pipe Trades DC 16, along with their members, their families, and other individuals who live and work in Fontana and in San Bernardino County.

3.2

[1] Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs ("CEQA Guidelines") §§ 15000 et seq. ("CEQA Guidelines").
[2] Mr. Meighan's technical comments and curricula vitae are attached hereto as Exhibit A.
[3] Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

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CARE CA advocates for protecting the environment and the health of their communities' workforces. CARE CA seeks to ensure a sustainable construction industry over the long-term by supporting projects that offer genuine economic and employment benefits, and which minimize adverse environmental and other impacts on local communities. CARE CA members live, work, recreate, and raise their families in the City of Fontana and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite. 3.2 Cont.

In addition, CARE CA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[4] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[5] 3.3

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.[6] "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

[4] PRC § 21100.
[5] *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal ("Laurel Heights I")* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).
[6] Pub. Resources Code § 21061; CEQA Guidelines §§ 15002(a)(1); 15003(b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").

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'protects not only the environment but also informed self-government.'"[7] 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."[8] As the CEQA Guidelines explain, "[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected."[9]

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.[10] The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced."[11] If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[12]

3.3 Cont.

While 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."[13] As the courts have explained, 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."[14] "The ultimate inquiry, as case

[7] *Citizens of Goleta Valley*, 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).
[8] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; *see also Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*") (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).
[9] CEQA Guidelines § 15003(b).
[10] CEQA Guidelines § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.
[11] CEQA Guidelines § 15002(a)(2).
[12] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.
[13] *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).
[14] *Berkeley Jets*, 91 Cal.App.4th at p. 1355; *see also San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117

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law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'"[15]

3.3 Cont.

II. THE DEIR FAILS TO DISCLOSE, ANALYZE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS

An EIR must fully disclose all potentially significant impacts of a Project and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact must be supported by accurate scientific and factual data.[16] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[17]

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.[18] Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.[19] In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."[20]

3.4

Additionally, CEQA requires agencies to commit to all feasible mitigation measures to reduce significant environmental impacts.[21] In particular, the lead agency may not make required CEQA findings, including finding that a project impact is significant and unavoidable, unless the administrative record

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(decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

[15] *Sierra Club*, 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).

[16] CEQA Guidelines § 15064(b).

[17] *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

[18] *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

[19] *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

[20] *Id., Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.

[21] CEQA Guidelines § 15002(a)(2).

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demonstrates that it has adopted all feasible mitigation to reduce significant environmental impacts to the greatest extent feasible.[22]

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not '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."'[23] 3.4 Cont.

A. The DEIR Fails to Adequately Disclose, Analyze and Mitigate the Project's Cumulative Impacts

An EIR must evaluate a cumulative impact if the project's incremental effect combined with the effects of other projects is "cumulatively considerable."[24] This determination is based on an assessment of the project's incremental impacts "viewed in connection with the effects of past project, the effects of other current projects, and the effects of probable future projects."[25] Proper cumulative impact analysis is vital because "the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact."[26] 3.5

1. The List of Projects in the DEIR's Cumulative Impacts Analyses is Incomplete

The CEQA Guidelines set forth two methods for satisfying the cumulative impacts analysis requirement: the list of projects approach and the summary of projections approach.[27] Under the former, an adequate discussion of cumulative impacts requires "a list of past, present, and probable future projects producing 3.6

[22] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090, 15091; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.
[23] *Berkeley Jets*, 91 Cal.App.4th at 1355.
[24] CEQA Guidelines § 15130(a).
[25] *Id.*, §§ 15065(a)(3), 15355(b).
[26] *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114.
[27] CEQA Guidelines, § 15130(b)(1) and (2).

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related or cumulative impacts..."[28] Relevant factors when compiling a list of related projects include the environmental resource being examined and the location and type of the project.[29] The Guidelines expressly recognize that project type may be important "when the impact is specialized, such as a particular air pollutant or mode of traffic."[30]

Here, the DEIR purports to use the "summary of projections" approach for the air quality, greenhouse gas emissions, and transportation analysis.[31] The DEIR states that the "cumulative analyses for other environmental issues use the list of projects approach."[32]

3.6 Cont.

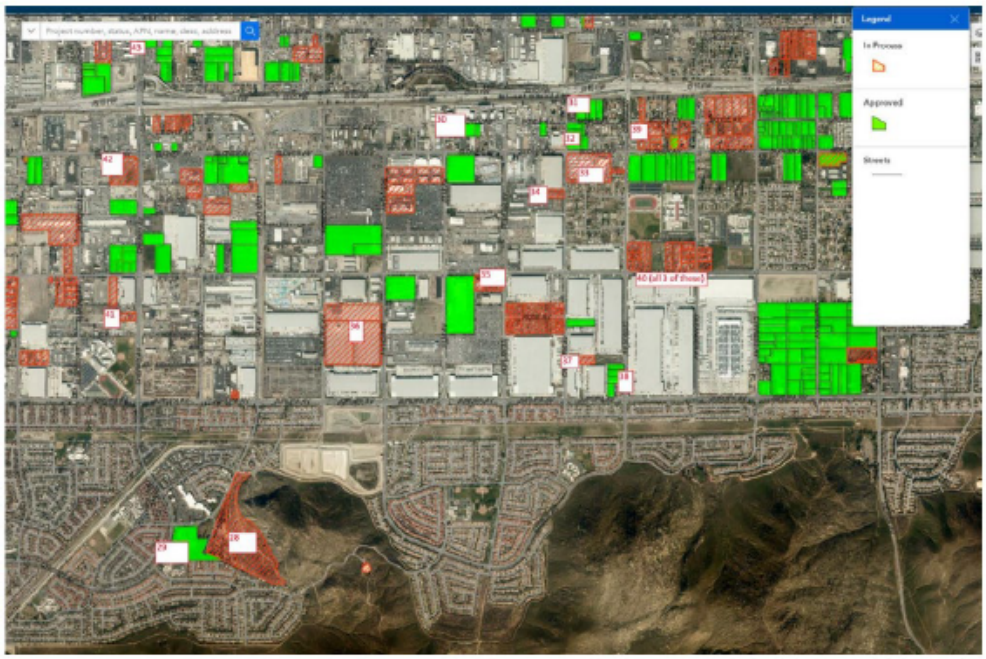
The list of projects used in the DEIR's cumulative impacts analysis is incomplete, as it excludes industrial/warehouse projects directly adjacent to this proposed Project. Per the DEIR, "Table 5-1 provides a list of projects considered in this cumulative environmental analysis, which was compiled per information provided by each agency, and Figure 5-1 (reproduced below) shows the locations."[33]

[28] *Id.*, § 15130(b)(1)(A).
[29] *Id.*, § 15130(b)(2).
[30] *Id.*
[31] DEIR, pg. 5-3.
[32] *Id.*
[33] *Id.*

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DEIR Figure 5-1b



3.6 Cont.

Because the DEIR states that the cumulative environmental analysis only considers projects identified in the list, omission of other past, present, and probable future projects producing related or cumulative impacts renders the analysis incomplete. Here, the list of cumulative projects fails to include many industrial buildings/warehouses located adjacent or near the Project. These land uses must be included in a legally adequate cumulative impacts analysis due to the potential for overlapping/combining impacts. For example, industrial/warehouse projects attract diesel truck traffic, with accompanying aesthetic, air emissions, noise and street traffic impacts. A non-exhaustive list of the warehouses adjacent to or near the Project site that were omitted from the cumulative projects list include:

- 15801 Santa Ana Ave, Fontana, CA 92337 (GPA Logistics)
- 15750 Jurupa Ave, Fontana, CA 92337 (Stanley Black and Decker Distribution)
- 11188 Citrus Ave, Fontana, CA 92337 (Wal Mart Distribution Fontana 3109)

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- 15996 Jurupa Ave, Fontana, CA 92337 (STG Logistics)
- 15971 Santa Ana Ave, Fontana, CA 92337 (Delta Galil Distribution)
- 11250 Poplar Ave, Fontana, CA 92337 (Go Plus Corp.)

The locations of these projects are identified in the figure below, with a red "x" indicating the warehouse projects missing from the list of cumulative projects.



The DEIR's failure to include these projects in the cumulative projects list renders the analyses that rely on the list incomplete and deficient under CEQA. These analyses include all but the air quality, greenhouse gas emissions, and transportation sections of the DEIR. The analyses relying on the list are therefore unsupported by substantial evidence because they fail to consider the industrial/warehouse land uses closest to the Project site, which are most likely to cause cumulative impacts. The City must revise and recirculate a DEIR that includes a complete cumulative impacts analysis.

3.6 Cont.

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2. The DEIR's Cumulative Air Emissions Analysis Does Not Comply with CEQA or Attorney General Warehouse Guidance

The DEIR fails to adequately analyze the Project's cumulative air quality emissions. The DEIR asserts that, under South Coast Air Quality Management District ("SCAQMD") guidance, any exceedance of a regional or localized threshold for criteria pollutants also is considered to be a cumulatively-considerable effect, while air pollutant emissions that fall below applicable regional and/or localized thresholds are not considered cumulatively-considerable.[34]

The DEIR fails to note that SCAQMD's approach is outdated, as evidenced by its ongoing process to update its cumulative impacts guidance.[35] The DEIR's approach has been also rejected by the courts for failing to comply with CEQA's requirement that a project mitigate impacts that are "cumulatively considerable."[36] The City's failure to actually examine the Project's cumulative air quality impacts violates CEQA's requirement to analyze cumulative impacts. 3.7

The leading case on this issue is *Kings County Farm Bureau v. City of Hanford*.[37] In *Kings County*, the city prepared an EIR for a 26.4-megawatt coal-fired cogeneration plant. Notwithstanding the fact that the EIR found that the project region was out of attainment for PM_{10} and ozone, the city failed to incorporate mitigation for the project's cumulative air quality impacts from project emissions because it concluded that the Project would contribute "less than one percent of area emissions for all criteria pollutants."[38] The city reasoned that, because the project's air emissions were small in ratio to existing air quality problems, that this necessarily rendered the project's "incremental contribution" minimal under CEQA. The court rejected this approach, finding it "contrary to the intent of CEQA." The court stated:

> We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem and allows the approval of

[34] DEIR, Appendix B, pg. 60.
[35] See e.g., http://www.aqmd.gov/docs/default-source/ceqa/documents/wgm-3_20230124.pdf?sfvrsn=6.
[36] PRC § 21083(b)(2); 14 CCR § 15130; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 719-21.
[37] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692 ("Kings County"); *see also, Friends of Oroville v. City of Oroville* (2013) 219 Cal. App. 4th 832, 841-42.
[38] *Id.* at 719.

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> projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling. Under GWF's "ratio" theory, the greater the over-all problem, the less significance a project has in a cumulative impacts analysis. We conclude the standard for a cumulative impacts analysis is defined by the use of the term "collectively significant" in Guidelines section 15355 and the analysis must assess the collective or combined effect of energy development. The EIR improperly focused upon the individual project's relative effects and omitted facts relevant to an analysis of the collective effect this and other sources will have upon air quality.[39]

The DEIR's analysis is similarly flawed because while the DEIR admits that the Project region is out of attainment for ozone, PM_{10}, and $PM_{2.5}$, the City fails to analyze or mitigate the Project's emissions' cumulative air quality impacts.[40] Given that there are multiple existing large warehouses immediately adjacent to the proposed Project site, as well as the proliferation of warehouse projects in the region and San Bernardino County, the DEIR is inadequate in its analysis of the Project's potentially significant cumulative air quality impacts. 3.7 Cont.

The SCAQMD approach used in the DEIR also directly conflicts with the California Attorney General's ("AG") recent guidance document setting forth best practices for evaluating the environmental impacts of warehouse projects like this one under CEQA.[41] With respect to cumulative air quality and GHG emissions analysis, the Attorney General's guidance states that best practices include "[w]hen analyzing cumulative impacts, thoroughly considering the project's incremental impact in combination with past, present, and reasonably foreseeable future projects, *even if the project's individual impacts alone do not exceed the applicable significance threshold* [emphasis added]."[42]

The DEIR's cumulative air quality impacts analysis does not comply with CEQA. The City must prepare a revised EIR that properly evaluates and mitigates such impacts.

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[39] *Id.* at 721.
[40] DEIR, pg. 5.2-17.
[41] *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act* (Updated September 2022), available at https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf .
[42] *Id.*, pg. 7.

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3. The DEIR's Health Risk Analysis Fails to Consider the Health Impacts of Cumulative Emissions from Nearby Warehouses

The DEIR's analysis of cumulative health risks is flawed for the same reason as the air quality analysis. The DEIR points to guidance from SCAQMD to reason that emissions of Toxic Air Contaminants ("TACs") are considered significant if a Health Risk Assessment ("HRA") shows an increased risk of greater than 10 in 1 million.[43] And "per SCAQMD's methodology, if an individual project would result in air emissions of criteria pollutants that exceeds the SCAQMD's thresholds for project-specific impacts, then it would also result in a cumulatively considerable net increase of these criteria pollutants."[44] This approach is inadequate because it fails to analyze the Project's cumulative effects with the existing and proposed warehouses surrounding the Project site. 3.8

CEQA provides that the incremental effects of an individual project are cumulatively considerable if the effects are significant when "viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."[45] Courts have held that where a community already bears a high pollution burden, a lead agency must consider "whether any additional amount" of pollution caused by the project "should be considered significant in light of the serious nature" of the existing problem.[46]

Here, the DEIR's approach of using a project-level analysis as a substitute for a cumulative impacts analysis fails to address that the Project would be impacting a community already bearing a high pollution burden. Excerpted below is data in the DEIR's CalEEMod output sheets showing the community's pollution burden.[47]

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[43] DEIR, pg. 5.2-30; App B, pg. 60.
[44] DEIR, pg. 5.2-32.
[45] CEQA requires a lead agency consider whether the combined effects from both the proposed project and other projects would be "cumulatively considerable." (CEQA Guidelines, § 15130, subd. (a).) The incremental effects of an individual project are cumulatively considerable if the effects are significant when "viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (Id., §§ 15065, subd. (a)(3), 15355, subd. (b).)
[46] *Kings County Farm Bureau, supra*, 221 Cal.App.3d at 718; *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 720.
[47] DEIR, App B, PDF pg. 164, CALEEMOD output sheet pg. 77.

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7.1. CalEnviroScreen 4.0 Scores

The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

Indicator	Result for Project Census Tract
Exposure Indicators	—
AQ-Ozone	95.3
AQ-PM	93.5
AQ-DPM	78.3
Drinking Water	96.1
Lead Risk Housing	42.2
Pesticides	18.1
Toxic Releases	84.6
Traffic	79.6
Effect Indicators	—
CleanUp Sites	82.7
Groundwater	14.3
Haz Waste Facilities/Generators	94.4
Impaired Water Bodies	0.00
Solid Waste	87.1
Sensitive Population	—
Asthma	44.4
Cardio-vascular	55.1
Low Birth Weights	20.3
Socioeconomic Factor Indicators	—
Education	73.4
Housing	26.7
Linguistic	34.6
Poverty	51.4
Unemployment	51.3

3.8 Cont.

Despite the fact the community scores 95.3 in AQ-Ozone, 93.5 in AQ-PM, and 78.3 in AQ-DPM, the DEIR concludes that the Project would not contribute to cumulative impacts because its own impacts would result in an increased risk of less than 10 in 1 million. This analysis violates principles of *Kings County Farm Bureau v. City of Hanford* and guidance from Attorney General. The City must revise and recirculate a DEIR that analyzes the Project's potentially significant cumulative health risk impacts.

B. The DEIR's Air Quality Study Underestimates Emissions of Air Pollutants From Construction Activities

3.9

The DEIR's air quality study finds that emissions of criteria air pollutants, emissions of GHGs, and health risk impacts from emissions of TACs would be less than significant. These findings are predicated on the assumption that the Project's construction would exclusively employ California Air Resources Board ("CARB") Tier 4 Final equipment.[48] The DEIR reasons that the Fontana Industrial Commerce

[48] DEIR, App B, pg. 46.

Sustainability Standards require project applicants to use the highest rated CARB Tier technology available at the time of construction.[49]

The DEIR's assumption is not supported by substantial evidence because the DEIR lacks discussion or supporting evidence describing the feasibility of obtaining Tier 4 Final equipment during Project construction. Although off-road Tier 4 Final equipment is available for purchase, it is a newer technology that may not yet be readily available at all construction equipment vendors, may require special procurement by the Applicant, and is more costly than lower tier equipment. It is therefore unreasonable to presume, without analysis or evidence, that all construction equipment that will be used for the Project will use Tier 4 Final engines. And absent supporting evidence, such as vendor contracts for the Tier 4 Final equipment, or a binding condition which requires all off-road construction equipment to be exclusively Tier 4 Final, the assumption that Project contractors will have ongoing access to Tier 4 Final equipment for all of the Project's off-road equipment over the Project's 10-month construction phase is unreasonable. 3.9 Cont.

The DEIR's emissions calculations using Tier 4 Final equipment do not provide the City with substantial evidence supporting the conclusion that the Project's construction emissions will be less than significant because Tier 4 Final equipment achieves greater emissions reductions than lower-tier equipment.[50] Thus, the Project's construction emissions may be higher than the emissions calculated in the DEIR. Accordingly, the Project's air quality, GHG, and health risk impacts may be greater than calculated in the DEIR and are similarly unsupported by substantial evidence. The DEIR must be revised to reflect a reasonable mix of equipment to accurately analyze the Project's impacts.

C. The DEIR Fails to Adopt Mitigation Measures Required by the Southwest Industrial Park Specific Plan Program EIR

The DEIR acknowledges that the Project "is covered by" the Southwest Industrial Park ("SWIP") Specific Plan.[51] On May 8, 2012, the City adopted Resolution No. 2012-035, certifying the Final Program Environmental Impact Report for the SWIP Specific Plan Update and Annexation (SCH No. 2009091089) in compliance with CEQA and the CEQA Guidelines ("SWIP PEIR"). The DEIR 3.10

[49] *Id.*
[50] See Emissions Standards, US Nonroad Diesel Engines, available at https://dieselnet.com/standards/us/nonroad.php.
[51] DEIR, pg. 2-6.

incorporates by reference the SWIP PEIR.[52] But the DEIR fails to address the Project's consistency with project-level mitigation measures required by the SWIP PEIR or to adopt applicable mitigation measures.

The SWIP PEIR identified a significant and unavoidable long-term air quality impact: "[n]ew development projects would result in a significant overall increase in regional pollutant loads due to mobile source emissions and area source emissions."[53] The SWIP PEIR identified measures to address this impact that are applicable to the instant Project:

- Mitigation Measure ("MM") 4.2-2a: All "large-scale" (e.g., over 10 acres per day) project Applicants shall provide incentives to use mass transit including the placement of bus stop shelters along major thoroughfares if not so equipped. (City Staff shall determine what denotes a "large-scale" project.)
- MM 4.2-2b: All "large-scale" (e.g., over 10 acres per day) project Applicants shall incorporate a bike/walking path between these shelters, the proposed residential areas, and the proposed commercial areas. These paths shall be lit and configured so as to avoid potential conflict with roadways and railroad activities.
- 4.2-2f All industrial and commercial site tenants with 50 or more employees shall be required to post both bus and MetroLink schedules in conspicuous areas.
- 4.2-2h All residential and commercial structures shall be required to incorporate high efficiency/low polluting heating, air conditioning, appliances, and water heaters.
- 4.2-2i All residential and commercial structures shall be required to incorporate thermal pane windows and weather-stripping.

3.10 Cont.

Because the instant Project is a large warehouse located in the SWIP specific plan area, it must comply with the measures listed above. However, the DEIR fails to include these measures or otherwise demonstrate compliance with their standards. This failure is a violation of CEQA, as the PEIR is applicable to projects with the specific plan area. Further, the DEIR itself identifies a significant and unavoidable air quality impact – the Project will conflict with the applicable air

[52] *Id.*
[53] Public Review Draft Program EIR SWIP Specific Plan Update and Annexation, pg. S-8, available at https://www.fontanaca.gov/DocumentCenter/View/36382/SWIP-Public-Review-Draft-Program-EIR.

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quality plan.[54] CEQA provides that if the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible.[55] Since the DEIR identifies a significant air quality impact, it must adopt all feasible air quality mitigation measures. Since the measures listed above were determined to be feasible and effective in the SWIP PEIR, the DEIR must be revised to include these measures or otherwise demonstrate compliance with these applicable measures. 3.10 Cont.

The SWIP PEIR identifies a less-than-significant GHG impact after mitigation. MM 4.2-5a provides, "Prior to the issuance of building permits, future development projects shall demonstrate the incorporation of project design features that achieve a minimum of 28.5 percent reduction in GHG emissions from non-mobile sources as compared to business as usual conditions… Future projects shall include, but not be limited to, the following list of potential design features (which include measures for reducing GHG emissions related to Transportation and Motor Vehicles)":[56]

Energy Efficiency

- Design buildings to be energy efficient and exceed Title 24 requirements by at least 5 percent.
- Install efficient lighting and lighting control systems. Site and design building to take advantage of daylight. 3.11
- Use trees, landscaping and sun screens on west and south exterior building walls to reduce energy use.
- Install light colored "cool" roofs and cool pavements.
- Provide information on energy management services for large energy users.
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems (e.g., minimum of Energy Star rated equipment).
- Implement design features to increase the efficiency of the building envelope (i.e., the barrier between conditioned and unconditioned spaces).

[54] DEIR, pg. 1-5.
[55] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.
[56] SWIP FEIR, pg. 11-67; available at https://www.fontanaca.gov/DocumentCenter/View/36383/SWIP-Final-PEIR---Responses-20120124.

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- Install light emitting diodes (LEDs) for traffic, street and other outdoor lighting.
- Limit the hours of operation of outdoor lighting.

Renewable Energy
- Install solar panels on carports and over parking areas. Ensure buildings are designed to have "solar ready" roofs.
- Use combined heat and power in appropriate applications.

Water Conservation and Efficiency
- Create water-efficient landscapes with a preference for a xeriscape landscape palette.
- Install water-efficient irrigation systems and devices, such as soil moisture based irrigation controls.
- Design buildings to be water-efficient. Install water-efficient fixtures and appliances (e.g., EPA WaterSense labeled products).
- Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- Restrict the use of water for cleaning outdoor surfaces and vehicles.
- Implement low-impact development practices that maintain the existing hydrologic character of the site to manage storm water and protect the environment. (Retaining storm water runoff on-site can drastically reduce the need for energy-intensive imported water at the site).
- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.
- Provide education about water conservation and available programs and incentives.

Solid Waste Measures
- Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.
- Provide education and publicity about reducing waste and available recycling services.

3.11 Cont.

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Transportation and Motor Vehicles

- Limit idling time for commercial vehicles, including delivery and construction vehicles.
- Promote ride sharing programs (e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides).
- Create local "light vehicle" networks, such as neighborhood electric vehicle (NEV) systems.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).
- Promote "least polluting" ways to connect people and goods to their destinations.
- Incorporate bicycle lanes and routes into street systems, new subdivisions, and large developments.
- Incorporate bicycle-friendly intersections into street design.
- For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting (e.g., locked bicycle storage or covered or indoor bicycle parking).
- Create bicycle lanes and walking paths directed to the location of schools, parks and other destination points.

3.11 Cont.

The DEIR fails to include any of these measures or to demonstrate compliance with this mitigation measure in violation of CEQA. The DEIR must be revised to demonstrate compliance with the applicable GHG measures listed in the SWIP PEIR.

D. The DEIR Fails to Adopt Recommended Measures in the Attorney General's Warehouse Guidance

As discussed above, the DEIR is required to identify mitigation measures to reduce the Project's significant and unavoidable air quality impact to the greatest extent feasible. But the DEIR fails to analyze the feasibility of measures

3.12

recommended in the AG's warehouse guidance document.[57] The guidance states that examples of measures to mitigate air quality and greenhouse gas impacts from operation include:

- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide refrigerated warehouse space, constructing electric plugs for electric transport refrigeration units at every dock door and requiring truck operators with transport refrigeration units to use the electric plugs when at loading docks. [This standard is also contained in Chapter 9, Section V of the Fontana Municipal Code].
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.[58]

3.12 Cont.

Here, the DEIR lacks discussion of the feasibility of these measures. While the DEIR assumes that the Project will not include any warehouse cold storage or refrigerated uses, there is no enforceable condition to ensure that will be the case, such as the recording of a covenant to prohibit such uses. And there is no analysis of the feasibility of a non-diesel generator. Rather, the DEIR anticipates that the Project would utilize a 200-horsepower diesel generator.[59] The DEIR must be revised and recirculated to identify all feasible air quality mitigation measures.

E. The DEIR's Construction Noise Significance Thresholds are Not Supported by Substantial Evidence

The DEIR states that the Project's construction noise impacts on industrial receptors would be less than significant because they fall below a 90 dBA threshold.[60] Applying this threshold, the DEIR suggests that any increase in noise is considered less than significant so long as the total noise does not exceed the 90 dBA maximum noise level. But courts have held that reliance on a maximum noise

3.13

[57] *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act* (Updated September 2022).
[58] *Id.*, pg. 8-20.
[59] DEIR, pg. 5.2-24; App B, CalEEmod Output Files, pg. 74.
[60] DEIR, pg. 5.11-14.

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level as the sole threshold of significance for noise impacts violates CEQA because it fails to consider whether the magnitude of changes in noise levels is significant.[61]

In *Keep our Mountains Quiet v. County of Santa Clara*,[62] neighbors of a wedding venue sued over the County of Santa Clara's failure to prepare an EIR for a proposed project to allow use permits for wedding and other party events at a residential property abutting an open space preserve. Neighbors and their noise expert contended that previous events at the facility had caused significant noise impacts that reverberated in neighbors' homes and disrupted the use and enjoyment of their property.[63] Similar to the DEIR in this case, the City's CEQA document relied on the noise standards set forth in its noise ordinance as its thresholds for significant noise exposure from the project, deeming any increase to be insignificant so long as the absolute noise level did not exceed those standards.[64] The Court examined a long line of CEQA cases which have uniformly held that conformity with land use regulations is not conclusive of whether or not a project has significant noise impacts[65] in holding that the County's reliance on the project's compliance with noise regulations did not constitute substantial evidence supporting the County's finding of no significant impacts.[66] And in *King & Gardiner Farms*, a lead agency "determined the significance of [noise] impacts based solely on whether the estimated ambient noise level with the project would exceed the 65 decibels threshold set forth in the County's general plan.... Based on prior case law, we conclude the magnitude of the noise increase must be addressed to determine the significance of change in noise levels."[67]

3.13 Cont.

The DEIR in this case makes the same error by failing to analyze the significance of the magnitude of the noise increase. Mr. Meighan's comments show that the lowest daytime ambient noise level at the nearest receptor was determined

[61] *King & Gardiner Farms, LLC*, 45 Cal.App.5th at 865.
[62] *Keep our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714.
[63] *Id.* at 724.
[64] *Id.* at 732.
[65] *Id., citing Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1338; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881–882; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1416 (project's effects can be significant even if "they are not greater than those deemed acceptable in a general plan"); *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354, ("CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan").
[66] *Id.* at 732-734; see also *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 893, as modified on denial of reh'g (Mar. 20, 2020).
[67] *King & Gardiner Farms, LLC*, 45 Cal.App.5th at 830.

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to be 57 dBA, and that Project construction would cause a 27 dB increase at that receptor.[68] Mr. Meighan explains that a 10 dB increase is generally perceived as a doubling of loudness, meaning that the Project's construction would double the ambient noise twice over.[69] This increase over ambient noise levels is not reflected in the DEIR's 90 dBA noise threshold. The DEIR's threshold is sourced from the Federal Transit Administration's ("FTA") Transit Noise and Vibration Impact Assessment Manual, which cautions against using FTA thresholds without consideration of local conditions ("Project construction noise criteria should account for the existing noise environment").[70] Due to the magnitude of the potential noise increase over existing conditions, the DEIR's reliance on a maximum noise level as the sole threshold of significance for noise impacts is not supported by FTA guidance and Mr. Meighan's comments provide substantial evidence of an unmitigated significant impact from the Project's construction noise. 3.13 Cont.

In sum, the DEIR's significance threshold is not supported by substantial evidence. The DEIR must be revised and recirculated to correct this error and to properly analyze and mitigate the Project's noise impacts.

F. The DEIR Must Disclose the Project's Growth Inducement Impact

The DEIR states that growth-inducing potential of a project would be considered significant if it fosters growth or a concentration of population in excess of what is assumed in master plans, land use plans, or in projections made by regional planning agencies, such as Southern California Association of Governments ("SCAG").[71] The DEIR finds that induced growth from this Project would not be unexpected or constitute substantial unplanned growth, because while the Project would contribute to employment growth through the proposed development within the Project site, projected increases in employment from the Project are within SCAG's 2020 RTP/SCS increases. This is contradicted by analysis in the DEIR's air impacts analysis, which explicitly states that the Project would exceed SCAG's growth projections. 3.14

[68] Meighan Comments, pg. 3.
[69] *Id.*
[70] *Id.* at 2-3; FTA, Report No. 0123 – Transit Noise and Vibration Impact Assessment Manual (September 2018), pg. 179.
[71] DEIR, pg. 6-1.

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Specifically, for Impact AQ-1, the DEIR identifies a significant and unavoidable impact due to conflict with SCAQMD's 2022 Air Quality Management Plan ("AQMP").[72] The DEIR explains that the projections contained in the AQMP for achieving air quality goals are based on the assumptions in SCAG's RTP/SCS regarding population, housing, and employment growth trends. And the DEIR states that because SCAG's regional growth forecasts and the AQMP are based upon land uses designated in general plans, which would be rezoned to be more employee-intensive, "the Project would result in an exceedance of SCAG's growth projections."[73]

3.14 Cont.

Thus, the air impacts analysis directly contradicts the analysis in the growth inducement analysis. The DEIR cannot claim that the Project's growth impacts are consistent with the 2020 SCAG RTP/SCS while elsewhere acknowledging that the Project "would result in an exceedance of SCAG's growth projections."[74] The growth inducement impacts analysis must be revised to disclose the Project's impacts.

VI. CONCLUSION

For the reasons discussed above, the DEIR for the Project is inadequate under CEQA. It must be revised to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for additional public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

3.15

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

Sincerely,

Aidan P. Marshall

Attachment
APM:acp

[72] DEIR, pg. 5.2-24.
[73] *Id.*
[74] *Id.*

6724-004acp

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #23-002.23

August 28, 2023

Mr. Aidan P. Marshall
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, California 94080

SUBJECT: Poplar South Distribution Center
Fontana, California
Review and Comment on Draft Environmental Impact Report

Dear Mr. Marshall

Per your request, we have reviewed the information and noise impact analysis in the following document, prepared by LSA in February 2023, as part of a Draft Environmental Impact Report (DEIR):

"Noise and Vibration Impact Analysis
Poplar South Distribution Center Project
City of Fontana, California"

The proposed project involves the demolition of the existing 40 residences on the site and the construction, use and maintenance of a 490,565 square foot warehouse. The project site is surrounded on all 4 sites by warehouses, the closest being 55 feet to the south. Additionally, there are single-family residences 1,350 feet to the north and 1,500 feet to the south. 3b.1

This letter reports on our comments on the noise analysis in the subject document. Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

5900 HOLLIS STREET, SUITE T1 | EMERYVILLE, CA 94608 | (510) 658-6719 | WWW.WILSONIHRIG.COM

Adverse Effects of Noise[1]

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result. 3b.2

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

Improper Noise Thresholds are Applied to Project

Appendix L of the DEIR states that since there are no applicable city or county noise limits, the Federal Transit Administration's (FTA) *Transit Noise and Vibration Impact Assessment Manual*[2] is used as an applicable limit. The cited FTA Manual is a guidance document, and it discourages projects against 3b.3

[1] More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (https://www.who.int/docstore/peh/noise/Comnoise-1.pdf)

[2] https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf

using its absolute criteria values without consideration of local conditions stating, "Project construction noise criteria should account for the existing noise environment" (FTA page 179). Without further analysis, the FTA threshold could be too high, and the DEIR provides no discussion why the chosen 90 dBA construction noise threshold should be deemed acceptable. Therefore, it is not accurate to characterize that the DEIR analysis has completely addressed and protected human health.

The distance used for the construction noise for the closest receptor, 'Industrial Uses – South', is 400 feet (DEIR Appendix L, Table I) but 55 feet is used at this same receptor for construction vibration (DEIR Appendix L, Table K). Adjusting the construction noise screening distance at this closest receptor to the cited 55 feet changes the predicted sound level from 70 dBA to 87 dBA. It's worth noting that the analysis that was used in the document was very conservative, using 3 bulldozers and 4 tractors at the same time. This scenario most likely wouldn't happen at the property line. Reducing these pieces of equipment to one dozer, one saw, and one excavator (as modeled for the demolition phase, as seen on pdf Page 38 of Appendix L) would produce a modeled construction noise level of 84 dBA.

3b.3 Cont

The lowest daytime ambient noise level was determined to be 57 dBA (DEIR Appendix L, Table G), which would cause a 27 dB increase at the closest receptor. This shows the problems with relying solely on a 90 dB absolute limit. As stated in the DEIR, "A noise level increase of less than 3 dBA would not be perceptible to the human ear" (DEIR, Appendix L, Page 21), and a 10 dB increase is generally perceived as a doubling of loudness[3]. The DEIR does not provide a rational explanation for why an increase of more than 25 dB, more than doubling the ambient noise twice, is not considered an insignificant increase.

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

Very truly yours,

WILSON IHRIG



Jack Meighan

Associate

fontana poplar south distribution center comments on noise analysis.docx

[3] https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tens-sep2013-a11y.pdf Page 6-5

Response to Comment Letter 3: CARE CA, dated August 28, 2023

Response to Comment 3.1: This comment states that the commenter is writing on behalf of CARE CA and summarizes the Project description. This comment also states that they have reviewed the DEIR and conclude that the DEIR fails to comply with the requirements of CEQA because the DEIR does not adequately analyze cumulative impacts or accurately disclose impacts related to air quality, health risk, GHG, and growth inducement. The comment concludes that the City must revise and adequately analyze significant, indirect, and cumulative Project impacts and incorporate feasible mitigation measures in the DEIR. This comment is introductory and does not provide substantial evidence of any environmental impact. No changes to the DEIR, or further response, is warranted.

Response to Comment 3.2: This comment provides a statement of interest from CARE CA and background on the organization. The comment does not raise a specific issue with the adequacy of the DEIR evaluation or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 3.3: This comment provides an overview of the legal background and purposes of CEQA. More specifically, the comment states that CEQA is designed to inform decision makers and the public about the potential significant environmental effects of a project, that CEQA requires public agencies to avoid or reduce environmental damage when feasible, and that CEQA requires an EIR to include enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. The comment is introductory in nature and does not raise a specific issue with the adequacy of the DEIR evaluation or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 3.4: This comment provides an overview of CEQA requirements to disclose all potentially significant impacts of a project and to implement all feasible mitigation measures to reduce those impacts to less than significant levels. The comment states that the failure to proceed in a manner required by CEQA and an agency's failure to proceed in a manner by CEQA such as the failure to disclose environmental effects or alternatives are subject to a less deferential standard than challenges to an agency's factual conclusions. The comment also states that a clearly inadequate or unsupported study is entitled to no judicial deference.

The comment does not provide substantial evidence of any environmental impact. The commenter provides no evidence supporting their claims that the DEIR fails to adequately disclose and mitigate potentially significant impacts. Under CEQA Guidelines Section 15384, argument, speculation, unsubstantiated opinion or narrative, evidence that is not credible, and evidence of social and economic impacts does not constitute substantial evidence. As discussed throughout the DEIR and Chapter 2, *Errata*, of the FEIR, all potentially significant impacts have been disclosed and feasible mitigation measures have been included to reduce potentially significant impacts. As discussed in Section 8.0, *Alternatives*, feasible alternatives were provided to be considered by the City of Fontana. Thus, no further response is warranted.

Response to Comment 3.5: This comment states that an EIR must evaluate a cumulative impact if the Project's impacts combined with impacts of other projects is "cumulatively considerable." The comment states that proper cumulative impact analysis is vital because environmental damage often occurs incrementally from a variety of small sources which can appear insignificant when considered individually. The comment is introductory to Comment 3.6 and does not raise a specific issue with the adequacy of the DEIR evaluation. Therefore, no further response is warranted.

Response to Comment 3.6: This comment states that CEQA Guidelines provide two methods for satisfying the cumulative impacts analysis requirement—the list of projects approach or summary of projections approach. The comment states that the DEIR "purports" to use the summary of projects approach for some sections and the list of projects approach for the rest. The comment further states that the cumulative projects list used for the DEIR is incomplete because it excludes existing industrial/warehouse projects directly adjacent to the proposed Project site which the DEIR failed to include on the list therefore rendering the

analysis incomplete. The comment references DEIR Figure 5-1b and the commentor marks several existing industrial buildings/warehouses with a red X to illustrate the projects in question. The comment concludes that analyses relying on the cumulative projects list are therefore unsupported by substantial evidence because they fail to consider industrial/warehouse uses closest to the Project site and as a result the City must revise and recirculate the DEIR.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Bare assertions, unsupported by supporting evidence, that relevant projects were improperly excluded are insufficient to establish that the project list adopted by the lead agency is defective or misleading. (*South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, 336.) This comment is general and makes a claim without raising a specific issue to a specific analysis from the DEIR demonstrating how any of the cumulative analyses under each environmental section is inadequate. (CEQA Guidelines, §15088(c) [general response is sufficient for a general comment].)

The projects identified by the commenter with a red X are all fully constructed and operational. Therefore, these buildings are already considered in the existing environment as the Project's CEQA baseline. Therefore, these projects have been considered in the air quality, greenhouse gas, noise, and transportation analysis.

Cumulative impacts related to air quality were evaluated using methodology from SCAQMD's 2022 AQMP which maintains if an individual project would result in air emissions of criteria pollutants that exceed the SCAQMD's thresholds for project-specific impacts, then it would also result in a cumulatively considerable net increase of these criteria pollutants. As discussed in Section 5.2, *Air Quality*, of the DEIR, emissions from construction and operation of the proposed Project would not exceed SCAQMD's thresholds for any criteria pollutant at the regional or local level after implementation of existing regulations. Therefore, construction and operational-source emissions would not be cumulatively considerable.

The geographic area for analysis of cumulative GHG emissions impacts is the state of California because emissions of GHGs cannot be defined by a geographic boundary and are effectively part of the global issue of climate change. As noted under SCAQMD's interim Tier 3 GHG threshold, projects with GHG emissions less than the adopted screening level are considered to be small projects, and therefore are not cumulatively considerable. As discussed in Section 5.7, *Greenhouse Gases*, or the DEIR, estimated GHG emissions from development and operation of the Project would not exceed SCAQMD thresholds. Further, the Project would not conflict with the CARB Scoping Plan as it would implement multiple measures from the City of Fontana Ordinance No. 1891 to increase the Project's energy efficiency and reduce Project GHG emissions. Therefore, the contribution of the Project to significant cumulative GHG impacts is less than significant and not cumulatively considerable.

Cumulative impacts related to noise were evaluated using the list method (DEIR Table 5-1, *Cumulative Projects*). Cumulative noise assessment considers development of the proposed Project in combination with ambient growth and other development projects within the vicinity of the Project area. Construction noise is localized in nature and decreases substantially with distance. The nearest development projects to the Project site include Administrative Site Plan No. 19-017 (Sunshine Parking), Cumulative Project No. 35 (James Hardie Development), and Cumulative Project No. 37 (First Industrial Catawba Warehouse (see DEIR Figure 5-1b, Cumulative Projects Map). The project associated with Administrative Site Plan No. 19-017 is currently under construction and would be operational and no longer under construction during construction of the proposed Project. Thus, it was not considered in the Project's cumulative construction noise analysis. The Project site and the projects that are associated with Cumulative Project No. 35 and No. 37 are located in an area dominated by industrial development. Further, the distance from construction activities to nearby sensitive receptors is greater than 1,000 feet. Construction activities associated with the cumulative projects could overlap with the construction of the proposed Project. However, cumulative noise increases due to construction would be temporary and localized to the immediately surrounding industrial area.

In terms of cumulative mobile source noise, the Project would contribute a net of 300 daily trips, split between Catawba Avenue and Poplar Avenue. Based on the size of cumulative projects within the nearby vicinity of the Project, these cumulative projects would add limited additional trips to Catawba Avenue and Poplar Avenue. Therefore, the cumulative development along Catawba Avenue and Poplar Avenue would not result in a doubling of roadway volumes, which would in turn result in a cumulative noise level increase of less than 3 dBA. Therefore, the Project would not contribute to cumulatively considerable traffic noise impacts and impacts would be less than significant.

The Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA states that "a project that falls below an efficiency-based threshold that is aligned with long-term environmental goals and relevant plans would have no cumulative impact distinct from the project impact." Therefore, cumulative impacts related to VMT would not occur because the Project would generate fewer than 500 ADT and could be presumed to result in less than significant impacts related to VMT.

Cumulative impacts related to aesthetic resources were evaluated using an assessment of past, present, and probable future projects in the surrounding viewshed, including the proposed James Hardie Development (#35) at the corner of Santa Ana Avenue and First Industrial Catawba Warehouse (#37) at the corner of Catawba Avenue north of Jurupa Avenue in (DEIR Table 5-1, Cumulative Projects). The proposed building height, massing, setbacks, new sidewalks and layered landscaping along Catawba Avenue and Poplar Avenue is consistent with surrounding industrial development and would ensure that public views of the Jurupa Mountains remain visible to vehicles and pedestrians traveling north to south. Further, all other developments proposed in the cumulative study area would be required to comply with the applicable governing policies, including applicable design regulations of the City of Fontana General Plan, SWIP SP, and Fontana Municipal Code, which include policies and regulations to preserve vistas and important scenic resources. Accordingly, with buildout of the Project and other developments within the Project's viewshed, impacts to scenic vistas would not be cumulatively significant and the Project's contributions would be less than cumulatively considerable.

Further, as described in Section 5.0, *Environmental Impact Analysis*, of the DEIR, different types of cumulative impacts occur over different geographic areas. For example, the geographic scope of the cumulative air quality analysis, where cumulative impacts occur over a large area, is different from the geographic scope considered for cumulative analysis of aesthetic resources, for which cumulative impacts are limited to project area viewsheds. Thus, in assessing aesthetic resources impacts, only development within and immediately adjacent to the Project area would contribute to a cumulative visual effect is analyzed, whereas cumulative transportation impacts are based upon annual growth projections and the other proposed and/or foreseeable development within the traffic study area of roadways and intersections. Similarly, existing industrial buildings/warehouses would not contribute to cumulative impacts to certain topic areas such as Biological Resources and/or Cultural Resources because those sites have already been developed on. Thus, because the geographic scope and other parameters of each cumulative analysis discussion can vary, the cumulative geographic scope, and the cumulative projects included in the geographic scope (when the list of projects approach is used), are described for each environmental topic. As such, Table 5-1, which provides a list of relevant projects considered in the cumulative environmental analysis, was compiled per information provided by each agency and is an appropriate cumulative projects list and the cumulative analyses throughout the DEIR are adequate. CEQA requires the standard for compiling such a list is that projects should be included when it is reasonable, feasible, and practical to do so, given the information available about the projects, and when failure to include such projects would lead to an inadequate analysis of the severity and significance of the cumulative impacts in question. (*Golden Door Property LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 529.)No further response is required or provided.

Response to Comment 3.7: This comment claims that the DEIR fails to adequately analyze the project's cumulative air quality emissions and the SCAQMD approach conflicts with the California Attorney General's (AG) recent guidance document setting forth best practices for evaluating the environmental impacts of warehouse projects like this one under CEQA. The comment states that with respect to cumulative air quality

and GHG emissions analysis, the Attorney General's guidance states that best practices include "when analyzing cumulative impacts, thoroughly considering the project's incremental impact in combination with past, present, and reasonably foreseeable future projects, even if the project's individual impacts alone do not exceed the applicable significance threshold."

A cumulative impact is an impact created by the combination of the project reviewed in the DEIR together with other projects causing related impacts. (State CEQA Guidelines, § 15130(a)(1).) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (State CEQA Guidelines, § 15355(b).) For an adequate analysis of cumulative impacts, CEQA requires that an DEIR evaluate whether the environmental effects from past, present, and probable future projects taken together would result in a significant impact (State CEQA Guidelines, § 15130(b)(1), (4), (5)), and then assess whether the incremental effect of the project at issue is "cumulatively considerable" when combined with the effects of the other projects (State CEQA Guidelines, § 15130(a)).

The discussion of cumulative impacts need not provide detail as extensive as that required for effects attributable solely to the proposed Project. The discussion of cumulative impacts should be guided by standards of practicality and reasonableness. (State CEQA Guidelines, § 15130(b).) A disagreement over the method used to assess cumulative impacts is not a basis for rejecting a DEIR's analysis as inadequate. (State CEQA Guidelines, § 15151.) A reasonable, good faith effort to disclose the impact is sufficient (See *Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal.App.4th 296, 320.)

There is no methodology to quantify the cumulative areawide or localized health risks within a community-wide area. The SCAQMD's non-attainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in non-attainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant. While SCAQMD is reviewing its approach to analyzing cumulative impacts, it is too speculative at this point to assume what SCAQMD will or will not decide in terms of how cumulative impacts should be analyzed. Therefore, until SCAQMD finalizes their approach to analyzing cumulative impacts, it is appropriate to follow their currently adopted approach. The SCAQMD's recommended thresholds of significance apply to individual development projects and evaluate the incremental increase in emissions from a proposed source. In developing these thresholds, the SCAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. Thus, if a project exceeds the identified SCAQMD significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

The case law provided by the commenter does not demonstrate the Draft EIR's analysis to be deficient. The court in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718, found a draft EIR's cumulative air quality impacts analysis deficient where the DEIR concluded the cumulative impact would be less than significant because the coal-fired cogeneration plant at issue would emit relatively minor amounts as compared to the already significant air quality problems in the area as a whole. This "ratio theory" expressed in the Kings County Farm Bureau DEIR is not utilized here. Rather, the Draft EIR concluded that the Project-specific emissions would not exceed SCAQMD's thresholds for any criteria pollutant at the regional or local level after implementation of existing regulations. The City relies on the SCAQMD's recommended methodology to evaluate the Project's cumulative impacts. As discussed in Section 5.2, *Air Quality* of the DEIR and the AQ/HRA/GHG/Energy Report, the proposed Project would generate operational air quality emissions that are below the SCAQMD's thresholds. As such, the proposed Project would not result in a cumulative air quality impact and additional analysis to assess cumulative impacts is not required.

Further, climate change is a global environmental problem in which: (a) any given development project contributes only a small portion of any net increase in GHGs, and (b) global growth is continuing to contribute

large amounts of GHGs across the world. Land use projects may contribute to the phenomenon of global climate change in ways that would be experienced worldwide, and with some specific effects felt in California. However, no scientific study has established a direct causal link between individual land use project impacts and global warming. The analysis of impacts related to GHG emissions is inherently cumulative. The proposed Project would have no conflict with applicable Statewide and regional climate action measures. In addition, as discussed in Section 5.2, *Air Quality* of the DEIR and the AQ/HRA/GHG/Energy Report, the Project's operational-related GHG emissions would not exceed the SCAQMD's numeric threshold. Therefore, GHG emissions impacts associated with the proposed Project would be less than significant, and the cumulative impact would also be less than significant. As such, identification and analysis of mitigation measures or the emission reduction strategies would not be required. No further response is required or provided.

Response to Comment 3.8: This comment asserts that the DEIR's analysis of cumulative health risks is flawed as it fails to analyze the Project's cumulative effects with the existing and proposed warehouses surrounding the Project site. The comment also claims that the DEIR's approach of using a Project-level analysis as a substitute for a cumulative impacts analysis fails to address that the Project would be impacting a community already bearing a high pollution burden.

As discussed on pages 47 and 48 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), an HRA was prepared for the proposed Project to evaluate the potential impact on sensitive receptors from construction and operation of the proposed Project. The HRA evaluates the potential health risk to people living and working near the proposed Project associated with the exhaust of diesel-powered trucks and equipment. As discussed in Section 5.2, *Air Quality* of the DEIR, health risk levels from Project construction and operation to the nearest sensitive receptors would also be below SCAQMD thresholds.

Although the California Communities Environmental Health Screening Tool (CalEnviroScreen) identifies that the Project site scores 95.3 in AQ-Ozone, 93.5 in AQ-PM, and 78.3 in AQ-DPM, there is no methodology to quantify the cumulative areawide or localized health risks within a community-wide area. The SCAQMD's recommended thresholds of significance apply to individual development projects and evaluate the incremental increase in emissions from a proposed source. In developing thresholds of significance for individual projects, the SCAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. The City relies on the SCAQMD's recommended methodology to evaluate cumulative impacts, which is to conclude that an impact considered to be significant on a project-specific basis would also cause a significant cumulative impact.See Response to Comment 3.7 for further discussion on this. As such, the proposed Project would not contribute to significant cumulative health risk impacts..

Additionally, as determined by the Friant Ranch Case (discussed in detail on page 5.2-29 of the DEIR), it may not be feasible to perform a health risk assessment for airborne toxics that will be emitted by a generic industrial building that was built on "speculation" (i.e., without knowing the future tenant(s)). Even where a health risk assessment can be prepared, however, the resulting maximum health risk value is only a calculation of risk--it does not necessarily mean anyone will contract cancer as a result of the Project. Therefore, the emissions are not sufficiently high enough to use a regional modeling program to correlate health effects on a basin-wide level. No further response is required or provided.

Response to Comment 3.9: This comment claims that the DEIR's emissions calculations using Tier 4 Final equipment are not supported with substantial evidence that the Project's construction would exclusively use Tier 4 equipment. Further, the comment claims that as a result, the DEIR's conclusion that the Project's construction emissions would be less than significant because Tier 4 Final equipment achieves greater emissions reductions than lower-tier equipment is unsupported. The comment also states that the Project's construction emissions may be higher than the emissions calculated in the DEIR and that the Project's air quality, GHG, and health risk impacts may be greater than calculated in the DEIR and are similarly unsupported by substantial evidence.

The use of Tier 4 construction equipment is required by the Fontana Industrial Commerce Sustainability Standards (Chapter 9, Section V of the Fontana Municipal Code) which require that project applicants use the highest rated CARB Tier technology available at the time of construction. In addition to compliance with the Municipal Code, the Project Applicant has also confirmed that the construction equipment used on the Project site would comply with Tier 4 Final emissions standards. Thus, as identified on page 46 of the AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), the proposed Project would utilize Tier 4 construction equipment. The use of Tier 4 construction equipment is considered part of the Project, not mitigation, and would be included in construction documents and specifications.

Response to Comment 3.10: This comment states that although the DEIR acknowledges that the Project is covered by the Southwest Industrial Specific Plan (SWIP), the DEIR fails to address the Project's consistency with project-level mitigation measures required by the SWIP PEIR and to adopt applicable mitigation measures. This comment also states that because the Project is a large warehouse located in the SWIP specific plan area and the SWIP PEIR identified a significant and unavoidable long-term air quality impact, the Project must comply with the applicable mitigation measures identified in the SWIP (4.2-2a, 4.2-2b, 4.2-2f, 4.2-2h, 4.2-2i). Lastly, the comment states that the DEIR identifies a significant and unavoidable air quality impact and therefore must adopt all feasible air quality mitigation measures such as the ones identified in the SWIP PEIR. As described in Section 5.2, *Air Quality* of the DEIR, all impacts related to air quality, except for Impact AQ-1 would be less than significant. The DEIR determined that Impact AQ-1would be significant and unavoidable because the land use change from residential to industrial would be inconsistent with SCAG's forecast projections and therefore with SCAQMD's 2022 AQMP. However, as described in Impacts AQ-2 through AQ-4 of Section 5.2, *Air Quality*, the Project would not exceed any SCAQMD thresholds, therefore the Project would not have significant air quality impacts. None of the mitigation measures listed by CARE would be applicable to Impact AQ-1 nor would they reduce impacts related to the land use change associated with the Project. However, because the Project is located within the SWIP, the Project would still be required to comply with SWIP PEIR Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2f, 4.2-2h, 4.2-2i.

Response to Comment 3.11: This comment states that the SWIP EIR identifies a less than significant GHG impact after mitigation and further explains Mitigation Measure 4.2-5a which states that prior to the issuance of building permits, future development projects shall demonstrate the incorporation of project design features that achieve a minimum of 28.5 percent reduction in GHG emissions from non-mobile sources as compared to business-as-usual conditions.

As described in Section 5.7, *Greenhouse Gas*, all impacts related to GHG would be less than significant therefore no mitigation measures are required. Nonetheless, the Project would comply with SWIP PEIR Mitigation Measure 4.2-5a which includes a number of energy efficiency, renewable energy, water conservation and efficiency, solid waste measures, and transportation measures aimed at reducing GHG emissions. In addition, given that the Project would be over 400,000 SF, the Project would be required to comply with Ordinance No. 1891, also known as Chapter 9: Section V, *Industrial Commerce Centers Sustainability Standards* in the City of Fontana Municipal Code and which includes standards that are more stringent than the ones listed in the SWIP EIR. For example, the SWIP EIR Mitigation Measure 4.2-5a states under *Renewable Energy* that projects should "install solar panels on carports and over parking areas and ensure buildings are designed to have 'solar-ready roofs'" while Chapter 9, Section V of the Municipal Code states that prior to the issuance of a business license "the City shall ensure rooftop solar panels are installed and operated in such a manner that they will supply 100 percent of the power needed to operate all non-refrigerated portions of the facility including the parking areas" under *Alternative Energy* demonstrating that the Project would substantially reduce GHG emissions from energy use. All additional development standards that the Project would comply with are described in Section 5.7, *Greenhouse Gas* of the DEIR. Lastly, the Project would be required to comply with the 2022 CalGreen building standards under Title 24—many of which are equivalent or similar measures mentioned in the SWIP EIR. Thus, since no mitigation would be required and the Project would comply with all relevant GHG reduction development standards, no further response is required or provided.

Response to Comment 3.12: This comment states that the DEIR fails to adopt recommended mitigation measures in the Attorney General's Warehouse Guidance and includes sample mitigation measures that a local agency should consider when evaluating the air quality and GHG environmental impacts of warehouse industrial projects. The commenter asserts that the Project should consider and incorporate appropriate mitigation measures in order to mitigate air quality and GHG emissions of the Project. As provided in Section 5.6, *Greenhouse Gas Emissions* of the DEIR, the Project would result in a less than significant impact on GHG therefore no mitigation would be necessary. In addition, as discussed above in Comment 3.10, the DEIR determined that based on AQ/HRA/GHG/Energy Report (Appendix B of the DEIR), all impacts related to air quality, except for Impact AQ-1 would be less than significant. The DEIR determined that Impact AQ-1would be significant and unavoidable because the land use change from residential to industrial would be inconsistent with SCAG's forecast projections and therefore with SCAQMD's 2022 AQMP. However, as described in Impacts AQ-2 through AQ-4 of Section 5.2, *Air Quality*, the Project would not exceed any SCAQMD thresholds, therefore the Project would not have significant air quality impacts and further, no mitigation would be applicable to Impact AQ-1 that would reduce impacts related to the land use change associated with the Project. No further response is required or provided.

Response to Comment 3.13: This comment states that the DEIR fails to analyze the significance of the magnitude of the noise increase. Further, this comment suggests that inconsistent distances were used for the construction noise assessment as compared to construction vibration assessment. The distances are different, but appropriately so. The distance of 55 feet is utilized to assess potential vibration damage which is based on a peak particle velocity determination or a "maximum" condition. This occurs when a piece of heavy equipment is operating at the perimeter of the Project site. The assessment for construction noise impacts is based on an L_{eq}, or average noise level condition. The average condition is based on the center of the project site being the typical average location of equipment as it traverses the site. The commenter's suggestion that the amount of equipment be reduced as compared to the CalEEMod modeling printouts is overly assumptive because it presumes multiple pieces of equipment would not operate at the same time. The more conservative approach which was used by the DEIR's Noise Report is presenting a more likely scenario. In this case, the more likely scenario is to assume multiple pieces of equipment would be operating simultaneously.

In regard to the CEQA cases mentioned in the supporting memorandum, it should be noted that the decision for *King & Gardiner Farms, LLC v. Cnty. of Kern* also states the following:

> *2. Agency Discretion to Determine Thresholds of Significance: The absence of a mandatory standard in CEQA, the Guidelines or judicial decisions for determining the significance of a noise increase means it is the responsibility of lead agencies to choose the thresholds of significance to be applied to a project's noise impacts.*

In regard to the appropriateness of the FTA Manual criteria being used as a threshold for construction noise impact determination, this criteria is used because the City does not have its own construction noise criteria. It is very common in the environmental assessment industry to rely on such criteria as to not solely exempt potential impacts from things like construction noise due to the regulation of hours within the City's Municipal Code. To that point, it should be noted that in the Municipal Code, the City only requires noise limits to be assessed at residential property lines. The assessment at the non-noise sensitive industrial uses was presented for a conservative assessment.

According to the DEIR, "the construction noise levels anticipated from usage of construction equipment needed to implement the proposed Project were combined with the existing ambient noise level measurements at the sensitive receiver locations." (DEIR, p. 5.11-12.) These construction noise levels were then compared against the FTA's threshold to assess the level of significance.

With a composite construction noise level of 70 dBA L_{eq} at the nearest industrial use, expected noise levels would be approximately 20 dBA L_{eq} less than the appropriate threshold. Furthermore, it should be noted that no sensitive outdoor areas are present at the industrial properties surrounding the Project site. Thus, the

DEIR appropriately considered the Project's noise impacts, including the maximum noise levels and the increase in the level of noise, before concluding that the construction noise impacts would be less than significant.

Lastly, it should be pointed out that construction noise would not generate a long-term elevation of noise in proximity of the site. Once the Project is completed, there would be no permanent construction noise. All construction would occur only during the hours allowed by Fontana's Municipal Code Section 18-63 which exempts construction related noise between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays.

Further, as described in the Noise Report (Appendix L of the DEIR), a potential operational noise impact would occur if (1) the quietest daytime ambient hour is less than 70 dBA Leq and project noise impacts are greater than 70 dBA Leq, or (2) the quietest daytime ambient hour is greater than 70 dBA Leq and project noise impacts are 3 dBA greater than the quietest daytime ambient hour. Tables L and M of the Noise Report note that the existing quietest daytime noise levels measured at the closest sensitive receptors to the Project site range from 57.0-65.9 dBA L_{eq} while the existing quietest nighttime noise levels range from 49.9-58.1 dBA L_{eq} at the same locations. At those same locations, during operation of the Project, noise levels are anticipated to range between 26.3-42.6 dBA L_{eq} during the daytime and nighttime. Therefore, Project noise levels would not generate a noise level that exceeds existing ambient noise levels by 3 dBA or exceed the City's noise thresholds. Therefore, no further response is required or provided.

Response to Comment 3.14: This comment states that the DEIR determined that induced growth from the proposed Project would not be unexpected or would constitute substantial unplanned growth because the growth as a result of employment from the proposed development are within SCAG's 2020 RTP/SCS increases. The comment further states that this determination contradicts the air quality analysis in the DEIR which explicitly states that the Project would exceed SCAG's growth projections and references Impact AQ-1 which the DEIR found was significant and unavoidable. The comment concludes that the growth inducement impacts analysis must be revised to disclose Project's impacts.

There is a distinction between the determination made in the air quality analysis and the determination of whether the Project would constitute "substantial" unplanned growth. The Impact AQ-1 threshold of Section 5.2, *Air Quality* asks whether the Project would conflict with or obstruct implementation of an applicable air quality plan. To answer this, the DEIR used SCAQMD's CEQA Handbook methodology which evaluates two criteria to determine whether a project involving a legislative land use action (such as the proposed General Plan land use and zoning designation changes) would be consistent or in conflict with the AQMP.

Consistency Criterion No. 1 refers to the SCAG's growth forecast and associated assumptions included in the AQMP. SCAG's regional growth forecasts are based upon, among other things, land uses designated in general plans. If a project is consistent with the general plan land use designation, it is also consistent with the SCAG's regional forecast projections and therefore consistent with the AQMP. Given that the proposed Project would require a General Plan Amendment (GPA) to change the existing land use designation from Residential Trucking (R-T) to General Industrial (I-G) and a Specific Plan Amendment to change the site's existing SWIP designation from Residential Trucking District (RTD) to Slover East Industrial District (SED), the DEIR determined that Impact AQ-1would be significant and unavoidable because the land use change from residential to industrial would be inconsistent with SCAG's forecast projections and therefore with SCAQMD's 2022 AQMP. While the DEIR states that buildout would result in a greater employment generation in the air quality analysis and would result in "exceedance of SCAG's growth projections" for the designated land use, the DEIR does not state that this would result in "substantial" unplanned growth or that the Project would be inconsistent with SCAG's 2020-2045 RTP/SCS overall growth projection for the City of Fontana.

Additionally, Section 5.12, *Population and Housing* of the DEIR discusses that the Project would generate approximately 411 jobs based on SCAG's employment generation factor of 1,195 SF of industrial space per employee, which would represent approximately 2.2 percent of SCAG's 2020-2045 RTP/SCS overall

projected employment growth within the City of Fontana. Thus, while the Project would contribute to growth, it would not contribute to substantial unplanned growth because the Project fits within the City's overall growth projections. Therefore, the air quality and growth inducement analyses determined by the DEIR are adequate and no further response is provided or required.

Response to Comment 3.15: This comment concludes the comment letter and states that the is inadequate under CEQA therefore it must be revised and recirculated to ensure that the Project's potentially significant impacts are adequately analyzed and mitigated to less than significant levels. The comment is conclusory in nature and does not raise a specific CEQA issue. The commenters' concerns were addressed above in Responses 3.1 through 3.15, and appropriate revisions were made, as incorporated into Chapter 2, Errata. In reviewing the above listed comments and making the appropriate revisions, when necessary, no significant new information was incorporated, and further, the impacts disclosed in the DEIR accurately reflect the proposed Project and subsequent potential environmental impacts. Therefore, per CEQA Guidelines and CA Code of Regulations 15088.5, DEIR recirculation would not be warranted.

Response to Comment 3b.1: This comment provides general information regarding the Project and the memo preparer's qualifications. This comment is introductory and does not provide substantial evidence of any environmental impact. No changes to the DEIR, or further response, is warranted.

Response to Comment 3b.2: This comment provides reference information from an outside source regarding noise effects. The comment does not raise a specific issue with the adequacy of the DEIR evaluation or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 3b.3: This comment provides Wilson Ihrig's opinion on proper construction noise assessment methodology and impact determination. The first paragraph of the comment provides the following statement, "The cited FTA Manual is a guidance document, and it discourages projects against using its absolute criteria values without consideration of local conditions stating, "Project construction noise criteria should account for the existing noise environment" (FTA page 179)." While the FTA Manual does contain this text it also states "While it is not the purpose of this manual to specify standardized criteria for construction noise impact, the following guidelines can be considered reasonable criteria for assessment. If these criteria are exceeded, there may be adverse community reaction." Editorially, it can be interpreted from this statement that if the FTA Manual criteria is not exceeded, that is possible an adverse community reaction would not occur.

The second paragraph offers the opinion of Wilson Ihrig that the construction analysis utilizes the incorrect distance for construction noise assessment. As described above in Response 3.13, it is the commenters opinion that the DEIR's assessment is overly conservative; however, the DEIR's analysis is consistent with the CalEEMod construction equipment outputs and the analysis correctly utilizes an Leq or average noise level assessment. Because the assessment is replicating an average condition, the center of the Project site is used as the equipment would be transversing the site and at times be closer or further away from each property line. The commenter's suggestion of combining one dozer, one saw and one excavator at one point at the edge of the construction activity would be likely impossible in reality during construction as all three pieces would not be able to operate in the same spot. Additionally, as stated in Response 3.13, most construction equipment does not remain in one place for any significant amount of time. It should also be noted that the distances referenced are different and should be different. Potential construction vibration damage utilizes a peak condition or peak particle velocity. It should also be noted that the assessment is complete for potential damage to a structure which can occur regardless of the use type. It is correct in this instance to use the distance from the edge of construction to the surrounding structure.

The third paragraph of the comment seems to suggest that construction noise would cause an increase of 27 dBA at the closest receptor. As stated above, the recommended noise level of an average condition by Wilson Ihrig is 84 dBA at 55 feet, however that condition is not accurate to a potential real-world situation for the duration of an hour. Most importantly, however, is that the construction noise levels at the adjacent

industrial uses are not necessarily intended to determine a potential noise impact. The correct average noise level generated at the nearest industrial use of 70 dBA is provided for information purposes only as the adjacent industrial use is not considered a sensitive receptor and there are no exterior areas on the property that would be considered noise sensitive or are areas were people would gather. Thus, the construction noise levels at the nearest sensitive receptors (residences located 1,325 feet northeast and 1,500 feet south of the Project boundary line) were conservatively assessed at 56 dBA Leq because only distance propagation was considered in an effort to provide a conservative analysis. Had intervening structures been considered, construction noise impacts at the closest residential uses would be further reduced. Lastly, this conservative construction related noise level would be approximately 10 dBA below the quietest daytime hour measured at the residential uses to the south which were measured at 65 dBA (Table G of Appendix L to the DEIR).

Based on the responses above, it has been determined that construction of the proposed Project would not expose any sensitive outdoor areas or residence to a perceptible noise increase above existing ambient conditions. The Noise Analysis conducted for the proposed Project is adequate and no further response is required.

Comment Letter 4: CARB, dated August 30, 2023.

CALIFORNIA AIR RESOURCES BOARD

Gavin Newsom, Governor
Yana Garcia, CalEPA Secretary
Liane M. Randolph, Chair

August 30, 2023

Alejandro Rico
Community Development Department
City of Fontana
8353 Sierra Avenue
Fontana, California 92335
arico@fontana.org

Sent via email

Dear Alejandro Rico:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Poplar South Distribution Center (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2022090611. The Project proposes the demolition of 40 exiting residential homes, and associated structures, on the site and the construction of a 490,565 square foot warehouse building on approximately 19-acre project site. The proposed warehouse buildings would be used for the storage and/or consolidation of manufactured goods and would not include any warehouse cold storage or refrigerated uses. The proposed Project would result in 687 daily vehicle trips along local roadways, including 140 heavy-duty truck trips.[1] The Project is proposed within the City of Fontana (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

If approved, the Project will expose nearby communities to elevated levels of air pollution beyond the existing baseline emissions at the Project site. Residences are located northeast, southeast, and south of the Project site. With the closest residence located approximately 1,310 feet southeast of the Project site. In addition to residences, Jurupa Hills High School, Citrus High School, and Michael D'Arcy Elementary School are located within a mile from the Project site. These communities are surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include the many existing warehouse facilities surrounding the Project site, rail traffic along the Union Pacific rail line, and vehicular traffic along Interstate 10. Due to the Project's proximity to residences and schools already burdened by multiple sources of air pollution, CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the Project. 4.1

Industrial facilities, like the facilities described in the Project, can result in high volumes of heavy-duty diesel truck traffic, and operation of on-site equipment (e.g., forklifts and yard

[1] City of Fontana. Popular South Distribution Center Draft Environmental Impact Report. Table 5.14-1. Page 5.14-6. Accessible at https://files.ceqanet.opr.ca.gov/281975-2/attachment/35v_lM6_n4slFv3AwMaX5AsT_VYcJZkPKeln5h3eHBBA6Nki2pdfmht283pQ-VSlNQwZDMB8KLoB72rk0

tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.[2] Governor Gavin Newsom signed Executive Order N-79-20 on September 23, 2020. The executive order states: "It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible." The executive order further directs the development of regulations to help meet these goals. To ensure that lead agencies, like the Project, stay in step with evolving scientific knowledge to protect public health from adverse air quality and greenhouse gas impacts from the transportation sector, which serves as the basis of the Governor's Executive Order N-79-20, CARB staff urges the City to plan for the use of zero-emission technologies within the Project area recommended in this letter.

4.1 Cont.

The Final Environmental Impact Report Should Restrict the Operation of Transport Refrigeration Units within the Project Area

Chapter 3.5 (Description of the Project) of the DEIR states that the proposed warehouse build will not be "designed to accommodate and will not include any warehouse cold storage or refrigerated uses."[3] Consequently, air pollutant emissions associated with cold storage operation were not included in the DEIR. Warehouses used for cold storage would result in an increase in the number trucks and trailers equipped with transport refrigeration units (TRUs)[4] traveling along local roadways. TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within nearby communities. Should the Project later include cold storage uses, residences near the Project site could be exposed to significantly higher levels of toxic diesel PM and nitrogen oxides (NO_x), and greenhouse gases than trucks and trailers without TRUs. To ensure TRUs[5] will not operate within the Project site without first quantifying and mitigating their potential impacts, CARB urges the City to include one of the following design measures in the Final Environmental Impact Report (FEIR):

4.2

[2] With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, makes clear that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

[3] City of Fontana. Popular South Distribution Center Draft Environmental Impact Report. Page 3-33. Accessible at https://files.ceqanet.opr.ca.gov/281975-2/attachment/35v_IM6_n4slFv3AwMaX5AsT_VYcJZkPKeln5h3eHBBA6Nki2pdfmht283pQ-VSINQwZDMB8KLoB72rk0

[4] TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

[5] TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project-site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property, unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

4.2 Cont.

The DEIR Did Not Fully Account for Air Pollutant Emissions from Heavy Duty Trucks During On Site Grading

Chapter 3.5 (Description of the Project) of the DEIR states that a net of 8,743 cubic yards of soil would need to exported from the Project site during the construction grading phase. Based on CARB's review of the Estimator Model (CalEEMod) outputs found in Appendix B (Air Quality Studies) of the DEIR, the City and applicant assumed the Project would require 72.9 truck trips to export the 8,753 cubic yards of net soil from the site. According to the CalEEMod User Guide (Version 2022.1),[6] a truck can haul 16 cubic yards of soil per trip. Assuming each truck can hold 16 cubic yards per trip, the number trips would equate to approximately 546 truck trips. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near construction haul routes could be exposed to diesel exhaust emissions than what was evaluated in the DEIR. CARB urges the City to remodel the Project's construction air pollutant emissions using accurate heavy duty truck trip estimates.

4.3

The Final Environmental Impact Report Should Include More Mitigation Measures to Further Reduce the Project's Air Pollution Emissions

The DEIR concluded that the Project would not exceed the South Coast Air Quality Management District's (SCAQMD) significance thresholds and potential impacts are expected to be less than significant. Therefore, the Project has no mitigation measures specific to air quality except for Project Design Measures AQ-1 through AQ-4, which would require the City to comply with the SCAQMD's existing rules. These rules would require the City to implement a series of measures to reduce fugitive dust during Project construction, use low volatile organic compounds while painting the proposed warehouse building, and restrict the time of use of onsite diesel pumps. The community near the Project site is already exposed to toxic diesel PM emissions from freight operations at existing industrial buildings and vehicular traffic on Interstate 10. Due to the Project's proximity to residences and

4.4

[6] California Air Pollution Control Officers Association. California Emissions Estimator Model User Guide (Version 2022.1). Page 38. Accessible at: *https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf*

schools, CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

The list below details the CARB regulations that will result in the reduction of diesel PM and NOx emissions from trucks within California:

- **Drayage Truck Regulation:** The existing Drayage Truck Regulation requires all drayage trucks to operate with an engine that is a 2007 model year or newer and the Truck and Bus Regulation requires all trucks, including drayage, to have 2010 or newer model year engines by January 1, 2023. As part of CARB's overall approach to accelerate a large-scale transition to zero-emission medium-and heavy-duty vehicles, the amendments to the Advanced Clean Trucks regulation was approved March 2021 to help ensure that zero-emission vehicles are brought to market. CARB directed staff to ensure that fleets, businesses, and public entities that own or direct the operation of medium- and heavy-duty vehicles in California purchase and operate ZEVs to achieve a smooth transition to ZEV fleets by 2045 everywhere feasible, specifically to reach:
  - 100 percent zero-emission drayage trucks, last mile delivery, and government fleets by 2035
  - 100 percent zero-emission refuse trucks and local buses by 2040
  - 100 percent zero-emission capable utility fleets by 2040
- **Heavy-Duty Low-NOx Omnibus Rule:** On August 27, 2020, CARB approved the Heavy-Duty Low-NOx Omnibus Rule that requires truck emission standards to be reduced from 0.20 to 0.05 grams per brake horsepower-hour (g/bhp-hr) from 2024 to 2026, and to 0.02 g/bhp-hr in 2027.
- **Advanced Clean Trucks Regulation:** On June 25, 2020, CARB approved the Advanced Clean Trucks Regulation. The regulation requires manufacturers to start the transition from diesel trucks and vans to zero-emission trucks beginning in 2024. The rule is expected to result in about 100,000 electric trucks in California by the end of 2030 and about 300,000 by 2035.
- **Advanced Clean Fleets Regulation:** The Advanced Clean Fleets Regulation is part of CARB's overall strategy to accelerate a large-scale transition to zero-emissions medium- and heavy-duty vehicles. This regulation works in conjunction with the Advanced Clean Trucks regulation, approved in 2021, which helps ensure that zero-emissions vehicles are available for sale. The regulation applies to trucks performing drayage operations at seaports and railyards, fleets owned by State, local, and federal government agencies, and high priority fleets. High priority fleets are those entities that own, operate, or direct at least one vehicle in California, and that have either $50 million or more in gross annual revenue, or that own, operate, or have common ownership or control of a total of 50 or more vehicles. The regulation affects medium- and heavy-duty on-road vehicles with a gross vehicle weight rating greater

4.4 Cont.

than 8,500 pounds, off-road yard tractors, and light-duty mail and package delivery vehicles.

To further reduce the Project's air pollution emissions and stay in step with CARB regulations, it is critical that the City plans for the infrastructure to support electric trucks. To this end, CARB urges the City to include a mitigation measure or project design feature that requires all heavy-duty trucks to be electric and to install on-site infrastructure to support those electric trucks. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).[7] The HVIP is a part of California Climate Investments to incentivize the purchase of zero-emission trucks. Based on CARB's review of the zero-emission trucks listed in the HVIP, there are commercially available electric trucks that can meet the cargo transportation needs of individual industrial uses proposed in the City today. 4.4 Cont.

In addition to the mitigation modification recommended above, the City should add the air pollutant emission reduction measures listed below in the FEIR.

- In construction contracts, include language that requires all heavy-duty trucks entering the construction site during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO_x standard starting in the year 2022.[8]
- Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than two minutes while on site.
- Include contractual language in tenant lease agreements, requiring the installing of vegetative walls[9] or other effective barriers that separate loading docks and people living or working nearby.

Conclusion

Due to the Project's proximity to nearby industrial uses, residences, and schools, CARB is concerned the construction and operation of the Project may negatively contribute to cumulative impacts to the surrounding community. CARB urges the City to include more mitigation measures or project design features to reduce air pollutant emissions emitted by the Project. CARB also urges the City to fully account for heavy-duty truck trips during the 4.5

[7] Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: *https://californiahvip.org/*
[8] In 2013, CARB adopted optional low-NOx emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NOx emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model-year 2010 and later. CARB's optional low-NOx emission standard is available at: *https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards* .
[9] Effectiveness of Sound Wall-Vegetation Combination Barriers as Near-Roadway Pollutant Mitigation Strategies (2017) is available at: *https://ww2.arb.ca.gov/sites/default/files/classic//research/apr/past/13-306.pdf*

Project's construction grading phase, and to include a design measure restricting the operation of TRUs within the Project site.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

4.5 Cont.

CARB appreciates the opportunity to comment on the DEIR for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your list of selected State agencies that will receive the FEIR. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at *stanley.armstrong@arb.ca.gov*.

Sincerely,



Matthew O'Donnell, Branch Chief, Risk Reduction Branch

cc: State Clearinghouse
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Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch

Response to
Comment Letter 4: CARB, dated August 30, 2023

Response to Comment 4.1: This comment provides a summary of Project-related information contained in the DEIR, including a brief Project description and distance to the nearest sensitive receptors. The comment also states that due to the Project's proximity to residences and schools already burdened by multiple sources of air pollution, the commenter is concerned with the potential cumulative health impacts associated with the construction and operation of the Project. In addition, the comment states that industrial facilities, like the Project, can result in high volumes of heavy-duty diesel truck traffic, and operation of on-site equipment (e.g., forklifts and yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change and that CARB staff urges the City to plan for the use of zero-emission technologies within the Project area.

As identified in Table 5.2-7 of the Draft EIR, the proposed Project would not exceed the SCAQMD significance criteria for peak daily VOC, NO_X, CO, SO_X, PM_{10}, or $PM_{2.5}$ emissions. As such, operation of the proposed Project would result in a less than significant impact related to a cumulatively considerable net increase of any criteria pollutant for which the proposed Project region is in non-attainment under an applicable federal or State ambient air quality standard. As such, identification and analysis of mitigation measures or emission reduction strategies would not be required to reduce emissions to a less than significant level.

Further, a Construction and Operational Health Risk Assessment (Appendix B of the DEIR) was prepared to evaluate the health risk impacts as a result of exposure to DPM as a result of heavy-duty diesel trucks traveling to and from the site, maneuvering onsite, and entering and leaving the site during construction and operation of the proposed Project. The Heath Risk Assessment considered the closest sensitive receptors to the site which are residences located approximately 0.3 mile northeast of the Project site. As described in DEIR Section 5.2, Air Quality, the results of the Health Risk Assessment indicate the Project will not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction and operational activity.

Additionally, any future tenants that have heavy heavy duty fleets would be required by law to meet the CARB's Statewide Truck and Bus regulations, as well as CARB's Advanced Clean Truck and forthcoming Advanced Clean Fleets regulations. Also, any equipment would be subject to permitting requirements and other regulations identified by CARB under Title 17, California Code of Regulations, Section 93155 (the Airborne Toxic Control Measure for Stationary Compression Ignition Engines), which sets strict emission standards for engines and limits on run times to reduce diesel particulate matter and criteria pollutant emissions. As such, the Project Applicant will comply with all applicable current CARB rules and regulations and will continue to implement additional CARB rules and regulations when they become in effect.

Response to Comment 4.2: This comment states that Section 3.5, Description of the Project, of the DEIR states that the proposed warehouse building will not be designed to accommodate and will not include any warehouse cold storage or refrigerated uses. The letter also states air pollutant emissions associated with cold storage operation were not included in the Draft EIR. The commenter recommends that the City to include one of the following design measures in the Final Environmental Impact Report (Final EIR):

- A project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating transport refrigeration units (TRUs) within the project-site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property, unless the applicant seeks and receives an amendment to its conditional use permit allowing such use

As identified on page 3-33 of the DEIR, the building is not designed to accommodate and will not include any warehouse cold storage or refrigerated uses. As such, cold storage is not included as part of this Project.

Additionally, the Project has been condition to prohibit future cold storage uses. Should the Project later be modified to propose cold storage, the analysis would be revised under subsequent CEQA evaluation to evaluate the Project change, including air toxic emissions and health impacts from cold storage and TRUs.

Response to Comment 4.3: The comment states that the City and applicant assumed the Project would require 72.9 truck trips to export the 8,743 cubic yards of net soil from the site. The comment also states that according to the California Emissions Estimator Model (CalEEMod) User Guide (Version 2022.1), a truck can haul 16 cubic yards of soil per trip. Assuming each truck can hold 16 cubic yards per trip, the number trips would equate to approximately 546 truck trips.

As shown on page 67 of the CalEEMod outputs (Appendix A to the AQ/HRA/GHG/Energy Report), the proposed Project would result in 72.9 one-way hauling trips per day. The grading phase is anticipated to occur for 15 days, therefore, CalEEMod assumes 1,094 total one-way haul trips (547 two-way trips). Therefore, the DEIR appropriately evaluated haul trucks during grading and construction air pollutant emissions does not need to be remodeled.

Response to Comment 4.4: The comment states that the DEIR concluded that the Project would not exceed SCAQMD significance thresholds and potential impacts are expected to be less than significant. Therefore, the Project has no mitigation measures specific to air quality except for Project Design Measures AQ-1 through AQ- 4, which would require the City to comply with the SCAQMD's existing rules. The letter also asserts that due to the Project's proximity to residences and schools, CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the project. As such, the commenter recommends the inclusion of several industrial/warehouse emission reduction strategies to reduce diesel particulate matter and NO_x emissions.

There is no methodology to quantify the cumulative areawide or localized health risks within a community-wide area. The SCAQMD's recommended thresholds of significance apply to individual development projects and evaluate the incremental increase in emissions from a proposed source. These thresholds do not apply to cumulative projects. The City relies on the SCAQMD's recommended methodology to evaluate cumulative impacts, which is to conclude that an impact considered to be significant on a project-specific basis would also cause a significant cumulative impact.

Further, the SCAQMD's non-attainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in non-attainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant. In developing thresholds of significance for air pollutants, the SCAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified SCAQMD significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As demonstrated in the DEIR and the AQ/HRA/GHG/Energy Report, the proposed Project would generate operational emissions that are below the SCAQMD's thresholds. As such, the proposed Project would not result in a cumulative air quality impact and additional analysis to assess cumulative impacts is not required. As such, identification and analysis of mitigation measures or the emission reduction strategies suggested in the comment would not be required to reduce emissions to a less than significant level. (CEQA Guidelines, §15126.4(a)(3) [mitigation measures are not required for less than significant effects].) Nevertheless, the Project is required to comply with adopted CARB regulations regardless of the Project's less than significant air quality impacts.

Response to Comment 4.5: This comment provides a closing to the comment letter and restates that due to the Project's proximity to nearby industrial uses, residences, and schools, CARB is concerned the construction and operation of the Project may negatively contribute to cumulative impacts to the surrounding community. CARB urges the City to include more mitigation measures or project design features to reduce air pollutant emissions emitted by the Project. CARB also urges the City to fully account for heavy-duty truck trips during the Project's construction grading phase, and to include a design measure restricting the operation of TRUs within the Project site. See Responses to Comments 4.1 through 4.4. No further response is provided or required.

Comment Letter 5: Advocates for the Environment, dated September 27, 2023

September 27, 2023

Advocates for the Environment

A non-profit public-interest law firm
and environmental advocacy organization



Alejandro Rico
Associate Planner
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Via U.S. Mail and email to arico@fontanaca.gov

re: Comments on Draft Environmental Impact Report for Poplar South Distribution Center, SCH No. 2022090611

Dear Mr. Rico:

Advocates for the Environment submits the comments in this letter regarding the Draft Environmental Impact Report (**DEIR**) for the Poplar South Distribution Center (**Project**). The Project Site is located at the intersection of Santa Ana and Poplar Avenue in the City of Fontana (**City**), County of San Bernadino. The Project proposes to demolish 41 existing homes to construct a 490,565 square-foot warehouse building on the 19.08-acre Project Site. The Project anticipates employing up to 411 employees. (DEIR, p. 5.12-5.) We have reviewed the DEIR and submit comments regarding the sufficiency of the DEIR's Greenhouse-Gas (**GHG**) analysis under the California Environmental Quality Act (**CEQA**). 5.1

The City Should Require the Project to be Net-Zero

Given the current regulatory context and technological advancements, a net-zero significance threshold is feasible and extensively supportable. GHG emissions from buildings, including indirect emissions from offsite generation of electricity, direct emissions produced onsite, and from construction with cement and steel, amounted to 21% of global GHG emissions in 2019. (IPCC Sixth Assessment Report, Climate Change 2022, WGIII, Mitigation of Climate Change, p. 9-4.) This is a considerable portion of global GHG emissions. It is much more affordable to construct new building projects to be net-zero than to obtain the same level of GHG reductions by expensively retrofitting older buildings to comply with climate change regulations. Climate damages will keep increasing until we reach net zero GHG emissions, and there is a California state policy requiring the state to be net-zero by 2045. It therefore is economically unsound to construct new buildings that are not net-zero. 5.2

Environmental groups have achieved tremendous outcomes by litigation under CEQA. Two of the largest mixed-use development projects in the history of California, Newhall Ranch (now FivePoint Valencia), and Centennial (part of Tejon Ranch) decided to move forward as net-zero

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communities after losing CEQA lawsuits to environmental groups. The ability for these large projects to become net-zero indicates that it is achievable, even for large-scale developments. The Applicant for this Project should do the same.

We urge the City to adopt net-zero as the GHG significance threshold for this project. This threshold is well-supported by plans for the reduction of GHG emissions in California, and particularly the CARB Climate Change Scoping Plans. The CARB 2017 Scoping Plan states that "achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, is an appropriate overall objective for new development." (CARB 2017 Scoping Plan, p. 101.) Additionally, the CARB 2022 Scoping Plan reaffirms the necessity of a net zero target by expressing: "it is clear that California must transition away from fossil fuels to zero-emission technologies with all possible speed … in order to meet our GHG and air quality targets." (CARB 2022 Scoping Plan, p. 184.) CARB further encourages a net-zero threshold in its strategies for local actions in Appendix D to the 2022 Scoping Plan. (CARB 2022 Scoping Plan, Appendix D p. 24-26.) 5.2 Cont.

Moving this Project forward as a net-zero project would not only be the right thing for the City to do, but also would also help protect the City and the Applicant from CEQA GHG litigation.

GHG Significance Analysis

The DEIR adopted two significance thresholds. The first, named Impact GHG-1, asks whether the Project would "generate greenhouse gas emissions, either directly or indirectly, in a way that would have a significant impact on the environment." (DEIR, p. 5.7-13.) Under this threshold, the City concluded that the Project would have a less-than-significant impact because the Project's net total GHG emissions of approximately 2,893 metric tons carbon dioxide equivalent (**MTCO2e**) per year was just under the adopted threshold of 3,000 MTCO2e from the South Coast Air Quality Management District (**SCAQMD**). (DEIR, p. 5.7-15.) Yet, this significance conclusion is invalid because the threshold is not supported by substantial evidence, given the current regulatory setting. 5.3

The second threshold, Impact GHG-2, analyzes whether the Project would "conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases." (DEIR, p. 5.7-15.) The DEIR does not demonstrate that the Project would be consistent with applicable plans, policies, or regulations because it ignored certain applicable plans and policies and was unable to demonstrate consistency with AB 1279 and EO B-55-18. Overall, the DEIR concluded that the Project's GHG emissions are less than significant. 5.4

The SCAQMD's Numerical Threshold is Not Supported by Substantial Evidence

A lead agency must support its chosen threshold by substantial evidence. (Cal. Code Regs., tit. 14, § 15064.7(b).) In particular, CEQA requires that significance determinations account for scientific knowledge and current regulations. (Cal. Code Regs., tit. 14, §§ 15064.4(b).) Thus, thresholds which 5.5

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are not aligned with California's current reduction goals are outdated. Here, the chosen threshold of 3,000 MTCO2e adopted by the SCAQMD does not address Senate Bill 32 (**SB 32**). (*See* California Air Resources Board 2022 Climate Change Scoping Plan, Appendix D, p. 26, footnote 67.) Consequently, it is not aligned with California's current regulatory scheme and therefore is an outdated threshold not supported by substantial evidence.

In fact, the DEIR failed to account for SB 32 entirely in its significance analysis of Impact GHG-1. The implementation of SB 32 is carried out by the California Air Resources Board (**CARB**). CARB's 2017 Scoping Plan (**2017 Scoping Plan**) reflects SB 32's GHG emissions reduction goal of 40% below 1990 levels by 2030. To assess statewide implementation of this goal, the 2017 Scoping Plan created a per-capita target of 6 MTCO2e by 2030 (2017 Scoping Plan, p. 99.) Here, the Project's emissions would exceed 7 MTCO2e per service population, inconsistent with the targets necessary to achieve SB 32's goal as reflected in the CARB 2017 Scoping Plan.[1] Accordingly, the fact that the Project's GHG emissions estimate does not exceed the SCAQMD's recommended threshold of 3,000 MTCO2e does not provide substantial evidence that the Project would not significantly contribute to GHG emissions. 5.5 Cont.

The Lead Agency Did Not Adequately Conduct Consistency Analysis Under the Second Threshold (Impact GHG-2)

The consistency analysis concluded that the Project would be consistent with the CARB 2022 Scoping Plan (**2022 Scoping Plan**), Fontana General Plan, Pavley Emissions Standard, Medium/Heavy-Duty Vehicle Regulations, Tractor-Trailer Greenhouse Gas Regulation, Title 24/CALGreen, Renewable Portfolio Standard, and Million Solar Roofs Program. There are three main issues with the consistency analysis: 1) The DEIR ignored some plans and thus failed to analyze all applicable plans; 2) the lead agency misconstrued lack of interference as consistency with an applicable instrument; and 3) the Project is inconsistent with goals set out in several applicable instruments, including the 2017 Scoping Plan, SB 32, AB 1279, and EO B-55-18. 5.6

The Analysis Did Not Address All Applicable Plans, Policies, and Regulations

Under Impact GHG-2, the Project would have significant GHG emissions if it were to "conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases." (DEIR, p. 5.7-15.) This language requires that the EIR analyze the Project's consistency with *all* other applicable plans, not just the ones the lead agency prefers. 5.7

The City failed to meaningfully address consistency with SB 375, EO B-30-15, and SB 32. Thus, this analysis violates CEQA by not adhering to the chosen threshold and the City should have thoroughly analyzed consistency with all State plans, policies, and regulations that it disregarded.

[1] $2{,}893\ MTCO2e \div 411\ employees = 7.039\ MTCO2e/service\ population$

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Consistency Cannot Be Demonstrated from Lack of Interference Alone

The DEIR stated that the Project would "not interfere" with the implementation of AB 1279. AB 1279 is codified as Health and Safety Code § 38562.2, the California Climate Crisis Act. Section 38562.2(c)(1) sets as its goal that the State should achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045. This is consistent with Executive Order B-55-18, in which Governor Brown ordered that California achieve carbon neutrality as soon as possible, but no later than 2045.

The Project is inconsistent with the Climate Crisis Act because it will burn natural gas, and will have a lifetime extending well beyond the year 2045, when the Act requires carbon neutrality. It is also inconsistent with EO B-55-18, which requires carbon neutrality by that date. 5.8

The DEIR claims the Project is consistent with the Climate Crisis Act on the grounds that the Project is consistent with the 2022 Scoping Plan, and the 2022 Scoping Plan was created to be consistent with State plans, policies, and regulations. But this argument is flawed; it is possible the Project to be inconsistent with the Climate Crisis Act and EO B-55-18, even if the 2022 Scoping Plan is consistent with them, especially because the consistency with the 2022 Scoping Plan was demonstrated by various measures not directly tied to the Climate Crisis Act nor EO B-55-18. Therefore, the analysis did not meaningfully consider the Climate Crisis Act and EO B-55-18 and does not support this conclusion with substantial evidence.

The Lead Agency Did Not Demonstrate Consistency with Several Applicable Plans, Policies, and Regulations

Although the DEIR stated that the Project was consistent with applicable plans, the Project is inconsistent with one of the most important plans for the reduction of GHGs: the 2017 Scoping Plan. Additionally, the Project would be inconsistent with several other applicable policies that it did not address, including the Climate Crisis Act, EO B-55-18, EO B-30-15 and SB 32.

The 2017 Scoping Plan was developed to facilitate California's compliance with SB 32, which requires statewide GHG emissions to be reduced to 40% below 1990 levels by 2030 (Health & Safety Code § 38566). Although a discussion of consistency with the CARB 2017 Scoping Plan was briefly included in the DEIR, it notably omitted a discussion of how the Project is consistent with the Plan's 2050 goal of 80% below 1990 levels of GHG emissions. The 2017 CARB Scoping Plan also sets out statewide goals for total GHG emissions targets of 6 MTCO2e/capita by 2030, and 2 MTCO2e/capita by 2050 (2017 CARB Scoping Plan, p. 99). It is necessary for the lead agency to create a plan or mechanism comply with these future targets upon the relevant dates because the Project will likely be operating for at least thirty years, as indicated by the amortization of construction emissions. (DEIR, p. 5.7-13.) Because the Project's population emissions of 7 MTCO2e per service 5.9

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population would exceed both the 2030 and 2050 targets, the Project is inconsistent with the 2017 Scoping Plan.

Lastly, SB 32 and EO B-30-15 set a GHG emissions reduction goal of 40% below 1990 levels by 2030. The DEIR has not analyzed how it will lower its emissions to be consistent with this goal, and thus, there is no substantial evidence that the Project would be consistent with this policy. 5.9 Cont.

The analysis of Impact GHG-2 is misleading to decision-makers and the public because it inaccurately and deficiently concludes that the Project would be consistent with all applicable plans while being in contradiction to some applicable plans. Accordingly, there is no substantial evidence that the Project has insignificant GHG impact under Impact GHG-2.

Conclusion

For the reasons given in this letter, the DEIR is not in conformance with CEQA requirements. Notably, the significance analysis was incorrect, and the City should have concluded that the Project would contribute to a significant GHG impact even after implementation of adopted plans, programs, and policies. 5.10

Please put Advocates for the Environment on the interest list to receive updates about the progress of this Project.

Sincerely,



Dean Wallraff, Attorney at Law
Executive Director, Advocates for the Environment

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Response to Comment Letter 5: Advocates for the Environment, dated September 27, 2023

Response to Comment 5.1: This comment states that the letter is written by "Advocates for the Environment" and summarizes the project description. This comment also states that they have reviewed the DEIR and have submitted comments on the insufficiency of the DEIR's GHG analysis under CEQA. The comment is introductory in nature and does not provide substantial evidence of any environmental impact. No further response is warranted.

Response to Comment 5.2: This comment states that construction and operation of buildings is responsible for a very large portion of global GHG emissions. The comment states that it is more feasible and less expensive to construct new buildings to be net zero emission than it is to retrofit existing buildings to be net zero. Therefore, the comment claims that there is no reason for new buildings to not be constructed as net zero. The comment refers to two case laws where development projects moved forward to net zero communities after environmental groups sued and won after CEQA. The comment urges the City to change the GHG significance threshold to net zero and require full fair share mitigation. The comment continues to refer to CARB 2017 Scoping Plan references that further encourage the net-zero threshold for GHG emissions.

The comment states that the City should adopt the net zero GHG significance threshold and require fair-share mitigation from the Project. The Project in question is an industrial building, whereas the examples in this comment refer to non-industrial projects. Therefore, the examples provided in this comment do not necessarily apply to the Project and are not reliable enough to warrant a response. As described in DEIR Section *5.7, Greenhouse Gases*, the Project would not result in significant impacts related to GHG emissions or inconsistencies with plans, policies, or regulations aimed at reducing GHG emissions.

Moreover, the comment's suggestion to apply a net-zero threshold is not feasible or appropriate for this Project. This Project is located within the jurisdiction of the SCAQMD and therefore is evaluated against SCAQMD's thresholds which are appropriate and supported by substantial evidence, as described in Response 5.3 below. The application of a net-zero threshold is unprecedented for warehouse projects and would effectively result in a moratorium on such facilities within the City. While the application of a net-zero threshold may be appropriate and feasible for residential projects, such as the two mentioned by the commentator, it is not appropriate to apply such a threshold to warehouse projects where the vast majority of operational GHG emissions result from mobile-source emissions associated with trucks. Therefore, the Project not being constructed as net zero emissions does not conflict with the GHG significance threshold or any plan, policy, or goal related to GHG. The comment does not contain any information requiring changes to the DEIR or that would require the preparation of an EIR. No further response is warranted.

Response to Comment 5.3: This comment states that the DEIR utilized two significance thresholds, the first being "would the Project generate greenhouse gas emissions, either directly or indirectly, in a way that would have a significant impact on the environment." The comment continues by explaining that the City concluded the Project would have a less than significant GHG impact under this threshold because the Project's modeled GHG emissions were below the adopted threshold of 3,000 MTCO2e from the SCAQMD. The comment claims this impact determination is invalid because the threshold is not supported by substantial evidence due to the current regulatory setting.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination

of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The DEIR for the proposed Project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.
CEQA Guidelines Section 15064.4 provides discretion to the lead agency to determine what methodology and threshold to use to determine if GHG emissions are potentially significant. SCAQMD used the Executive Order S-3-05-year 2050 goal as the basis for the 3,000 MT CO2e. Achieving the Executive Order's objective would contribute to worldwide efforts to cap CO_2 concentrations at 450 ppm, thus stabilizing global climate.

In addition, a non-zero threshold approach based on Approach 2 of the CAPCOA CEQA and Climate Change handbook is the 3,000 $MTCO_2e$ per year threshold. Threshold 2.5 (Unit-Based Thresholds Based on Market Capture) of the CAPCOA CEQA and Climate Change handbook establishes a numerical threshold based on capture of approximately 90 percent of emissions from future development. The latest threshold developed by SCAQMD using this method is the 3,000 $MTCO_2e$ per year screening threshold.
In setting the threshold at 3,000 MTCO2e per year, SCAQMD researched a database of projects kept by the Governor's Office of Planning and Research (OPR). That database contained 798 projects, 87 of which were removed because they were very large projects and/or outliers that would skew emissions values too high, leaving 711 as the sample population to use in determining the 90th percentile capture rate. The SCAQMD analysis of the 711 projects within the sample population combined commercial, residential, and mixed-use projects. It should be noted that the sample of projects included warehouses and other light industrial land uses but did not include industrial processes (i.e., oil refineries, heavy manufacturing, electric generating stations, mining operations, etc.). Emissions from each of these projects were calculated by SCAQMD to provide a consistent method of emissions calculations across the sample population and from projects within the sample population. In calculating the emissions, the SCAQMD analysis determined that the 90th percentile ranged between 2,983 to 3,143 MTCO2e per year. The SCAQMD set their significance threshold at the low-end value of the range when rounded to the nearest hundred tons of emissions (i.e., 3,000 MTCO2e per year) to define small projects that are considered less than significant and do not need to provide further analysis.

The City understands that the 3,000 MTCO2e per year threshold was proposed by SCAQMD over a decade ago and was adopted as an interim policy; however, no permanent, superseding policy or threshold has since been adopted. The 3,000 MTCO2e per year threshold was developed and recommended by SCAQMD, an expert agency, based on substantial evidence as provided in the Draft Guidance Document – Interim CEQA Greenhouse Gas Significance Threshold (2008) document and subsequent Working Group meetings (latest of which occurred in 2010). SCAQMD has not withdrawn its support of the interim threshold and all documentation supporting the interim threshold remains on the SCAQMD website on a page that provides guidance to CEQA practitioners for air quality analysis (and where all SCAQMD significance thresholds for regional and local criteria pollutants and toxic air contaminants also are listed). Further, as stated by SCAQMD, this threshold "uses the Executive Order S-3-05 goal [80 percent below 1990 levels by 2050] as the basis for deriving the screening level" and, thus, remains valid for use in 2023 (SCAQMD, 2008, pp. 3-4). Lastly, this threshold has been used for hundreds, if not thousands of GHG analyses performed for projects located within the SCAQMD jurisdiction. Overall, the City has the discretion to select an evidence-based threshold, which is not outdated and is consistent with both regional and local evaluations of GHG emissions impacts and provides a conservative analysis of GHG related environmental effects. Therefore, no further response is required or provided.

Response to Comment 5.4: This comment states the Project analysis of threshold GHG-2 did not demonstrate consistency analysis with several relevant programs and regulations, including AB 1279 and EO B-55-18. This comment is introductory in nature and provides information for subsequent comments.

As described in Responses 5.6 through 5.9 below, consistency with the CARB 2022 Scoping Plan would ensure consistency with State and local policies, plans, and regulation aimed at reducing GHG emissions that were not directly addressed in the GHG consistency analysis. It should be noted that the commenter does not reference any particular plans that the DEIR did not analyze. Consistency with additional plans, policies, and regulations such as AB 1279 and EO B-55-18 are further discussed in Response to Comment 5.6 through 5.9. The comment does not contain any information requiring changes to the DEIR or that would require the preparation of an EIR. No further response is warranted.

Response to Comment 5.5: This comment states that a Lead Agency must support its chosen GHG threshold with substantial evidence, including accounting for scientific knowledge and current regulations. The comment goes on to state the threshold of 3,000 MTCO2e adopted by SCAQMD and utilized in the DEIR does not address SB 32 and therefore is outdated and not supported by substantial evidence. The comment continues by stating the DEIR does not consider SB 32 at all in its analysis of Impact GHG-1. The comment states that in order to assess statewide implementation of this goal, CARB's 2017 Scoping Plan created a per-capita target of 6 MTCO2e by 2030 (2017 Scoping Plan, p. 99.) The comment claims the Project's emissions would exceed this service population threshold and therefore be inconsistent with the targets necessary to achieve SB 32's goal as reflected in the CARB 2017 Scoping Plan.

This comment does not provide any substantial evidence that the Project would result in a significant environmental impact. Section 152049(c) of the CEQA Guidelines advises that comments should be accompanied by factual support, stating "[r]eviewers should explain the basis for their comments and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Where comments provide no facts or other substantial evidence to support an assertion, or where comments do not explain why the evidence supporting a conclusion in the Draft EIR is not substantial evidence, the Final EIR is not required to alter a significance determination of the Draft EIR. While CEQA permits disagreements of opinion with respect to environmental issues addressed in the EIR (see Section 15151 of the CEQA Guidelines ["disagreement among experts does not make an EIR inadequate . . . the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure"].) The Draft EIR for the proposed project provides an adequate, complete, and good faith effort at full disclosure of the physical environmental impacts of the proposed project and the conclusions are based upon substantial evidence in light of the whole record.
CEQA Guidelines Section 15064.4 provides discretion to the lead agency to determine what methodology and threshold to use to determine if GHG emissions are potentially significant. See Response to Comment 5.3 for substantial evidence as to why the Lead Agency has chosen to utilize SCAQMD's established thresholds of significance for GHG emissions of 3,000 MT CO2e. Thus, the Project is not required to rely on a service population threshold to determine the significance of GHG emissions. No further response is warranted.

Response to Comment 5.6: This comment states that the DEIR concludes the that the Project would be consistent with the CARB 2022 Scoping Plan (2022 Scoping Plan), Fontana General Plan, Pavley Emissions Standard, Medium/Heavy-Duty Vehicle Regulations, Tractor-Trailer Greenhouse Gas Regulation, Title 24/CALGreen, Renewable Portfolio Standard, and Million Solar Roofs Program. The comment states that the consistency analysis included as part of the DEIR under threshold GHG-2 is inconsistent because the DEIR did not consider all applicable plans, misinterpreted lack of interference as consistency with applicable plans, and is inconsistent with goals set out in several applicable plans, including the 2017 Scoping Plan, SB 32, AB 1279, and EO B-55-18.

As described in Responses 5.7 through 5.9 below, consistency with the CARB 2022 Scoping Plan would ensure consistency with State and local policies, plans, and regulation aimed at reducing GHG emissions that were not directly addressed in the GHG consistency analysis. The Project would include contemporary, energy-efficient/energy-conserving design features and operational procedures. The proposed Project would not interfere with the state's implementation of AB 1279's target of 85 percent below 1990 levels and carbon neutrality by 2045 because it does not interfere with implementation of the GHG reduction measures listed in CARB's Updated Scoping Plan (2022). Further, the 2022 CARB Scoping Plan replaces the 2017 CARB Scoping Plan, and an analysis of potential conflict with the 2017 CARB Scoping Plan is not needed.

It should be noted that the commenter does not reference any particular plans that the DEIR did not analyze. Consistency with additional plans, policies, and regulations such as SB 32, AB 1279 and EO B-55-18 are further discussed in Response to Comment 5.7 through 5.9. The comment does not contain any information requiring changes to the DEIR or that would require the preparation of an EIR. No further response is warranted.

Response to Comment 5.7: This comment states the Project analysis of threshold GHG-2 did not demonstrate consistency analysis with several relevant programs and regulations, including SB 375, EO B-30-15, and SB 32. The commentor is referred to Responses 5.8 and 5.9. The 2022 Scoping Plan was prepared consistent with current Statewide goals, including SB 375, EO B-30-15, and SB 32. Therefore, the Project would be implemented in compliance with applicable plans and statewide goals for the reduction of GHG emissions. The Project is consistent with statewide goals and applicable plans for the reduction of GHG emissions, thus no further response is warranted.

Response to Comment 5.8: This comment states the Project is inconsistent with AB 1279 because the Project includes the use of natural gas and will have a lifetime that extends beyond 2045. The comment also states that the Project is inconsistent with EO B-55-18 which also requires carbon neutrality as soon as possible, but no later than 2045. The comment continues by stating the DEIR did not meaningfully consider the AB 1279 or EO B-55-18.

As described above and as discussed throughout the DEIR, the proposed Project would be subject to CALGreen Code Title 24 building energy efficiency requirements. As such, the proposed Project would be consistent with State building code requirements as Title 24 advances to implement the building decarbonization goals from the 2022 Scoping Plan, consistent with the requirements of EO B-55-18. Further, as described on page 5.7-22 of the Draft EIR, the proposed Project would be consistent with applicable State policies adopted for the purpose of reducing GHG emissions. The commenter has not shown evidence of inconsistency with State GHG reduction goals, including EO B-55-18.

Further, as discussed in Section 5.5, *Energy*, of the Draft EIR, based on the operational energy consumption estimates shown in Table 5.5-2, operation of the proposed Project would result in a net decrease of 12,518 therms per year. In addition, there are currently no State requirements that ban the use of natural gas. The comment does not contain any information requiring changes to the DEIR or that would require recirculation of the DEIR. No further response is warranted.

Response to Comment 5.9: This comment stats that the DEIR did not consider the Project's consistency with CARB's 2017 Scoping Plan nor with policies included the Climate Crisis Act, EO B-55-18, EO B-30-15 and SB 32.

The 2017 CARB Scoping Plan has been superseded by the 2022 CARB Scoping Plan. As such, the DEIR evaluates the Project for consistency with the 2022 CARB Scoping Plan and Fontana General Plan Conservation Element Policies. Table 5.7-2 of the Draft EIR demonstrates the Project's consistency with the 2022 CARB Scoping Plan and Table 5.7-3 of the Draft EIR presents the Project's consistency with applicable conservation policies included in the City's General Plan. As demonstrated in Tables 5.7-2 and 5.7-3, the Project would be consistent with the 2022 CARB Scoping Plan and the applicable General Plan policies.

CARB's 2022 Scoping Plan reflects the 2045 target of 85 percent reduction below 1990 levels, set by Executive Order B-55-18, and codified by AB 1279. In addition, because the 2022 Scoping Plan was prepared consistent with current Statewide goals, including AB 1279, EO B-55-18, EO B-30-15 and SB 32, the Project would be implemented in compliance with applicable plans for the reduction of GHG emissions.

Executive Order B-55-18 sets forth a statewide goal for carbon neutrality by 2045. The Executive Order does not set forth requirements for individual developments to reach carbon neutrality by 2045. As of August 2022, the CARB has not set forth a framework for implementation or required measures to reach the goal set forth by Executive Order B-55-18. However, the proposed Project is required to be developed in compliance with the City of Fontana's Industrial Commerce Centers Sustainability Standards which ensures the Project would be designed in a manner that would facilitate the reduction of GHG emissions from onsite sources, such as through the provision of solar onsite in a manner which would offset 100 percent of the building's electricity needs and greatly reduce GHG emissions from energy sources. In addition, the proposed warehouse would be designed to meet the most current Title 24 Part 6 and Part 11 building energy efficiency requirements, which would minimize the energy utilized through installation of enhanced insulation and use of energy efficient lights and appliances. Therefore, no further response is warranted.

Response to Comment 5.10: This comment concludes the comment letter and states that the DEIR is not in conformance with CEQA requirements. Specifically, the comment states that the City should have determined that the Project would have a significant impact related to GHG emissions even after application of adopted plans, programs, and policies. The comment also requests to be added to the notification list of interested parties for all further actions regarding the Project.

The comment is conclusory in nature and does not raise a specific issue with the adequacy of the DEIR evaluation. The commenters' concerns were addressed above in Responses 5.1 through 5.9. In reviewing the above listed comments and making the appropriate revisions, when necessary, no significant new information was incorporated, and further, the impacts disclosed in the DEIR accurately reflect the proposed Project and subsequent potential environmental impacts. Therefore, per CEQA Guidelines and CA Code of Regulations 15088.5, DEIR recirculation would not be warranted.

Chapter 4. Mitigation Monitoring and Reporting Program

4.1 Introduction

The California Environmental Quality Act (CEQA) requires a lead or public agency that approves or carries out a project for which an Environmental Impact Report has been certified which identifies one or more significant adverse environmental effects and where findings with respect to changes or alterations in the project have been made, to adopt a "…reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment" (CEQA, Public Resources Code Sections 21081, 21081.6).

A Mitigation Monitoring and Reporting Program (MMRP) is required to ensure that adopted mitigation measures are successfully implemented for the South Poplar Distribution Center Project (Project). The City of Fontana is the Lead Agency for the Project and is responsible for implementation of the MMRP. This report describes the MMRP for the Project and identifies the parties that will be responsible for monitoring implementation of the individual mitigation measures in the MMRP.

4.2 Mitigation Monitoring and Reporting Program

The MMRP for the Project will be active through all phases of the Project, including design, construction, and operation. The attached table identifies the mitigation program required to be implemented by the City for the South Poplar Distribution Center Project. The table identifies the Plans, Policies and Programs (PPPs) and mitigation measures required by the City to mitigate or avoid significant adverse impacts associated with the implementation of the Project, the timing of implementation, and the responsible party or parties for monitoring compliance.

The MMRP also includes a column that will be used by the compliance monitor (individual responsible for monitoring compliance) to document when implementation of the measure is completed. As individual Plan, Program, Policies and mitigation measures are completed, the compliance monitor will sign and date the MMRP, indicating that the required actions have been completed.

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TABLE 4-1: MITIGATION MONITORING AND REPORTING PROGRAM
SOUTH POPLAR DISTRIBUTION CENTER PROJECT EIR

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
AIR QUALITY			
PPP AQ-1: Rule 403. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 403, which includes the following: - All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions. - The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the project are watered, with complete coverage of disturbed areas, at least 3 times daily during dry weather; preferably in the mid-morning, afternoon, and after work is done for the day. - The contractor shall ensure that traffic speeds on unpaved roads and project site areas are reduced to 15 miles per hour or less.	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Building & Safety Department	
PPP AQ-2: Rule 1113. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule (SCAQMD) Rule 1113. Only "Low-Volatile Organic Compounds" paints (no more than 50 gram/liter of VOC) and/or High Pressure Low Volume (HPLV) applications shall be used.	In construction plans and specifications. Prior to building permits.	City of Fontana Building & Safety Department	
PPP AQ-3: Rule 402. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 402. The Project shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.	In construction plans and specifications. During Project operation. Prior to grading and building permits.	City of Fontana Building & Safety Department	
PPP AQ-4: Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines. The Project is required to obtain a permit from SCAQMD for the proposed diesel fire pump and	In construction plans and specifications. During Project operation. Prior	City of Fontana Building & Safety Department and SCAQMD	

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
would be required to comply with Rule 1470, regulating the use of diesel-fueled internal combustion engines.	to grading and building permits.		
BIOLOGICAL RESOURCES			
Mitigation Measure BIO-1: Nesting Bird Survey. Vegetation removal should occur outside of the nesting bird season (generally between February 1 and August 31). If vegetation removal is required during the nesting bird season, the applicant must conduct take avoidance surveys for nesting birds prior to initiating vegetation removal/clearing. Surveys will be conducted by a qualified biologist(s) within three days of vegetation removal. If active nests are observed, a qualified biologist will determine appropriate minimum disturbance buffers and other adaptive mitigation techniques (e.g., biological monitoring of active nests during construction-related activities, staggered schedules, etc.) to ensure that impacts to nesting birds are avoided until the nest is no longer active. At a minimum, construction activities will stay outside of a 200-foot buffer around the active nests. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist and San Bernardino County Environmental Planning & Maintenance Division verify that the nests are no longer occupied, and the juvenile birds can survive independently from the nests. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities may occur.	Submittal of pre-activity nesting bird field survey results report (during Feb 1 – Aug 31). Within 3 days of vegetation removal.	City of Fontana Planning Department, qualified biologist and San Bernardino County Environmental Planning & Maintenance Division	
PPP BIO-1: California Fish and Game Code, Sections 3503.5, 3511, 3515. Section 3503.5 of the California Fish and Game Code states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Activities that result in the abandonment of an active bird of prey nest may also be considered in violation of this code. In addition, California Fish and Game Code, Section 3511 prohibits the taking of any bird listed as fully protected, and California Fish and Game Code, Section 3515 states that is it unlawful to take any non-game migratory bird protected under the MBTA.	In construction plans and specifications. During Project construction activities.	City of Fontana Planning Department and qualified biologist	
CULTURAL RESOURCES			

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
Mitigation Measure CUL-1: Archaeological Monitoring. Prior to the issuance of the first grading permit, the applicant shall provide a letter to the City Planning Division, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A, stating that qualified archeologists have been retained and will be present at pre-grade meetings and for all initial ground disturbing activities, up to five feet in depth. Additionally, tribal monitor(s) shall be required on-site during all ground-disturbing activities. Archaeological and Native American monitoring and excavation during construction shall be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Upon discovery of any tribal cultural or archaeological resources, construction activities shall be halted within 60 feet of the find until the find can be assessed. All cultural, tribal and archaeological resources unearthed by Project construction activities shall be evaluated by the qualified archaeologist and tribal monitor. If the resources are Native American in origin, interested Tribes (as a result of correspondence with area Tribes) shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request preservation in place or recovery for educational purposes. Work may continue on other parts of the project while evaluation takes place. Preservation in place shall be the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavation to remove the resource along the subsequent laboratory processing and analysis. All Tribal Cultural Resources shall be returned to the Tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material,	Retain archaeological monitor and submit letter. Prior to the issuance of the first grading permit.	City of Fontana Planning Department.	

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
they shall be offered to the Tribe or a local school or historical society in the area for educational purposes.			
PPP CUL-1: Human Remains. If human remains are found on this site, the developer/permit holder or any successor in interest shall comply with State Health and Safety Code Section 7050.5. Pursuant to State Health and Safety Code Section 7050.5, if human remains are encountered, no further disturbance shall occur until the San Bernardino County Coroner has made the necessary findings as to origin. Further, pursuant to Public Resources Code Section 5097.98 (b), remains shall be left in place and free from disturbance until a final decision as to the treatment and their disposition has been made. If the San Bernardino County Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted by the Coroner within the period specified by law (24 hours). Subsequently, the Native American Heritage Commission shall identify the "Most Likely Descendant". The Most Likely Descendant shall then make recommendations and engage in consultation with the property owner concerning the treatment of the remains as provided in Public Resources Code Section 5097.98.	In construction plans and specifications. During construction activities.	City of Fontana Planning Department	
ENERGY			
PPP E-1: CalGreen Compliance: The Project is required to comply with the CalGreen Building Code to ensure efficient use of energy. CalGreen specifications are required to be incorporated into building plans as a condition of building permit approval	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Building & Safety Department	
GEOLOGY AND SOILS			
PPP GEO-1: CBC Compliance. The project is required to comply with the California Building Standards Code as included in Chapter 5, Article III, Section 6-51 of the Fontana Municipal Code to preclude significant adverse effects associated with seismic and soils hazards. CBC related and geologist and/or civil engineer specifications for the proposed Project are required to be incorporated into grading plans and building specifications as a condition of construction permit approval.	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Building & Safety Department	
MM PAL-1: Paleontological Monitoring. Prior to the issuance of grading permits, the Project Applicant/developer shall submit to and receive approval from the City, a Paleontological Resource Impact Mitigation	Retain Paleontologist and submit PRIMP to city.	City of Fontana Planning Department	

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
Program (PRIMP). The PRIMP shall include the provision for a qualified professional paleontologist (or his or her trained paleontological representative) to conduct monitoring during mass grading and excavation activities in undisturbed Pleistocene alluvial fan sediment, starting at a depth of five feet. If a fossil(s) is found at shallower depths, earth disturbance activities should be halted within a radius of 50 feet from the location of the fossil, and the approved Project paleontologist shall be consulted to determine the significance of the fossilized remains. If the fossil is deemed significant by the paleontologist, full-time monitoring should be initiated at the Project. The paleontologist shall be prepared to quickly salvage fossils as they are unearthed to avoid construction delays. The paleontologist shall also remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. The paleontologist shall have the power to temporarily halt or divert grading equipment to allow for removal of abundant or large specimens. Collected samples of sediments shall be washed to recover small invertebrate and vertebrate fossils. Recovered specimens shall be prepared so that they can be identified and permanently preserved. Specimens shall be identified and curated and placed into an accredited repository (such as the San Bernardino County Museum) with permanent curation and retrievable storage. Prior to curation, the City of Fontana shall be consulted on the repository/museum to receive the fossil material. A report of findings, including an itemized inventory of recovered specimens, shall be prepared upon completion of the steps outlined above. The report shall include a discussion of the significance of all recovered specimens. The report and inventory, when submitted to the City of Fontana Planning Department, will signify completion of the program to mitigate impacts to paleontological resources.	Prior to grading and building permits.		
GREENHOUSE GAS EMISSIONS			

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
PPP GHG-1: City of Fontana's Industrial Commerce Centers Sustainability Standards. Prior to issuance of a business license, the City of Fontana Planning Director shall ensure that the proposed Project implements the requirements set forth in the City of Fontana's Industrial Commerce Centers Sustainability Standards that are applicable to the Project.	Prior to issuance of business license.	City of Fontana Planning Department	
HAZARDS AND HAZARDOUS MATERIALS			
PPP HAZ-1: SCAQMD Rule 1403. Prior to issuance of a Demolition Permit, the Project Applicant/Developer shall submit verification to the County Building Division that an asbestos survey has been conducted at all existing buildings located on the Project site. If asbestos is found, the Project Applicant/Developer shall follow all procedural requirements and regulations of SCAQMD 1403. Rule 1403 regulations require the following actions be taken: notification of SCAQMD prior to construction activity, asbestos removal in accordance with prescribed procedures, placement of collected asbestos in leak-tight containers or wrapping, and proper disposal.	Prior to issuance of a demolition permit.	City of Fontana Planning Department and County Building Division	
PPP HAZ-2: Transportation of Hazardous Waste. Hazardous materials and hazardous wastes will be transported to and/or from the project developed as required by the County of San Bernardino's Hazardous Materials Division in compliance with any applicable state and federal requirements, including the U.S. Department of Transportation regulations listed in the Code of Federal Regulations (CFR) (Title 49, Hazardous Materials Transportation Act); California Department of Transportation standards; and the California Occupational Safety and Health Administration standards.	In construction plans and specifications. During construction.	City of Fontana Planning Department	
PPP HAZ-3: Resource Conservation and Recovery Act. Hazardous waste generation, transportation, treatment, storage, and disposal will be conducted in compliance with the Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Code of Federal Regulations, Title 40, Part 263), including the management of nonhazardous solid wastes and underground tanks storing petroleum and other hazardous substances. The San Bernardino County Fire Department serves as the designated Certified Unified Program Agency (CUPA) which implements state and federal regulations for the following programs: (1) Hazardous Materials Release Response Plans and Inventory Program, (2) California Accidental Release Prevention (CalARP) Program, (3) Aboveground Petroleum Storage Act Program, and (4) UST	In construction plans and specifications. During construction.	City of Fontana Planning Department	

Plan, Policy, Program / Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
Program (5) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs (6) Hazardous Materials Management Plan and Hazardous Material Inventory Statement Program.			
HYDROLOGY AND WATER QUALITY			
PPP HYD-1: Comply with NPDES. Since this Project is one acre or more, the permit holder shall comply with all of the applicable requirements of the National Pollutant Discharge Elimination System (NPDES) and shall conform to NPDES Best Management Practices for Stormwater Pollution Prevention Plans during the life of this permit.	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Planning Department	
PPP HYD-2: NPDES/SWPPP. Prior to issuance of any grading or construction permits - whichever comes first - the applicant shall provide the Building and Safety Department evidence of submitting a Notice of Intent (NOI), develop and implement a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site.	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Planning Department	
PPP HYD-3: WQMP. Pursuant to City Municipal Code Section 30-526, Infrastructure, the Project Applicant shall prepare a Water Quality Management Plan (WQMP) that is consistent with the San Bernardino County Flood Control District Standards and follows the WQMP guidance.	In construction plans and specifications. Prior to grading and building permits.	City of Fontana Planning Department	
NOISE			
PPP NOI-1: Construction Noise. As required by Fontana Municipal Code Section 18-63(b)(7), construction activities shall only take place between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on Saturdays. Construction activities conducted outside of these hours would require previous approval from the City of Fontana.	In construction plans and specifications. During construction activities.	City of Fontana Planning Department	
PUBLIC SERVICES			
PPP PS-1: School Impact Fees. Prior to the issuance of either a certificate of occupancy or prior to building permit final inspection, the applicant shall provide payment of the appropriate fees set forth by the Fontana Unified School District related to the funding of school facilities pursuant to Government Code Section 65995 et seq.	Prior to the issuance of certificate of occupancy or prior to building permit final inspection	City of Fontana Planning Department	