



**FIRST PALM SPRINGS COMMERCE CENTER
FINAL ENVIRONMENTAL IMPACT REPORT – APPENDIX ITEMS**

JULY 2025

State Clearing House #2024010068



Prepared By:

City of Palm Springs

Planning Department

3200 E Tahquitz Canyon Way, Palm Springs, CA 92262

In Consultation With:



The Altum Group

FIRST PALM SPRINGS COMMERCE CENTER
DRAFT ENVIRONMENTAL IMPACT REPORT – APPENDIX ITEMS

JULY 2025

State Clearing House #2024010068

Prepared By:

City of Palm Springs

Mr. Glenn Mlaker, Associate Planner

Department of Planning Services
3200 E Tahquitz Canyon Way, Palm Springs, CA 92262

In Consultation With:

EIR Consultants

The Altum Group - Lead EIR Consultant

Ganddini Group, Inc - Air Quality, Global Climate Change, Health Risk Assessment and Energy

Blue Consulting Group – Biological Resources

BFSA Environmental Services - Cultural and Tribal Cultural Resources

Ganddini Group, Inc – Noise

Weis Environmental - Phase 1 Environmental Site Assessment

MNS Engineers, Inc - Hydrology

Kimley-Horn and Associates - Hydrology

Ganddini Group, Inc – Traffic

APPENDIX A – LETTER A

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

ssannadan@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

LETTER A

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAUORA R. MCGUIRE
TARA C. RENGIFO

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

January 21, 2025

Via U.S. Mail and Email

Christopher Hadwin
Director of Planning Services
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Email:
christopher.hadwin@palmspringsca.gov
planning@palmspringsca.gov

Brenda Pree, MMC, CERA
City Clerk
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Email: brenda.pree@palmspringsca.gov;
cityclerk@palmspringsca.gov

Via Email Only

Glenn Mlaker, AICP, Associate Planner

Email: glenn.mlaker@palmspringsca.gov

Re: Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report - First Palm Springs Commerce Center Project (SCH No. 2024010068)

Dear Mr. Hadwin, Ms. Pree, and Mr. Mlaker:

A-1

We are writing on behalf of Californians Allied for a Responsible Economy (“CARE CA”) to request ***immediate access*** to any and all documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report (“DEIR”) prepared for the First Palm Springs Commerce Center Project (SCH No. 2024010068) (“Project”), proposed by First Industrial Realty Trust Inc. (“Applicant”). *This request excludes a copy of the DEIR and any documents that are currently available on the City of Palm Springs website, as of today’s date.*¹

A-2

The Project proposes to develop two (2) warehouse buildings (“Building 1” and “Building 2”) with office spaces, truck docking areas and employee parking spaces in the in the City of Palm Springs, County of Riverside, California. Building 1 would approximate 1,516,174 square feet (SF), with 258 truck trailer docks, four

¹ Accessed <https://www.palmspringsca.gov/government/departments/planning/ceqa-documents> on January 21, 2025.

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Cont

(4) grade doors, 929 parking spaces for cars and trucks, of which 16 spaces would be for handicap parking, 25 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. Building 2 would approximate 388,530 SF with 42 truck trailer docks, two (2) grade doors, 302 parking spaces for cars and trucks, of which eight (8) spaces would be for handicapped parking, 14 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. The approximate 91.97 acre proposed Project site is located north of the I-10 and east of SR 62, in the northern portion of the City of Palm Springs. The Project site is comprised of five (5) parcels, Assessor Parcel Numbers (APNs: 666-320-010, -011, -012, -015, and -019), and is bounded by 18th Avenue to the north, North Indian Canyon Drive to the east, and 19th Avenue to the south. Karen Drive and Blair Road are to the west.

A-3

Our request for ***immediate access*** to all documents referenced in the DEIR is made pursuant to the California Environmental Quality Act (“CEQA”), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.²

Please use the following contact information for all correspondence:

U.S. Mail

Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

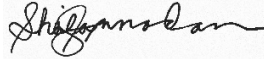
ssannadan@adamsbroadwell.com

² See Public Resources Code § 21092(b)(1) (stating that “all documents referenced in the draft environmental impact report” shall be made “available for review”); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the EIR . . . shall be readily accessible to the public”); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (EIR must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“[W]hatever is required to be considered in an EIR must be in that formal report. . .”), internal citations omitted.

January 21, 2025
Page 3

A—3
Cont [If you have any questions, please call me at (650) 589-1660 or email me at ssannadan@adamsbroadwell.com. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp

APPENDIX B – LETTER B

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

amcguire@adamsbroadwell.com

SACRAMENTO OFFICE

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Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

January 30, 2025

Via U.S. Mail and Email

Christopher Hadwin
Director of Planning Services
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, Ca 9222

Email:

Christopher.hadwin@palmspringsca.gov;
planning@palmspringsca.gov

Via Email Only

Glenn Mlaker, AICP, Associate Planner

Email: glenn.mlaker@palmspringsca.gov

**Re: Request to Extend Public Review and Comment Period on
Draft Environmental Impact Report – First Palm Springs
Commerce Center Project (SCH No. 2024010068)**

Dear Mr. Hadwin and Mr. Mlaker:

B-1

We are writing on behalf of Californians Allied for a Responsible Economy (“CARE CA”) to respectfully request that the City of Palm Springs (“City”) extend the public review and comment period of the Draft Environmental Impact Report (“DEIR”)¹ for the First Palm Springs Commerce Center Project (SCH No. 2024010068) (“Project”) due to the City’s failure to provide timely access to documents referenced and relied upon in the DEIR. The DEIR public review period currently ends on February 10, 2025.² CARE CA asks that the public review period be extended **by at least 45 days** from the date on which the City releases *all* DEIR reference documents for public review.

¹ City of Palm Springs Planning Department, Draft Environmental Impact Report for the First Palm Springs Commerce Center Project (December 2024), available at:

<https://www.palmspringsca.gov/home/showpublisheddocument/90101/638705406972930000>.

² City of Palm Springs, Public Notice of Availability of a Draft Environmental Impact Report for the First Palm Springs Commerce Center Project, available at:

<https://www.palmspringsca.gov/home/showpublisheddocument/90108/638705432094130000>.

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On January 21, 2025, our office submitted a request, pursuant to the California Environmental Quality Act (“CEQA”),³ for immediate access to any and all *documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report (“DEIR”).*^{4 5} CEQA’s section 21092(b)(1) and CEQA Guidelines section 15087(c)(5) require that “all documents referenced” and “all documents incorporated by reference” in an environmental impact report shall be “readily accessible to the public during the lead agency’s normal working hours” during the entire public comment period.⁶

On the same day, we received an email response from the City stating that the reference documents were located on the City’s website (“website”). Our subsequent review revealed that the only documents available on the website are the DEIR, appendices, and public notices for the Project. The website does not post links to any of the other documents referenced or relied upon in the DEIR.

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Our office emailed the City on Tuesday, January 28, 2025, informing them of the results of our review and again requesting that the City provide access to all documents referenced or relied upon by the DEIR. On the same day, the City provided a partial response to CARE CA’s request. However, there are numerous critical DEIR reference documents that are missing, including the following:

1. Documents referenced in the DEIR’s Environmental Impact Analysis with no hyperlinks:
 - a. California Department of Finance, Population and Housing Estimates for Cities, Counties, and the State 1990-2000 and 2011-2022; Department of Finance City/County Population and Housing Estimates 2023. Accessed 2024.

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2. Documents referenced in DEIR Appendix B– Air Quality, Global Climate Change, Health Risk Assessments, and Energy Impact Analysis:

³ Pub. Resources Code §§ 21000 *et seq.*

⁴ **Exhibit A** – Letter to Christopher Hadwin, Brenda Pree, Glenn Mlaker, City of Palm Springs from Sheila M. Sannadan, Adams Broadwell Joseph & Cardozo re: Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report – First Palm Springs Commerce Center Project (SCH No. 2024010068) (January 21, 2025).

⁵ The same day, our office submitted a separate public records request pursuant to the Public Records Act (“PRA”) for access to other *public records* related to the Project. **Exhibit B** – Letter to Christopher Hadwin, Brenda Pree, Glenn Mlaker, City of Palm Springs from Sheila M. Sannadan, Adams Broadwell Joseph & Cardozo re: Request for Immediate Access to Public Records – First Palm Springs Commerce Center Project (SCH No. 2024010068) (January 21, 2025).

⁶ Pub. Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5).

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Cont**

- a. 2009 Health Risk Assessments for Proposed Land Use Projects
- b. 2008 Resolution 08-43
- c. 2008 Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act
- d. 2008 ARB Recommended Interim Risk Management Policy for Inhalation-Based Residential Cancer Risk –Frequently Asked Questions
- e. 2008 Climate Change Scoping Plan, a framework for change.
- f. 2011 Supplement to the AB 32 Scoping Plan Functional Equivalent Document
- g. 2014 First Update to the Climate Change Scoping Plan, Building on the Framework Pursuant to AB32, the California Global Warming Solutions Act of 2006. May.
- h. California's 2017 Climate Change Scoping Plan. November.
- i. 2022 Scoping Plan for Achieving Carbon Neutrality. November 16.
- j. 2022 Historical Air Quality, Top 4 Summary
- k. 2019 County of Riverside Climate Action Plan Update. November.
- l. 2008 CEQA and Climate: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review
- m. 2018 CEQA Guideline Sections to be Added or Amended
- n. 2014 IPCC Fifth Assessment Report, Climate Change 2014: Synthesis Report
- o. 2015 Air Toxics Hot Spots Program Risk Assessment Guidelines
- p. 1993 CEQA Air Quality Handbook
- q. 2003 Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling
- r. Emissions for CEQA Air Quality Analysis
- s. 2005 Rule 403 Fugitive Dust
- t. 2007 Air Quality Management Plan
- u. 2008 Final Localized Significance Threshold Methodology, Revised
- v. Final 2012 Air Quality Management Plan
- w. 2016 Air Quality Management Plan
- x. 2021 MATES-V Multiple Air Toxics Exposure Study in the South Coast Air Basin. August.
- y. 2022 Air Quality Management Plan. December 2.
- z. 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy
- aa. 2011 Reported Historic Asbestos Mines, Historic Asbestos Prospects, and Other Natural Occurrences of Asbestos in California

Documents referenced in DEIR Appendix C– Biological Assessment:

- aa. California Department of Fish and Wildlife (CDFW), 2023. RareFind California Department of Fish and Game Natural Diversity Database (CNDDDB) Palm Springs USGS 7.5-Minute Quadrangles. Sacramento, CA: California Department of Fish and Game, Biogeographic Data Branch.
- bb. California Native Plant Society (CNPS), 2023. CNPS Electronic Inventory of Rare and Endangered Plants
- cc. County of Riverside. 2008/2016. Coachella Valley Multiple Species Habitat Conservation Plan(MSHCP)/Final Amendment. August.
- dd. County of Riverside. 2006. Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan Area (E.P. Department, ed), p. 4. Riverside, CA: County of Riverside.
- ee. County of Riverside. 2023. RCIP Resource Conservation Summary Report Generator: County of Riverside.
- ff. Elbroch, M., 2003. Mammal Tracks & Sign, A Guide to North American Species. Mechanicsburg, PA: Stackpole Books.
- gg. Halfpenny, J.C., 2000. Scats and Tracks of the Desert Southwest, A Field Guide to the Signs of 70 Wildlife Species. Helena, MT: Falcon Publishing, Inc.
- hh. Holland, R.F., 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California (California Department of Fish and Game. The Resources Agency, ed.), p. 156. Sacramento, CA.
- ii. Sawyer and Keeler-Wolf, 1995. A Manual of California Vegetation. Sacramento, CA: California Native Plant Society.
- jj. Sawyer, J.O., T.Keeler-Wolf and J.M. Evans, 2009. A Manual of California Vegetation, Second Edition. Sacramento, CA: California Native Plant Society.
- kk. Sibley, D.A., 2000. National Audubon Society. The Sibley Guide To Birds. New York, NY: Alfred A. Knopf, Inc.
- ll. Stebbins, R.C., 2003. A Field Guide To Western Reptiles and Amphibians. New York, NY: Houghton Mifflin. United States

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3. Documents Referenced in the DEIR Appendix E: Noise Analysis:

- a. 2020 Transportation and Construction Vibration Guidance Manual. April.
- b. 1974 "Information on Levels of Environmental Noise Requisite to Protect Public Health And Welfare with an Adequate Margin of Safety," EPA/ONAC 550/9-74-004, March 1974.
- c. 2018 Transit Noise and Vibration Impact Assessment Manual. Typical Construction Equipment Vibration Emissions.

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- d. 2017 State of California General Plan Guidelines.
- e. 2001 General Plan, Chapter 4, Figure C-3 "Link Volume Capacities/Level of Service for Riverside County Roadways".
- f. 2009 County of Riverside Industrial Hygiene Guidelines for Determining and Mitigating Traffic Noise Impacts to Residential Structures and County.
- g. 2006 FHWA Roadway Construction Noise Model User's Guide. January.
- h. 2 MD Acoustics, LLC Noise Measurement Data for RTU –Carrier 50TFQ0006

B-7

- 4. Documents Referenced in the DEIR Appendix F: Soils Report:
 - a. Delaware Department of Natural Resources and Environmental Control, Wetlands Section.
 - b. United States Army Corps of Engineers, Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual. Waterways Experiment Station Technical Report Y-87-1.
 - c. American Association of State Highway and Transportation Officials (AASHTO). 2004. Standard specifications for transportation materials and methods of sampling and testing. 24th edition.
 - d. American Society for Testing and Materials (ASTM). 2005. Standard classification of soils for engineering purposes. ASTM Standard D2487-00.
 - e. Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deep-water habitats of the United States. U.S. Fish and Wildlife Service FWS/OBS-79/31.
 - f. Federal Register. July 13, 1994. Changes in hydric soils of the United States.
 - g. Federal Register. September 18, 2002. Hydric soils of the United States.
 - h. Hurt, G.W., and L.M. Vasilas, editors. Version 6.0, 2006. Field indicators of hydric soils in the United States.
 - i. National Research Council. 1995. Wetlands: Characteristics and boundaries.

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- 5. Non-accessible hyperlinks/pdfs for the documents referenced in the DEIR Appendix F: Soils Report:
 - a. Soil Survey Division Staff. 1993. Soil survey manual. Soil Conservation Service. U.S. Department of Agriculture Handbook 18.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_054262

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Cont

- b. Soil Survey Staff. 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service, U.S. Department of Agriculture Handbook 436.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053577
- c. Soil Survey Staff. 2010. Keys to soil taxonomy. 11th edition. U.S. Department of Agriculture, Natural Resources Conservation Service.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053580
- d. United States Department of Agriculture, Natural Resources Conservation Service. National forestry manual.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/home/?cid=nrcs142p2_053374
- e. United States Department of Agriculture, Natural Resources Conservation Service. National range and pasture handbook.
<http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/landuse/range/pasture/?cid=stelp2db1043084>
- f. United States Department of Agriculture, Natural Resources Conservation Service. National soil survey handbook, title 430-VI.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/scientists/?cid=nrcs142p2_054242
- g. United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land resource regions and major land resource areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/soils/?cid=nrcs142p2_053624
- h. United States Department of Agriculture, Soil Conservation Service. 1961. Land capability classification. U.S. Department of Agriculture Handbook 210.
http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_052290.pdf

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- 6. Documents Referenced in the DEIR Appendix G: Phase I Environmental Site Assessment:
 - a. ASTM International, "Standard Practice for Environmental Site
 - b. Assessments: Phase I Environmental Site Assessment Process," ASTM Designation E 1527-21, 2021
 - c. California Geological Survey, 2002, California Geomorphic Provinces Note 36, Electronic Copy, Revised December.

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Cont

- California State Water Resources Control Board, Water Quality Control Plan for the Colorado River Basin Region (7), California, Updated 2019.
- d. ERIS Database Report dated February 15, 2023.
 - e. EDR Aerial Photograph Decade Package dated October 25, 2022.
 - f. EDR City Directory Image Report dated October 27, 2022.
 - g. EDR Fire Insurance Map Report dated October 24, 2022.
 - h. EDR Historical Topo Map Report dated October 24, 2022.
 - i. USGS topographic map, Desert Hot Springs, California Quadrangle (2018).

B-10

- 7. Documents Referenced in the DEIR Appendix I: Preliminary Hydrology And Water Quality Assessment Report:
 - a. Hydrology Manual. Riverside County Flood Control and Water Conservation District, April 1978.

B-11

To date, the City has failed to provide access to these and all other documents referenced and relied upon in the DEIR, in violation of CEQA. CEQA compels a lead agency to make all documents referenced in a draft environmental impact report “available for review” during the entire public comment period.⁷ We ask that the City fully and immediately comply with our January 21, 2025 request for immediate access by providing access to the above-listed DEIR reference documents.

c. The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the public review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.⁸ It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.⁹

By failing to make all documents and underlying data referenced in the DEIR readily available during the entirety of the public comment period, the City is depriving members of the public the ability to meaningfully comment on the potentially significant environmental impacts of the Project and is violating the procedural mandates of CEQA.

⁷ *Id.*

⁸ *Ultra mar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

⁹ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report”).

In sum, we request the City:

B-12

- 1) Extend the public review and comment period **for at least 45 days from the date on which the City releases *all* DEIR reference documents** for public review.
- 2) Immediately provide access to the DEIR reference documents referenced herein.

B-13

Given the short time before the current comment deadline ends, please contact me as soon as possible with your response to this request, but no later than close of business on **Friday, January 31, 2025.**

Thank you for your prompt attention and response to this matter.

Sincerely,



Alaura McGuire

B-14

Attachments

ARM:acp

EXHIBIT A

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

ssannadan@adamsbroadwell.com

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January 21, 2025

Via U.S. Mail and Email

Christopher Hadwin
Director of Planning Services
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Email:
christopher.hadwin@palmspringsca.gov
planning@palmspringsca.gov

Brenda Pree, MMC, CERA
City Clerk
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Email: brenda.pree@palmspringsca.gov;
cityclerk@palmspringsca.gov

Via Email Only

Glenn Mlaker, AICP, Associate Planner

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U.S. Mail

Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

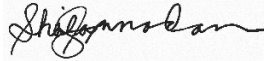
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Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp

EXHIBIT B

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A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

ssannadann@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAUARA R. MCGUIRE
TARA C. RENGIFO

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

January 21, 2025

Via U.S. Mail and Email

Christopher Hadwin
Director of Planning Services
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Email:
christopher.hadwin@palmspringsca.gov;
planning@palmspringsca.gov

Brenda Pree, MMC, CERA
City Clerk
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Email: brenda.pree@palmspringsca.gov;
cityclerk@palmspringsca.gov

Via Email Only

Glenn Mlaker, AICP, Associate Planner

Email: glenn.mlaker@palmspringsca.gov

Via Online Submission

<https://palmspringsca.justfoia.com/publicportal/home/newrequest>

Re: Request for Immediate Access to Public Records - First Palm Springs Commerce Center Project (SCH No. 2024010068)

Dear Mr. Hadwin, Ms. Pree, and Mr. Mlaker:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") to request immediate access to any and all public records referring or related to the First Palm Springs Commerce Center Project (SCH No. 2024010068) ("Project"), proposed by First Industrial Realty Trust Inc. ("Applicant"). This request includes, but is not limited to, any and all file materials, applications, correspondence, resolutions, memos, notes, analysis, email messages, files, maps, charts, and any other documents related to the Project. This request does not include the Draft Environmental Impact Report ("DEIR") or documents referenced in the DEIR, which we have requested in a separate letter pursuant to the California Environmental Quality Act.

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The Project proposes to develop two (2) warehouse buildings (“Building 1” and “Building 2”) with office spaces, truck docking areas and employee parking spaces in the in the City of Palm Springs, County of Riverside, California. Building 1 would approximate 1,516,174 square feet (SF), with 258 truck trailer docks, four (4) grade doors, 929 parking spaces for cars and trucks, of which 16 spaces would be for handicap parking, 25 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. Building 2 would approximate 388,530 SF with 42 truck trailer docks, two (2) grade doors, 302 parking spaces for cars and trucks, of which eight (8) spaces would be for handicapped parking, 14 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. The approximate 91.97 acre proposed Project site is located north of the I-10 and east of SR 62, in the northern portion of the City of Palm Springs. The Project site is comprised of five (5) parcels, Assessor Parcel Numbers (APNs: 666-320-010, -011, -012, -015, and -019), and is bounded by 18th Avenue to the north, North Indian Canyon Drive to the east, and 19th Avenue to the south. Karen Drive and Blair Road are to the west.

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 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 and around the City of Palm Springs, Riverside County.

This request is made pursuant to the **California Public Records Act** (Government Code §§ 7920.000, *et seq.*). This request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a Constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

We request ***immediate access*** to review the above documents pursuant to section 7922.525 of the Public Records Act, which requires public records to be “open to inspection at all times during the office hours of a state or local agency” and provides that “every person has a right to inspect any public record.”¹

¹ Gov. Code §7922.525(a).

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Therefore, the 10-day response period applicable to a “request for a copy of records” under Section 7922.535(a) does not apply to this request.

We request access to the above records in their original form, as maintained by the agency.² Pursuant to Government Code Section 7922.570, if the requested documents are in electronic format, please upload them to a file hosting program such as Dropbox, NextRequest or a similar program. Alternatively, if the electronic documents are 10 MB or less (or can be easily broken into sections of 10 MB or less), they may be emailed to me as attachments.

We will pay for any direct costs of duplication associated with filling this request up to \$200. However, please contact me at (650) 589-1660 with a cost estimate before copying/scanning the materials.

Please use the following contact information for all correspondence:

U.S. Mail

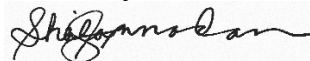
Sheila M. Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

If you have any questions, please call me at (650) 589-1660 or email me at ssannadan@adamsbroadwell.com. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp

² Gov. Code § 7922.570; *Sierra Club v. Super. Ct.* (2013) 57 Cal. 4th 157, 161-62.

APPENDIX C – LETTER C

BLUM, COLLINS & HO LLP

ATTORNEYS AT LAW
AON CENTER
707 WILSHIRE BOULEVARD
SUITE 4880
LOS ANGELES, CALIFORNIA 90017
(213) 572-0400

February 6, 2025

Glenn Mlaker
AICP, Associate Planner
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Via Email to:
glenn.mlaker@palmspringsca.gov

Subject: Comments on First Palm Springs Commerce Center EIR (SCH NO. 2024010068)

Dear Mr. Mlaker,

C-1

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed First Palm Springs Commerce Center Project. 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.

C-2

1.0 Summary

The project proposes the construction and operation of two new industrial warehouse (fulfillment center) buildings totaling 1,907,678 square feet on a 91.97 acre site. Building 1 includes 1,506,174 square feet of warehouse area, 10,000 square feet of office area, and 258 truck/trailer dock doors in a cross-dock configuration. The site provides 479 truck/trailer parking spaces and 450 passenger car parking spaces. Building 2 includes 378,530 square feet of warehouse area, 10,000 square feet of office area, and 42 truck/trailer dock doors. The site provides 60 truck/trailer parking spaces and 242 passenger car parking spaces.

C-3

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 First 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 First Industrial buildings as a whole. At minimum, piecemealed projects include the First Industrial Commerce II (1,000,000 sf industrial building located on APNs 666-320-002, -003, -004, and -005) as noted in the EIR's Table 3.1: City of Palm Springs Cumulative Projects and PAR-000024-2023¹ (1,000,000 sf industrial building located on APN 666-320-026). Both of these sites are located adjacent to the proposed project site. These three known buildings will construct at minimum 3,907,678 square feet of industrial buildings in the area.

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 First Industrial 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 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 that 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.

3.0 Project Description

The EIR does not include a floor plan, detailed building elevations, or a detailed grading plan. The basic components of a Planning Application include a detailed site plan, floor plan, conceptual grading plan, written narrative, and detailed elevations. Additionally, an application for a Major Development Permit requires submittal of a "site plan; preliminary grading plan; floor plans; building elevations; roof plan; landscape plan; material and color selections; lighting plan; signage plan; and other plans or exhibits required by the Director (Section 94.04.01(B) and 94.04.01(C)(1)(b) of the Palm Springs Municipal Code)." The EIR does not provide any grading

¹ <https://palmspringsca-energovweb.tylerhost.net/apps/selfservice#/plan/c8462d21-9376-4b59-998a-5cdeced0dbc0?tab=locations>

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C-4

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plan or information regarding the quantity of import/export material associated with project construction or site preparation. Verification of the import/export materials is vital as it directly informs the quantity of necessary truck hauling trips due to soil import/export during the grading phase of construction. There are also no building elevations provided to verify building height, paint colors, or materials. A revised EIR must be prepared to include wholly accurate and adequate detailed project site plan, floor plan, grading plan, elevations, and project narrative for public review.

4.2 Air Quality, 4.5 Energy, and 4.7 Greenhouse Gas Emissions

C-5

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. According to CalEnviroScreen 4.0², CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6065044522) is highly burdened by pollution. The surrounding community bears the impact of multiple sources of pollution and is more polluted than average on several pollution indicator measured by CalEnviroScreen. For example, the project census tract ranks in the 91st percentile for ozone burden and 60th percentile for traffic burden. These environmental factors are attributed to heavy truck activity in the area. Ozone can cause lung irritation, inflammation, and worsening of existing chronic health conditions, even at low levels of exposure³. Exhaust fumes contain toxic chemicals that can damage DNA, cause cancer, make breathing difficult, and cause low weight and premature births⁴.

The census tract also ranks in the 55th percentile for solid waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilities are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations⁵.

Further, the project's census tract is a diverse community including 45% Hispanic, 3% African-American, and 1% Asian-American residents, whom are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 74% 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 also has a high rate of poverty, meaning 95% of the households in the census tract have a total income before taxes that

² <https://experience.arcgis.com/experience/11d2f52282a54cee6184203/page/CalEnviroScreen-4-0/>

³ OEHHA Ozone <https://oehha.ca.gov/calenviroscreen/indicator/air-quality-ozone>

⁴ OEHHA Traffic <https://oehha.ca.gov/calenviroscreen/indicator/traffic-density>

⁵ OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

C-5
Cont

is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care⁶. Poor communities are often located in areas with high levels of pollution⁷. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution⁸. 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 59th percentile for incidence of cardiovascular disease and 51st percentile for incidence of asthma. The community also has a high rate of linguistic isolation, meaning 49% of the census tract speaks little to no English and faces further inequities as a result.

C-6

The State of California lists three approved compliance modeling softwares⁹ for non-residential buildings: CBECC-Com, EnergyPro, and IES VE. CalEEMod is not listed as an approved software. The CalEEMod and EMFAC modeling 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, it cannot conclude the project will generate less than significant impacts and a finding of significance must be made. A revised EIR with modeling using one of the approved software types must be prepared and circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the EIR utilizes unapproved software programs as sources in its methodology and analysis, which does not adequately analyze the project's impacts in accordance with California Energy requirements.

C-7

The EIR concludes that the proposed project operations will generate 23,623.06 MTC02e annually, which exceeds the applicable threshold of 3,000 MTC02e by nearly four times. The EIR attempts to mitigate the project's significant and unavoidable impacts in stating that, "The City of Palm Springs determined that the County of Riverside CAP provided the threshold standard for determining GHG impacts since the City's 2013 CAP does not allow for project-specific analysis. The purpose of the County of Riverside CAP Update is to provide guidance on how to analyze GHG emissions and determine significance during the CEQA review of proposed development projects within the County," and that, "Since the project exceeds the 3,000 MTC02e year threshold, the project is required to demonstrate compliance with the County's CAP Screening Tables and achieve a minimum of 100 points as identified in the CAP." The EIR concludes that,

⁶ OEHHA Poverty <https://oehha.ca.gov/calenviroscreen/indicator/poverty>

⁷ Ibid.

⁸ Ibid.

⁹ 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>

“The CAP Screening Tables (included in the Air Quality Report available in Appendix A) show that the project will garner 101 points from the CAP Screening Tables. Therefore, as the project accrues at least 100 points from the CAP Screening Tables, operation of the proposed project would comply with the County’s CAP,” and provides the following Mitigation Measure in an attempt to reduce the project’s impacts to less than significant:

C-7
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“Mitigation GHG-1: The project is to provide a minimum of 101 points per the County Screening Tables. The City shall verify incorporation of the identified Screening Table Measures within the project building plans and site designs prior to the issuance of building permit(s). The City shall verify implementation of the identified Screening Table Measures prior to the issuance of Certificate(s) of Occupancy.”

C-8

CEQA Guidelines Section 15183.5(a) states the following: “Lead agencies may analyze and mitigate the significant effects of greenhouse gas emissions at a programmatic level, such as in a general plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may tier from and/or incorporate by reference that existing programmatic review. Project-specific environmental documents may rely on an EIR containing a programmatic analysis of greenhouse gas emissions as provided in section 15152 (tiering), 15167 (staged EIRs) 15168 (program EIRs), 15175–15179.5 (Master EIRs), 15182 (EIRs Prepared for Specific Plans), and 15183 (EIRs Prepared for General Plans, Community Plans, or Zoning).”

C-9

The EIR has stated that the City’s adopted CAP does not provide for project-specific analysis and subsequently utilizes the County of Riverside’s adopted CAP. The County’s CAP is not an appropriate or allowable source to support a methodology for a less than significant finding. Several issues exist with this methodology, the primary being that the County of Riverside is not the lead agency and the City has not adopted the County’s CAP. Further, the County’s CAP does not account for emissions or reductions in emissions within the City of Palm Springs or any other incorporated City within the County. The County’s CAP methodology states that, “The analysis herein is tailored to include all existing and projected emission sources within the unincorporated areas of Riverside County to provide, to the fullest extent feasible, a comprehensive analysis of GHG reductions,” and the GHG emissions inventory states that, “The community-wide emissions inventory identifies and categorizes the major sources and quantities of GHG emissions produced by residents, businesses, and municipal operations in the unincorporated areas of Riverside County using the best available data.”

Therefore, the EIR may not utilize the County’s CAP to support any GHG mitigation or less than significant finding. Since the EIR has accurately concluded the City’s CAP cannot be utilized on

C-9
Cont

a project-specific basis, no method for tiered analysis, mitigation, or streamlining exists. The EIR must be revised to include a finding of significance in order to provide an adequate and accurate environmental analysis.

4.11 Population and Housing

The EIR states that, “the Project would generate approximately 700 new employment opportunities in the City of Palm Spring,” without providing any source methodology to support how this quantity of employees was calculated. The EIR is internally inconsistent as the Project Description states that, “The proposed Project would employ approximately between 700 and 725 employees,” which is also asserted without meaningful supporting evidence. Local data is available to provide accurate calculations. The City’s General Plan Land Use Buildout Methodology¹⁰ includes Table 2: City of Palm Springs General Plan Update Existing Land Use Employment Generation Factors and the following data is applicable to the proposed project:

1 employee per 700 sf of Industrial area
1 employee per 300 sf of Office area

C-10

Application of these ratios results in the following calculation:

Warehouse: 1,907,678 sf / 700 sf = 2,726 employees
Total: 2,726 employees

Utilizing the City's local data, the project will generate 2,726 employees. Table 8: Proposed General Plan Land Use Designations and Potential for Development within the City’s General Plan Land Use Buildout Methodology calculates that buildout of the Industrial land use designation will result in 11,598 new jobs. Utilizing the General Plan Employment Generation Factors, the project represents 23.5% of the City’s employment growth from 2025 - 2040. Further, SCAG’s Connect SoCal Demographics and Growth Forecast¹¹ notes that the City will add 6,300 jobs from 2019 to 2035. The project represents 43.2% of the City’s job growth over 16 years as estimated by SCAG. A single project accounting for this amount of the projected employment growth estimated by the Lead Agency and SCAG represents a significant amount of growth. A revised EIR must be prepared to include this information for analysis.

¹⁰ Attachment 2:General Plan Land Use Buildout Methodology Memorandum
https://destinyhosted.com/palmsdocs/2022/CC/20220407_1365/3686%5F3D%5F%2D%5FOCR.pdf

¹¹ SCAG 2024 Connect SoCal Demographics and Growth Forecast
<https://scag.ca.gov/sites/main/files/file-attachments/23-2987-tr-demographics-growth-forecast-final-040424.pdf?1712261839>

C-11

The EIR has not provided a cumulative analysis discussion of approved projects and projects “in the pipeline” to quantify the project’s contributions towards the City’s buildout scenario and/or SCAG’s employment growth forecast. For example, other recent industrial projects such as Palm Springs Fulfillment Center (739,360 square feet of industrial/warehouse space; 1,057 employees¹²) and piecemealed project First Industrial Commerce II as listed in Table 3.1: City of Palm Springs Cumulative Projects (1,000,000 square feet of industrial/warehouse space; 1,429 employees) combined with the proposed project will cumulatively generate 5,212 employees, which is 44.9% of the City’s Industrial General Plan buildout scenario over 15 years and 82.7% of SCAG’s total employment growth forecast for the City through 2035 accounted for by only three recent projects. These totals increase exponentially when commercial and other industrial development activity is added to the brief list of recent development above. A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved and “in the pipeline” to determine the City’s progress towards General Plan buildout capacity and SCAG’s forecasts.

4.14 Transportation

Appendix H within the EIR concludes the following intersections require improvements to address the deficiencies per the City’s thresholds:

1. Intersection #4: Indian Canyon Dr. / 19th Av.

C-12

Table 12 within Appendix H provides a list of fair-share calculations for improvements that will allegedly mitigate significant and unavoidable impacts to the intersection to less than significant levels. It must be noted that the impacts to intersection #4 are located in the City of Desert Hot Springs. Any improvements planned/constructed or in-lieu fees/fair share fees paid for City of Desert Hot Springs facilities are beyond the control/scope of the lead agency. An assessment of fees is appropriate when linked to a specific mitigation program. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, *Save our Peninsula Comm. v. Monterey County Bd. Of Supers.* (2001) 87 Cal.App.4th 99, 141.) Payment of fees is not sufficient where there is no evidence mitigation will actually result. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1122.) The assessment of fees here is not adequate as there is no evidence mitigation will actually result. The improvements required are not part of an existing DIF/TUMF program and therefore are not planned to occur at all or by any certain date, whether by the City of Plan Springs or City of Desert Hot Springs. Any improvements recommended or fees paid to mitigate impacts for City of Desert Hot Springs facilities are beyond the control of the lead agency and evidence that these improvements will be completed or approved by City of Desert Hot Springs has not been

¹² Palm Springs Fulfillment Center <https://ceqanet.opr.ca.gov/Project/2023080091>

provided. A revised EIR must be prepared to include the LOS analysis as cumulatively considerable significant impact as the project conflicts with Transportation Impact Threshold 1 and Land Use and Planning Impact Threshold 2 because it is not consistent with the following General Plan Policy:

1. CR2.1: Maintain Level of Service D or better for the City's circulation network, as measured using "in season" peak hour conditions.

C-12
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The City of Desert Hot Springs also maintains level of service requirements for CEQA, with its 2020 General Plan¹³ stating, "The City standard for the minimum LOS for intersections is LOS D or better. For intersections or roadway segments with a LOS E or F, if a proposed project's traffic study identifies increases in the volume-to-capacity ratio above the thresholds identified in the City's transportation traffic guidelines, then the impact would be considered significant and mitigation would be required."

C-13

Even though the EIR concludes the project will have significant and unavoidable impacts to VMT, it has still 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 fulfillment center, they will conduct their jobs by driving delivery vans across the region as part of the daily operations as a fulfillment center, 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 total operational VMT generated is further inconsistent 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.

C-14

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. The Scoping Agreement (Appendix B within Appendix H) states that the traffic analysis will include truck turning templates, but those templates were not included as part of Appendix H or the EIR. Although the

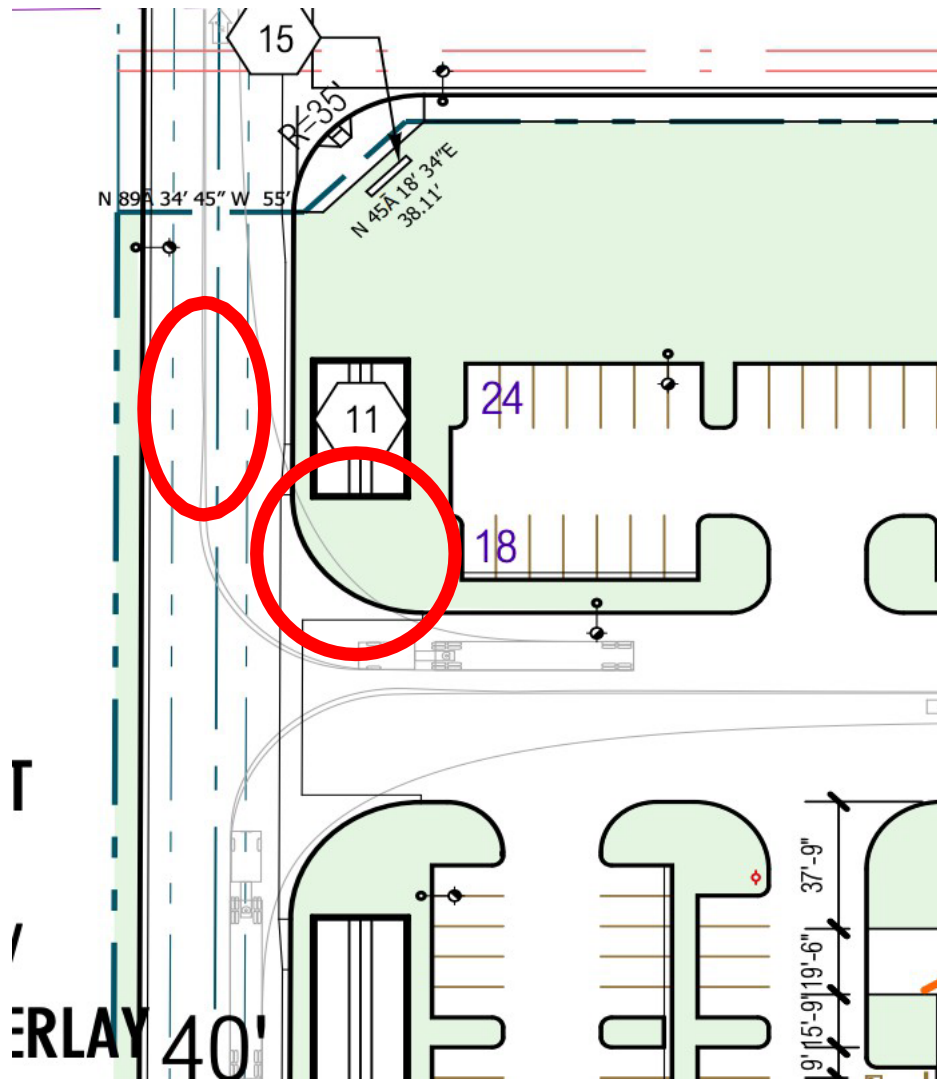
¹³ Desert Hot Springs General Plan, pg MI-26
<https://storage.googleapis.com/proudcity/deserthotspingsca/uploads/2021/11/Desert-Hot-Springs-General-Plan-Adopted-07-2020-Small.pdf>

EIR is deficient here, the building site plans (Exhibit 2.8 and 2.9 within the EIR) depicts some truck/trailer maneuvering.

C-14
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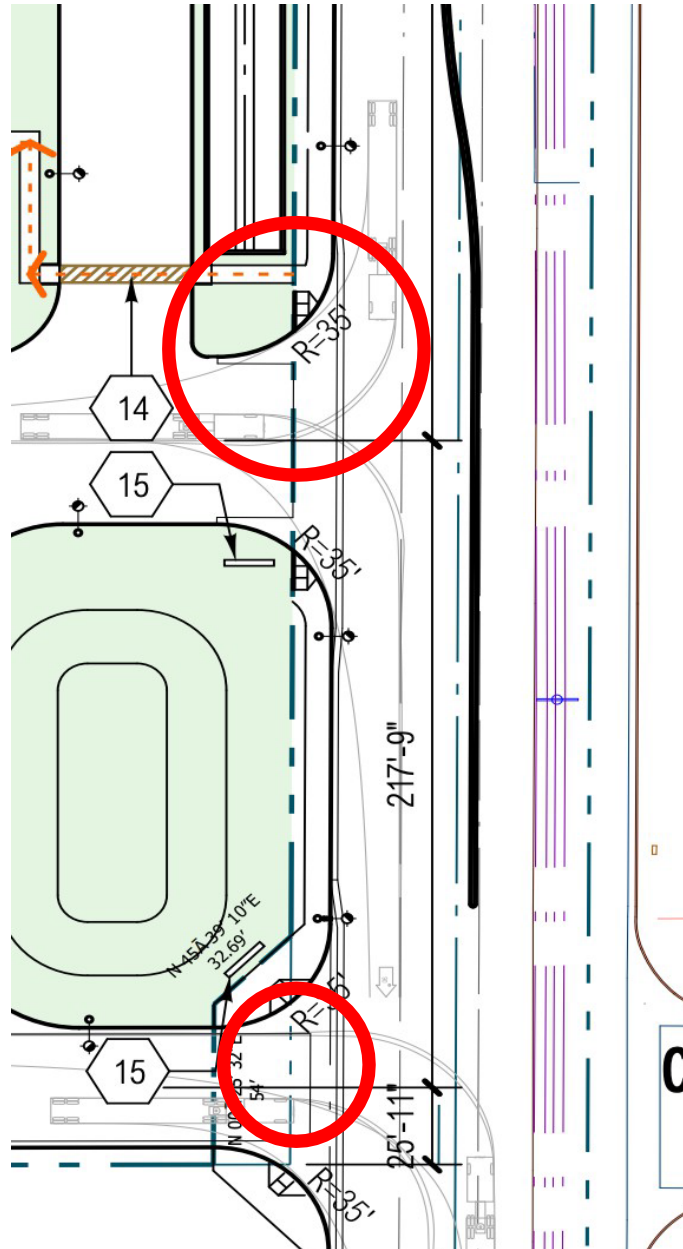
Exhibit 2.8 (Building 1) and Exhibit 2.9 (Building 2) depicts there is not adequate maneuvering and queueing space for trucks/trailers at the intersection of the project driveways and the adjacent streets. For example, trucks exiting the Building 1 site via the northernmost driveway on Indigo Avenue require additional maneuvering space across the centerline of each street, meaning that the truck will need to drive on the “wrong side” of the street into oncoming traffic in order to leave the site. The width of the driveway cannot accommodate the turning maneuver as the truck is depicted to turn onto the adjacent landscaped area.

C-14
Cont



Further, trucks accessing the site via the southeastern driveways on Indian Canyon Drive require additional maneuvering space onsite. The truck entering the site and the truck exiting the site both require nearly the entire maneuvering area in the driveway in order to execute a turn. If a vehicle is queued at the driveway to exit the site, the incoming truck/trailer would collide into it, and vice versa.

C-14
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C-14
Cont

The EIR states that, “The proposed Project would be required to be designed and constructed in accordance with the City’s engineering standards, for roadway design, traffic signing, striping, pedestrian walkways/crossovers, and traffic control improvements. All final site and circulation plans for the proposed Project would be required to be submitted to the City for review and would be constructed following applicable State/Federal engineering standards. In addition, all proposed Project final grading, landscaping, and street improvement plans would be required to demonstrate that applicable sight distance requirements have been met and that adequate emergency vehicle access and circulation to and from the site has been provided to the satisfaction of the City of Palm Springs Public Works and Fire Departments.”

This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)). The EIR has not provided any details regarding the City’s engineering standards and/or “State/Federal engineering standards” for the items listed above and/or road development, stacking distances, lines of sight, or meaningful analysis of the project’s compliance or noncompliance with these requirements. Deferring this environmental analysis required by CEQA to the construction permitting phase is improper mitigation and does not comply with CEQA’s requirement for meaningful disclosure and adequate informational documents. A revised EIR must be prepared to include a finding of significance as the EIR has not provided any meaningful evidence to support a less than significant finding.

C-15

The EIR states regarding emergency access that, “The proposed Project would also be required to design and construct internal access, and size and location of fire suppression facilities (e.g., hydrants and sprinklers) to conform with the City’s fire protection standards. The Fire District would review the development plans prior to approval to ensure adequate emergency access pursuant to the requirements of the California Fire Code (Title 24, California Code of Regulations, Part 9),” and that, “...final project plans would be required to demonstrate adequate emergency vehicle access and circulation to the satisfaction of the City of Palm Springs Public Works and Fire Departments. Per the City’s General Plan Safety Element, the final plans would also be required to show City fire department approved emergency roadway design and facilities including fire hydrants and that the proposed Project is not located on any of the four main points of roadway access (lifelines) to the city. In addition, as discussed above, in accordance with the City’s engineering standards, all on-site and off-site roadway design, signing/striping, and traffic control improvements relating to the proposed Project would be required to be submitted to the City for review and constructed following applicable State/Federal engineering standards; the final grading, landscaping, and street improvement plans shall demonstrate that applicable sight distance requirements are met and that adequate emergency vehicle access and circulation to and from the site has been provided to the satisfaction of the City of Palm Springs Public Works and

Fire Departments; the proposed Project will also be required to demonstrate compliance with the City of Palm Springs municipal parking requirements which would be reviewed as a part of the standard development review process.”

C-15
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This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)). The EIR has not provided any details regarding the requirements for emergency access or meaningful analysis of the project’s compliance or noncompliance with these requirements. Deferring this environmental analysis required by CEQA to the construction permitting phase is improper mitigation and does not comply with CEQA’s requirement for meaningful disclosure and adequate informational documents. A revised EIR must be prepared to include a finding of significance as the EIR has not provided any meaningful evidence to support a less than significant finding.

6.1 Growth Inducing Impacts

C-16

The EIR does not adequately discuss or analyze the commitment of resources is not consistent with regional and local growth forecasts. As noted below, the project represents a significant amount of building area growth in the City and a significant amount of the City’s employment growth. The EIR must also include a cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting, including the associated cumulative impacts of the project’s significant and unavoidable Transportation (VMT) impacts.

C-17

The EIR does not provide any analysis here regarding the buildout conditions of the City’s General Plan. Table 2-2: Nonresidential Land Buildout Estimates in the Updated Land Use Element¹⁴ of the General Plan states that the City estimates 11,638,620 square feet of industrial development to occur during the City’s buildout. The proposed project’s 1,907,678 square feet of industrial building area accounts for 16.4% of the General Plan Industrial land buildout attributed to a single project. The EIR has not provided any analysis of this information and does not provide any cumulative development calculation for the City’s progress towards General Plan buildout. For example, other recent industrial projects such as Palm Springs Fulfillment Center (739,360 square feet of industrial/warehouse space; 1,057 employees¹⁵), piecemealed project First Industrial Commerce II as listed in Table 3.1: City of Palm Springs Cumulative Projects (1,000,000 square feet of industrial/warehouse space; 1,429 employees), and piecemealed project PAR-000024-2023¹⁶ (1,000,000 sf industrial building located on APN 666-320-026) combined with the

¹⁴ https://destinyhosted.com/palmsdocs/2025/CC/20250109_1584/5345%5F2A%5FOCR.pdf

¹⁵ Palm Springs Fulfillment Center <https://ceqanet.opr.ca.gov/Project/2023080091>

¹⁶ <https://palmspringsca-energovweb.tylerhost.net/apps/selfservice#/plan/c8462d21-9376-4b59-998a-5cdeced0dbc0?tab=locations>

C-17
Cont

proposed project will cumulatively generate 5,212 employees, which is 40% of the City's Industrial General Plan buildout scenario accounted for by only four recent projects. A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved and "in the pipeline" to determine the City's progress towards General Plan buildout capacity in order to provide an adequate and accurate environmental document.

C-18

The EIR states here that, "While the proposed Project would contribute to employment growth through the development at the site, projected increases in employment from the proposed Project are well within SCAG's 2020-2045 RTP/SCS projected increases for Riverside County and its jurisdictions." However, updated data is provided in SCAG's 2024 release of the RTP/SCS. Table 8: Proposed General Plan Land Use Designations and Potential for Development within the City's General Plan Land Use Buildout Methodology calculates that buildout of the Industrial land use designation will result in 11,598 new jobs. Utilizing the General Plan Employment Generation Factors as discussed above, the project represents 23.5% of the City's employment growth from 2025 - 2040. Further, SCAG's Connect SoCal Demographics and Growth Forecast¹⁷ notes that the City will add 6,300 jobs from 2019 to 2035. The project represents 43.2% of the City's job growth over 16 years as estimated by SCAG. A single project accounting for this amount of the projected employment growth estimated by the Lead Agency and SCAG represents a significant amount of growth.

C-19

The EIR also has not provided any cumulative analysis on this topic. For example, other recent industrial projects such as Palm Springs Fulfillment Center (739,360 square feet of industrial/warehouse space; 1,057 employees¹⁸) and piecemealed project First Industrial Commerce II as listed in Table 3.1: City of Palm Springs Cumulative Projects (1,000,000 square feet of industrial/warehouse space; 1,429 employees) combined with the proposed project will cumulatively generate 5,212 employees, which is 44.9% of the City's Industrial General Plan buildout scenario over 15 years and 82.7% of SCAG's total employment growth forecast for the City through 2035 accounted for by only three recent projects. These totals increase exponentially when commercial and other industrial development activity is added to the brief list of recent development above. A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved and "in the pipeline" to determine the City's progress towards General Plan buildout capacity and SCAG's forecasts.

¹⁷ SCAG 2024 Connect SoCal Demographics and Growth Forecast
<https://scag.ca.gov/sites/main/files/file-attachments/23-2987-tr-demographics-growth-forecast-final-040424.pdf?1712261839>

¹⁸ Palm Springs Fulfillment Center <https://ceqanet.opr.ca.gov/Project/2023080091>

C-20

The EIR also utilizes uncertain and misleading language in stating that, “the proposed Project would create jobs that a *majority* of which could *potentially* be filled by residents of city of Palm Springs and the surrounding unincorporated Riverside County areas. Employees would live in housing either already built or are planned for development in the city and surrounding areas or in unincorporated Riverside County. Since it is *anticipated* that *most* of the future employees from industrial and office development at the current site would already be living in the *greater Riverside County area*, the proposed Project’s introduction of employment opportunities would not induce substantial growth in the region and would not cause the need for additional housing.” Since the EIR relies upon the entire workforce of Riverside County to fill its jobs, the project would contribute to the increasing percentages of residents that commute outside of their residence City for work. The EIR has not provided any analysis or meaningful evidence that the unemployed workforce in Palm Springs is qualified for or interested in work in the industrial sector. A revised EIR must be provided to include this information for analysis in order to provide an adequate and accurate environmental analysis.

C-21

6.6 Effects Not Found to Have Potentially Significant Impacts: Land Use and Planning

The EIR does not provide any information or meaningful analysis regarding the buildout conditions of the City’s General Plan. Table 2-2: Nonresidential Land Buildout Estimates in the Updated Land Use Element¹⁹ of the General Plan states that the City estimates 11,638,620 square feet of industrial development to occur during the City’s buildout. The proposed project’s 1,907,678 square feet of industrial building area accounts for 16.4% of the General Plan Industrial land buildout attributed to a single project. The EIR has not provided any analysis of this information and does not provide any cumulative development calculation for the City’s progress towards General Plan buildout. For example, other recent industrial projects such as Palm Springs Fulfillment Center (739,360 square feet of industrial/warehouse space; 1,057 employees²⁰), piecemealed project First Industrial Commerce II as listed in Table 3.1: City of Palm Springs Cumulative Projects (1,000,000 square feet of industrial/warehouse space; 1,429 employees), and piecemealed project PAR-000024-2023²¹ (1,000,000 sf industrial building located on APN 666-320-026) combined with the proposed project will cumulatively generate 5,212 employees, which is 40% of the City’s Industrial General Plan buildout scenario accounted for by only four recent projects. Notably, Table 2.2: Nonresidential Land Buildout Estimates of the General Plan Land Use Element estimates a development intensity of 0.23 FAR for Industrial designated sites, and both buildings in the project are proposed at 0.47 FAR, which is more than twice the development

¹⁹ https://destinyhosted.com/palmsdocs/2025/CC/20250109_1584/5345%5F2A%5FOCR.pdf

²⁰ Palm Springs Fulfillment Center <https://ceqanet.opr.ca.gov/Project/2023080091>

²¹ <https://palmspringsca-energogovweb.tylerhost.net/apps/selfservice#/plan/c8462d21-9376-4b59-998a-5cdeced0dbc0?tab=locations>

C-21
Cont

scenario from which the project tiers. The City's General Plan Land Use Buildout Methodology²² includes Table 9: Proposed General Plan Land Use Buildout Assumptions that provides a footnote stating, "Industrial lands (1,570.8 acres) within the Wind Energy Overlay are calculated at 15% of the allowable intensity identified above," indicating that the General Plan analyzed the proposed project site at an even more reduced rate of development intensity (FAR). A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved and "in the pipeline" to determine the City's progress towards General Plan buildout capacity in order to provide an adequate and accurate environmental document.

Appendix H within the EIR concludes the following intersections require improvements to address the deficiencies per the City's thresholds:

2. Intersection #4: Indian Canyon Dr. / 19th Av.

Table 12 within Appendix H provides a list of fair-share calculations for improvements that will allegedly mitigate significant and unavoidable impacts to the intersection to less than significant levels. It must be noted that the impacts to intersection #4 are located in the City of Desert Hot Springs. Any improvements planned/constructed or in-lieu fees/fair share fees paid for City of Desert Hot Springs facilities are beyond the control/scope of the lead agency. An assessment of fees is appropriate when linked to a specific mitigation program. (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, *Save our Peninsula Comm. v. Monterey County Bd. Of Supers.* (2001) 87 Cal.App.4th 99, 141.) Payment of fees is not sufficient where there is no evidence mitigation will actually result. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099,1122.) The assessment of fees here is not adequate as there is no evidence mitigation will actually result. The improvements required are not part of an existing DIF/TUMF program and therefore are not planned to occur at all or by any certain date, whether by the City of Plan Springs or City of Desert Hot Springs. Any improvements recommended or fees paid to mitigate impacts for City of Desert Hot Springs facilities are beyond the control of the lead agency and evidence that these improvements will be completed or approved by City of Desert Hot Springs has not been provided. A revised EIR must be prepared to include the LOS analysis as cumulatively considerable significant impact as the project conflicts with Transportation Impact Threshold 1 and Land Use and Planning Impact Threshold 2 because it is not consistent with the following General Plan Policy:

C-22

1. CR2.1: Maintain Level of Service D or better for the City's circulation network, as measured using "in season" peak hour conditions.

²² Attachment 2:General Plan Land Use Buildout Methodology Memorandum
https://destinyhosted.com/palmsdocs/2022/CC/20220407_1365/3686%5F3D%5F%2D%5FOCR.pdf

C-22
Cont

The City of Desert Hot Springs also maintains level of service requirements for CEQA, with its 2020 General Plan²³ stating, “The City standard for the minimum LOS for intersections is LOS D or better. For intersections or roadway segments with a LOS E or F, if a proposed project’s traffic study identifies increases in the volume-to-capacity ratio above the thresholds identified in the City’s transportation traffic guidelines, then the impact would be considered significant and mitigation would be required.”

C-23

The EIR does not provide a consistency analysis with all land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The project has significant potential to conflict with many of these items, including but not limited to the following from the General Plan:

1. Goal LU1: Establish a balanced pattern of land uses that complements the pattern and character of existing uses, offers opportunities for the intensification of key targeted sites, minimizes adverse environmental impacts, and has positive economic results.
2. GOAL CD21: It is a goal of the City of Palm Springs to create convenient, attractive, and well-designed industrial and business parks.
3. CD21.1 Strengthen the image of business park areas through entry monument signage, distinctive landscaping, and complementary architectural design elements.
4. CD21.2 Encourage clean and distinctive industrial/office buildings with clearly visible entrances.
5. CD21.3 Avoid the use of long, blank walls by breaking them up with vertical and horizontal façade articulation achieved through stamping, colors, materials, modulation, and landscaping.
6. CD21.4 Use screening techniques, such as landscaping, walls, and berms, to minimize views of surface parking, storage and service areas.
7. GOAL AQ4 Reduce vehicular emissions.
8. GOAL AQ3 Protect people and land uses that are sensitive to air contaminants from sources of air pollution to the greatest extent possible.
9. AQ3.1 Discourage the development of land uses and the application of land use practices that contribute significantly to the degradation of air quality.

²³ Desert Hot Springs General Plan, pg MI-26
<https://storage.googleapis.com/proudcity/deserhotspringsca/uploads/2021/11/Desert-Hot-Springs-General-Plan-Adopted-07-2020-Small.pdf>

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.

C-24

Sincerely,

A handwritten signature in black ink, appearing to be "Gary Ho", written over a red bracket on the left side of the page.

Gary Ho
Blum, Collins & Ho, LLP

C-25

Attachments:

1. SWAPE Technical Analysis



Technical Consultation, Data Analysis and
Litigation Support for the Environment

2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G., C.Hg.
(949) 887-9013
mhagemann@swape.com

Paul E. Rosenfeld, PhD
(310) 795-2335
prosenfeld@swape.com

February 4, 2025

Gary Ho
Blum, Collins & Ho LLP
707 Wilshire Blvd, Ste. 4880
Los Angeles, CA 90017

Subject: Comments on the First Palm Springs Commerce Center Project (SCH No. 2024010068)

Dear Mr. Ho,

We have reviewed the December 2024 Draft Environmental Impact Report (“DEIR”) for the First Palm Springs Commerce Center Project (“Project”) located in the City of Palm Springs. The Project proposes to construct 1,904,704-square-feet (“SF”) of warehouse space and 1,231 parking spaces on the 91.97-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project’s air quality and greenhouse gas (“GHG”) impacts. Emissions associated with construction and operation of the proposed Project may therefore be underestimated and inadequately addressed. A revised Environmental Impact Report (“EIR”) should be prepared to adequately assess and mitigate the air quality and GHG impacts that the project may have on the environment.

Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR shows that the Project’s operational reactive organic gases (“ROG”) and nitrogen oxides (“NO_x”) emissions would exceed the applicable South Coast Air Quality Management District (“SCAQMD”) thresholds (p. 4.2.32, Table 4.2-9). The DEIR consequently concludes that the Project’s operational air quality emissions would be significant-and-unavoidable, after the incorporation of Mitigation Measures (“MM”) AIR-1 and AIR-4 (p. 4.2.32).

While we agree that the Project would result in significant air quality impacts, the DEIR’s assertion that this impact is significant-and-unavoidable is unreliable. According to California Environmental Quality Act (“CEQA”) Guidelines § 15096(g)(2), a project with an updated EIR should not be approved if feasible

mitigation measures could significantly reduce or avoid environmental impacts.¹ The DEIR is therefore required under CEQA to implement all feasible mitigation to reduce impacts to the maximum extent feasible.

However, while the DEIR implements MM AIR-1 and AIR-4, the DEIR fails to implement all feasible mitigation. Additional feasible mitigation measures should be incorporated to reduce the Project’s air quality impacts to the maximum extent possible, as suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” The DEIR’s conclusion that Project’s air quality emissions would be significant-and-unavoidable may be unsubstantiated; thus, the Project should not be approved until a revised EIR is prepared, incorporating all feasible mitigation to reduce emissions.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR estimates that the Project would result in net annual GHG emissions of 23,623.06-metric tons of carbon dioxide equivalents per year (“MT CO₂e/year”), which exceeds the SCAQMD bright-line threshold of 3,000 MT CO₂e/year (see excerpt below) (p. 4.7.25, Table 4.7-3).

Table 4.7-3 Mitigated proposed Project related GHG emissions

Category	Greenhouse Gas Emissions (Metric Tons/Year)					
	Bio-CO2	NonBio-CO2	CO2	CH4	N2O	CO2e
Maximum Annual Operations	286.00	22,079.00	22,379.00	31.00	1.51	23,517.00
Construction ¹	0.00	102.45	102.45	0.00	0.01	106.06
Total Emissions	286.00	22,181.45	22,481.45	31.00	1.52	23,623.06

Notes:

Source: CalEEMod Version 2022.1.1.22 for Opening Year 2026.

(1) Construction GHG emissions CO2e based on a 30-year amortization rate. Includes on-site and off-site construction emissions.

The DEIR concludes that the Project would result in a significant-and-unavoidable GHG impact. This determination is based on the implementation of MM GHG-1 which requires the Project to comply with point thresholds outlined in the County Screening Tables (p. 4.7.26). Although we agree that the Project would result in a significant GHG impact, the DEIR’s significant-and-unavoidable conclusion lacks sufficient support.

CEQA requires the DEIR to implement all feasible mitigation to minimize impacts as much as possible.² An impact can only be deemed significant-and-unavoidable after considering all available, feasible mitigation. While the DEIR implements MM GHG-1, the DEIR does not apply all feasible mitigation measures. A revised EIR should be prepared to include and provide evidence for the implementation of all feasible mitigation measures.

¹ “Cal. Code Regs. tit. 14 § 15096.” California Legislature, available at: <https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-7-eir-process/section-15096-process-for-a-responsible-agency>.

² *Ibid.*

The DEIR claims that the Project' GHG emissions standard will comply with the correct SCAQMD threshold but fails to specify the methods it will use to achieve compliance. This does not align with CEQA's requirement to avoid language that is "vague, unenforceable and lack[s] specific performance criteria."³ Without this information, the DEIR fails to provide the necessary transparency required to demonstrate compliance with CEQA standards.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

The DEIR is required under CEQA to implement all feasible mitigation to reduce the Project's potential impacts. As demonstrated in the sections above, the Project would result in potentially significant air quality and GHG impacts that should be mitigated further.

To reduce the ROG emissions associated with Project operation, we recommend the DEIR consider incorporating the following mitigation measure from the California Department of Justice ("CA DOJ") :⁴

- Require the use of super compliant, low-VOC paints less than 10 g/L during Project maintenance.

Further mitigation used by other land use development projects to address VOC/ROG emissions is as follows:⁵

- Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil-based paints.
- Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
- For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain
- Use compliant low-VOC cleaning solvents to clean paint application equipment.
- Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
- Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

Additionally, Los Angeles County recommends:⁶

³ "Sierra Club v. County of Fresno." Supreme Court of California, December 2018, available at: <https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf>, p. 5.

⁴ "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.

⁵ "Banning Commerce Center Project." Kimley-Horn and Associates, Inc., June 2024, available at: <https://ceganet.opr.ca.gov/2022090102/2>; Draft Environmental Impact Report, p. 1-7.

⁶ "Mitigation Monitoring and Reporting Program." Los Angeles County Housing Element Update Program EIR. August 2021, available at: https://planning.lacounty.gov/wp-content/uploads/2023/07/Housing_final-peir-mitigation-monitoring.pdf.

- If paints and coatings with VOC content of 0 grams/liter to less than 10 grams/liter cannot be utilized, the developer shall avoid application of architectural coatings during the peak smog season: July, August, and September.

While the Project is not located in Los Angeles County, the use of low-VOC paints would nonetheless decrease the Project’s significant VOC emissions.

Additionally, to reduce the NO_x emissions associated with Project operation, we recommend the DEIR consider incorporating several mitigation measures (see list below).

The California Air Resources Board (“CARB”) recommends the following:⁷

- Require tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
- Requiring all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available and can be purchased using incentive funding from CARB’s Clean Off-Road Equipment Voucher Incentive Project (CORE).
- Require future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
- Restrict trucks and support equipment from idling longer than two minutes while on site.
- Require the installation of vegetative walls or other effective barriers that separate loading docks and people living or working nearby.

In addition to recommending similar mitigation as the above-mentioned measures from CARB, the CA DOJ suggests:⁸

- 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.
- 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.
- 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

⁷ “Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers.” CARB, August 2023, *available at*: <https://ww2.arb.ca.gov/sites/default/files/2023-08/CARB%20Comments%20-%20NOP%20for%20the%20%20Oak%20Valley%20North%20Project%20DEIR.pdf>; Attachment A, p. 5 – 8.

⁸ “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.

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.
- Sequent future projects under the Proposed Project shall install Level 2 EV charging stations in 15% of all parking spaces for multi-family developments and pre-wiring to allow for a Level 2 EV charging stations in all single-family residential garages.

SCAQMD staff recommends:⁹

- A phase-in schedule to incentivize the use of cleaner operating trucks to reduce any significant adverse air quality impacts.
- The use of, at least, a 2010 model year that meets CARB's 2010 engine emissions standards at 0.01 g/bhp-hr of particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks.

To reduce the GHG emissions associated with the Project, we recommend the following mitigation measures (see list below).

The CA DOJ recommends:¹⁰

- 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.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Designing to LEED green building certification standards.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- 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.
- 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.

⁹ "Draft Environmental Impact Report (EIR) for the Proposed CADO Menifee Industrial Warehouse Project (Proposed Project)." SCAQMD, April 2024, *available at*: <https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2024/april-2024/RVC240313-05.pdf?sfvrsn=8>, p. 2 - 3.

¹⁰ "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 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.

SCAQMD staff recommends:¹¹

- Maximizing the use of solar energy by installing solar energy arrays.
- Using light-colored paving and roofing materials.

CEQA Guidelines 15126.4 (c)(3) include “[o]ffsite measures, including offsets that are not otherwise required, to mitigate a project’s emissions” as an option for GHG mitigation.¹² An example of this was in the case of the Oakland Sports and Mixed-Use Project, where off-site reduction measures in the neighboring communities were recommended.¹³ We recommend consideration of local carbon offset programs to reduce the Project’s GHG impacts as a measure of last result.

We have outlined several mitigation measures to reduce Project-related ROG, NO_x, and GHG emissions, drawing from sources like CARB and the CA DOJ. These measures provide feasible ways to integrate lower-emission design features into the Project, cutting emissions during its operation.

A revised EIR should include all feasible mitigation measures to ensure emissions are reduced to the maximum extent feasible. The revised EIR should show a clear commitment to implementing these measures before Project approval to ensure significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited documentation 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

¹¹ “Draft Environmental Impact Report (EIR) for the Proposed CADO Menifee Industrial Warehouse Project (Proposed Project).” SCAQMD, April 2024, *available at*: <https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2024/april-2024/RVC240313-05.pdf?sfvrsn=8>, p. 3.

¹² “Cal. Code Regs. tit. 14 § 15126.4.” CEQA Guidelines, May 2024, *available at*: <https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-9-contents-of-environmental-impact-reports/section-151264-consideration-and-discussion-of-mitigation-measures-proposed-to-minimize-significant-effects>.

¹³ “Cal. Pub. Resources Code § 21168.6.7.” 2023, *available at*: <https://casetext.com/statute/california-codes/california-public-resources-code/division-13-environmental-quality/chapter-6-limitations/section-2116867-oakland-sports-and-mixed-use-project-conditions-for-approval-certification-of-project-for-streamlining>.

otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

A handwritten signature in blue ink that reads "Matt Hagemann". The signature is fluid and cursive, with a long horizontal stroke at the end.

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

A handwritten signature in blue ink that reads "Paul Rosenfeld". The signature is cursive and clearly legible.

Paul E. Rosenfeld, Ph.D.

Attachment A: Matt Hagemann CV
Attachment B: Paul Rosenfeld CV



2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G., C.Hg.
(949) 887-9013
mhagemann@swape.com

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

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

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

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

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

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

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

Hydrogeology:

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

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

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

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

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

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

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

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

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

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

Policy:

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

Activities included the following:

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

- principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

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

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

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

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

Teaching:

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

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

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Experience:

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



Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

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

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

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

Professional Experience

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

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

Professional History:

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

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution*. **233**, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermol and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office, Publications Clearinghouse (MS-6)*, Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florida, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Teaching Experience:

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

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

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

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

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

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

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

Academic Grants Awarded:

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

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

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

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

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

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

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

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a
AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido” Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

APPENDIX D

LETTER D-1 AND RESCINDED LETTER D-2

June 2, 2025

Advocates for the Environment

City Clerk
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

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

LETTER D-1
RESCINDED JUNE 2025



Via U.S. Mail and email to cityclerk@palmspringsca.gov and glenn.mlaker@palmspringsca.gov

Re: Withdrawal of Comments on Draft Environmental Impact Report for First Palm
Springs Commerce Center, SCH No. 2024010068

Dear City Clerk:

Advocates for the Environment submitted a comment letter on the First Palm Springs Commerce Center Project (the **Project**) on February 10, 2025. With this letter we withdraw that comment letter. We have reached a settlement with the developer and no longer oppose the Project.

Please feel free to contact me if you have any questions about this withdrawal.

Sincerely,

A handwritten signature in black ink that reads "Dean Wallraff". The signature is fluid and cursive.

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

February 10, 2025

Advocates for the Environment

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



Glenn Mlaker
Associate Planner
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

**LETTER D-2
RESCINDED
JUNE 2025**

Via U.S. Mail and email to glenn.mlaker@palmsspringsca.gov

Re: Comments on Draft Environmental Impact Report for First Palm Springs Commerce Center, SCH No. 2024010068

Dear Mr. Mlaker:

D-1

Advocates for the Environment submits the comments in this letter regarding the Draft Environmental Impact Report (**DEIR**) for the First Palm Springs Commerce Center Project (**Project**). The Project Site is located near 18th Avenue and North Indian Canyon, and 19th Avenue and North Indian Canyon in the City of Palm Springs (**City**). The Project proposes to develop the 91.97-acre Project Site by constructing two warehouse buildings with office space, truck docking areas, and parking spaces. Building one would approximate 1,516,174 square feet and building two would approximate 388,530 square feet. We have reviewed the DEIR prepared in December 2024 and submit comments regarding the sufficiency of the DEIR's Greenhouse-Gas (**GHG**) analysis under the California Environmental Quality Act (**CEQA**).

The City Should Require the Project to be Net-Zero

D-2

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.

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 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.

D-2
Cont

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.)

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.

CEQA GHG Significance Analysis

D-3

The DEIR derived its GHG significance thresholds from the CEQA Appendix G Guidelines: whether the Project would generate GHG emissions, either “directly or indirectly, that may have a significant impact on the environment,” and whether the Project would “conflict with an applicable plan, policy, or regulation” for the reduction of GHG emissions. (DEIR, p. 4.7-23.) The City used CalEEMod to quantify the Project’s annual emissions, which were reported to be 23,732.06 metric tons carbon dioxide equivalent (**MTCO₂e**) per year. (DEIR, p. 4.7-24.) The DEIR concluded that the Project’s GHG emissions would be less than significant after mitigation. (DEIR, p. 4.7-27.) However, this significance conclusion is not supported by substantial evidence.

Chosen Methodology Is Not Supported by Substantial Evidence

D-4

As the basis for its significance determination under the first significance threshold, the City chose to conduct its GHG emission analysis using the County of Riverside’s Climate Action Plan (**CAP**). (DEIR, p. 4.7-23.) However, the City did not provide substantial evidence in the record to demonstrate that this CAP is applicable to the Project or can serve as a valid significance threshold to show a less-than-significant impact.

D-5

MM-GHG-1 is a mitigation measure based on the County of Riverside’s Climate Action Plan (CAP). MM-GHG-1 requires that projects garner a minimum of 101 points from the County’s screening table. The CAP requires projects to demonstrate and achieve a minimum 25% reduction of GHG emissions of GHG emissions from a 2011-year level of efficiency compared to the mitigated project buildout year or demonstrate at least 100 points through the CAPs screening tables.

However, the CAP is not directly applicable to this Project. It analyzes GHG emissions and provides climate guidance only for the *unincorporated* areas of the County of Riverside. (CAP, p. 2-1.) Palm Springs is an incorporated city. The County developed the GHG inventories, strategies for reducing emissions, baselines, and methodologies set forth in the CAP based on data from the unincorporated areas of the County. There is no evidence showing that they apply to projects within incorporated cities like Palm Springs.

D-6

CEQA requires that an EIR determine an impact’s significance before mitigation. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.) The EIR violates CEQA by combining the significance analysis with mitigation measures from the CAP screening tables.

The CAP estimates that implementation of the reduction measures listed in the CAP screening tables will reduce GHG emissions by 0.0322 MTCO₂e per point per thousand square feet of commercial/industrial building area. (CAP, p. D-3.) But, because this figure is derived from data pertaining to the unincorporated areas of the County, there is no evidence that it would be correct for projects in areas not evaluated in the CAP, such as the City of Palm Springs. (See CAP, p. 2-1.) This distinction between incorporated and unincorporated areas of the county is relevant to whether the CAP is applicable because unincorporated areas of the county have their own systems for essential government functions such as water, sewer, trash, road maintenance, and other potential sources of GHG emissions. Certain unincorporated county services may be less efficient in comparison to the City, and some measures of the CAP that would add additional features to an unincorporated county project, may be measures already required by the City of Palm Springs, and not lead to additional mitigation of the Project’s GHG impact. Ultimately, the City did not provide any information to support the use of the County CAP in these circumstances, and therefore the City has not met its burden to support its choice of significance threshold by substantial evidence.

Comparing Tables 4.7-2 and 4.7-3 (EIR, pp. 4.7.24-25) shows that the mitigation measures the EIR proposes for the project will reduce the Project’s GHG emissions from 23,732.06 to 23,623.06 MTCO₂e/year, a reduction of just 100 MTCO₂e—less than half of one percent. The EIR claims this reduction converts the Project from one with significant GHG emissions into one with insignificant emissions. But this result defies credulity.

Consistency with Identified Applicable Plans

The DEIR analyzed consistency with the 2022 CARB Scoping Plan, the County of Riverside Climate Action Plan (**CAP**), and the 2024–2050 Regional Transportation Plan/Sustainable Communities Strategy (**Connect SoCal RTP/SCS**). However, the DEIR overlooks the Project’s conflict with the 2022 Scoping Plan and fails to acknowledge and analyze all applicable GHG reduction plans.

D-7

The 2022 Scoping Plan places particular emphasis on decarbonizing industrial facilities by “displacing fossil fuel use with a mix of electrification, solar thermal heat, biomethane, low- or zero-carbon hydrogen, and other low-carbon fuels to provide energy for heat and reduce combustion emissions.” (2022 CARB Scoping Plan, p. 208.) The Project does not appear to be consistent with this goal, based on the analysis provided in the DEIR. The 2022 Scoping Plan is undermined by the Project’s heavy reliance on fossil fuels for its operations through the use of heavy-duty trucks.

The City Climate Goals Should Be Used Rather than the County CAP

For reasons discussed above, the unincorporated county data that forms the basis for the County of Riverside CAP is not necessarily applicable to this Project which is within the Palm Springs city limits. The City should have instead considered its own city climate goals, which are documented on the City’s Climate Action Roadmap (**Roadmap**).¹ One of the measures discussed in this Roadmap is to “Continue to support the move to the 100% carbon free option for Palm Springs residents under Desert Community Energy (DCE).” (Roadmap, p. 11.) However, the DEIR does not discuss this goal or the feasibility of the Project to opt in to the 100% carbon free option using Desert Community Energy. There are many other measures in the Roadmap that were not considered and the City did not demonstrate that the Project would be consistent with local goals in the Roadmap.

D-8

The DEIR Should Have Analyzed All Applicable Plans

The City chose, as its second GHG threshold, whether the Project would “[c]onflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.” (DEIR, p. 4.7.26.) This language requires that the DEIR analyze the Project’s consistency with *all* other applicable plans, not just the plans that the City prefers to analyze.

D-9

¹ See Palm Springs 2021 Climate Action Roadmap, <https://www.palmspringsca.gov/home/showpublisheddocument/82060/637859794824230000>; See also City of Palm Springs, “Sustainability Goals & Progress,” <https://www.palmspringsca.gov/government/departments/sustainability-and-recycling/climate-action-plan>

An agency must consider a project’s GHG impact over time to reasonably evaluate the full extent of environmental impact as CEQA requires. The City estimated that the Project lifespan would be 30 years, as indicated by the 30-year amortization period. (DEIR, p. 4.7-24.) Accordingly, the Project must show consistency with long-term State GHG goals for at least 30 years to comply with CEQA. In particular, the DEIR must also demonstrate consistency with Executive Order B-55-18 (**EO B- 55-18**) and the 2017 Scoping plan.

EO B-55-18 requires the State of California to achieve carbon neutrality—net zero GHG emissions—by 2045. The Project is inconsistent with EO B-55-18 because it does not prohibit the use of gasoline, diesel, and natural gas. In fact, the Project would use diesel-powered trucks and natural gas cargo equipment. (DEIR, p. 4.2-38; 4.16-18.) Burning such non-renewable fuels results in substantial GHG emissions, preventing the Project from ever achieving carbon neutrality, unless it enters into agreements with the applicant and/or future tenant to ensure that fossil fuel use is on track to be eliminated by 2045. Additionally, the Project is expected to involve truck fleets, which are included in the estimated 3,451 vehicle trips per day, contributing to substantial use of non-renewable, GHG-emitting fuels. (DEIR, p. 4.14-16.) Thus, the Project would conflict with EO B-55-18.

The 2017 Scoping Plan was developed to help California comply with SB 32, which mandates a 40% reduction in GHG emissions below 1990 levels by 2030 (Health & Safety Code § 38566). The DEIR does not explain how the Project aligns with these objectives or the 2050 goal of reducing emissions by 80% below 1990 levels. Moreover, the 2017 Scoping Plan sets statewide per capita GHG emissions targets of 6 MTCO_{2e} by 2030 and 2 MTCO_{2e} by 2050 (CARB Scoping Plan, p. 99). The Project proposes to hire approximately 700 to 725 employees, resulting in per-service population GHG emissions of at least 32.6 MTCO_{2e}/capita. This significantly exceeds the 2050 target.² Given that this reduction must be achieved within the Project’s operational lifespan, it is evident that the Project will remain inconsistent with the 2017 Scoping Plan’s long-term goals. Therefore, the Project’s GHG impact is significant under the second threshold because it directly conflicts with established plans for reducing GHG emissions.

Consequently, the Project would have a significant GHG impact under the second threshold because it is inconsistent with applicable plans for the reduction of GHGs.

Conclusion

In conclusion, the Project would have a significant GHG impact under the chosen threshold of consistency with applicable plans because the Project is not consistent with applicable plans, policies, and regulations for the reduction of GHGs. The Project’s impacts are

² $23,623 \text{ MTCO}_2\text{e} \div 725 \text{ employees} = 32.6 \text{ MTCO}_2\text{e/employee}$

D-9
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D-10

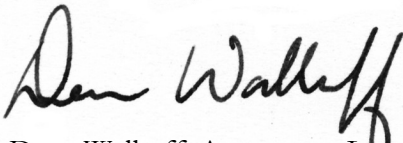
D-10

therefore significant, under the threshold adopted by the City. The City did not support, with substantial evidence, that the methodology of applying the County CAP to this Project would demonstrate a less than significant impact.

D-11

Please put Advocates for the Environment on the list of interested parties to receive updates about the progress of this potential project approval. We make this request under Public Resources Code, section 21092.2.

Sincerely,



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

APPENDIX E - LETTER E



03-004-2024-001

February 10, 2025

LETTER E

[VIA EMAIL TO: glenn.mlaker@palmsspringsca.gov]

City of Palm Springs

Glenn Mlaker

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92262

Re: First Palm Springs Commerce Center Environmental Report Draft

Dear Glenn Mlaker,

E-1 [The Agua Caliente Band of Cahuilla Indians (ACBCI) appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in the First Palm Springs Commerce Center project. We have reviewed the documents and have the following comments:

E-2 [* Given that the scope of the project is large, we encourage an Agua monitor to be on site during the initial grubbing and grading.

E-3 [* For large projects, please notify our office to partake in phase I cultural surveys.

E-4 [* Please include into the Mitigation Measures, an Agua monitor and archaeological monitor to be present and both have the power to halt construction.

E-5 [* Please include Inadvertent Discoveries section into the MM or a Treatment Plan in case cultural resources are found. The section should include options of leaving cultural resources in place or reburial place.

E-6 [* Please delete paleontology from the Tribal Cultural Resources section.

E-7 [Again, the Agua Caliente appreciates your interest in our cultural heritage. If you have questions or require additional information, please call me at (760) 883-1137. You may also email me at ACBCI-THPO@aguacaliente.net.

Cordially,

Luz Salazar

Cultural Resources Analyst

Tribal Historic Preservation Office

AGUA CALIENTE BAND

OF CAHUILLA INDIANS

APPENDIX F – LETTER F



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

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



LETTER F

February 10, 2025
 Sent via email

Glenn Mlaker
 Associate Planner
 City of Palm Springs
 3200 E Tahquitz Canyon Way
 Palm Springs, CA 92262
glenn.mlaker@palmspringsca.gov

First Palm Springs Commerce Center (PROJECT)
 Draft Environmental Impact Report (DEIR)
 SCH# 2024010068

Dear Glenn Mlaker:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Palm Springs (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

F-1 Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

F-2 CDFW is California’s **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related

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

activities that have the potential to adversely affect fish and wildlife resources.

F-2 CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW’s lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: First Industrial Realty Trust Inc.

F-3 **Objective:** The Project proposes the construction of two warehouse buildings with office spaces, truck docking areas, and employee parking spaces. Building 1 will be 1,516,174 square feet (sf), with 258 truck trailer docks, four grade doors, 929 parking spaces for cars and trucks, and 25 bicycle parking areas. Building 2 will be 388,530 sf with 42 truck trailer docks, two grade doors, 302 parking spaces for cars and trucks, and 14 bicycle parking areas. Site access will be gated and provided from the new roadway for Noble Drive to the north and 19th Avenue to the south. The Project will include stormwater channels along the site’s frontage along North Indian Canyon Drive and underground retention basins to collect and store on-site and off-site storm water. The Project’s artificial nighttime lighting will include street lighting along the internal roadways and along the site frontages along 18th Avenue, 19th Avenue, and North Indian Canyon Drive, and lighting outside building facades, gates, walkways, and parking areas. All light sources in the site’s parking areas, walkway, and on the exterior of proposed buildings will be shielded downward. The Project will add new landscaping to the site with a mix of climate-adapted shrubs and grasses and shade trees in the parking areas and along building and perimeter buffers.

Location: The Project site is located north of the I-10 and east of SR 62, in the northern portion of the City of Palm Springs, Riverside County, California. The site is composed of five parcels, including Accessor’s Parcel Numbers (APNs) 666-320-010, -011, -012, -015, and -019, and is bounded by 18th Avenue to the north, North Indian Canyon Drive to the east, 19th Avenue to the south, and Karen Drive to the west of the site.

Timeframe: Construction of the Project is anticipated in 2025.

COMMENTS AND RECOMMENDATIONS

F-4 CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of

F-4
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those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The DEIR has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

F-5

CDFW's comments and recommendations on the DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information to facilitate a meaningful review by CDFW, including a complete and accurate assessment of biological resources on the Project site. CDFW requests that additional information and analyses be added to a revised DEIR, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

F-6

Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the DEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR may provide an incomplete analysis of Project-related environmental impacts.

F-7

The DEIR lacks a complete assessment of biological resources associated with special-status plants and burrowing owls within the Project site and surrounding area. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

F-8

Mitigation Measures

CEQA requires that a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the City in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for special-status plants, artificial nighttime lighting, CDFW Lake and Streambed Alteration Program, and salvage of sand-dependent covered species, as well as revising the mitigation measures for nesting birds and burrowing owl.

F-9

1) Assessment of Biological Resources

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Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed project are adequately investigated and discussed. Page 13 of the Project's Biological Assessment Report for the First Palm Springs Commerce Center Project (Biological Assessment Report), dated October 17, 2024, indicates that the surveys were conducted in November and early December when it is unlikely that ribbed cryptantha (*Johnstonella costata*; California Rare Plant Rank [CRPR] 4.3), flat-seeded spurge (*Euphorbia platysperma*; CRPR 1B.2), slender cottonheads (*Nemacaulis denudate gracilis*; CRPR 2B.2), and white-bracted spineflower (*Chorizanthe xanti* var. *leucotheca*; CRPR 1B.2) would be detected. As indicated in Calflora, all four of these species are associated within the creosote bush scrub, the dominant plant community within the Project site. Also, observation data in Calflora includes historic occurrences of all four of these species in northwestern Coachella Valley. CDFW considers the Project site to contain suitable habitat for all four of these species. Per CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018²), CDFW recommends that botanical field surveys are conducted at the times of year when plants will be both evident and identifiable. Since surveys were conducted outside of the peak bloom period for the four special-status plant species discussed above, CDFW is concerned that the assessment of the existing environmental setting with respect to special-status plants has not been adequately analyzed in the DEIR. Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant.

F-10

CDFW is further concerned about the accuracy of information regarding special-status plant species in the Biological Resources Assessment. Regarding flat-seeded spurge, the Biological Assessment Report indicates that "there are no records of its presence on or adjacent to the project site"; however, Calflora includes a historical observation of this species within the Project site. Regarding slender cottonheads, the Biological Assessment Report indicates that the "species usually occurs on sandy benches adjoining washes, a habitat not found within, or immediately adjacent to, the project site. [...] It is a covered species under the CVMSHCP. No other actions are required." CDFW

² CDFW, 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and*

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has identified at least three ephemeral streams located within the Project site (see Lake and Streambed Alteration Program section below), which contain suitable habitat for this species. CDFW also clarifies that slender cottonheads is not a Covered Species under the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). Information on CVMSHCP Covered Species, and information on the obligations of CVMSHCP Permittees, can be found here: <https://cvmshcp.org/>. Further, regarding the presence of special-status plants, page 8 of the Biological Assessment Report states that “due to the historical disturbance and lack of observations during the surveys, the habitat within the Survey Area is considered unsuitable to support potentially occurring special status plants. None were observed and none are expected to occur.” CDFW is concerned about the accuracy of this conclusion. Although the central portion of the site has been subject to disturbance over the past five years from the removal of a row of wind turbines, much of the Project site is undisturbed based on review of historical aerial and street view imagery accessed using Google Earth. Because the habitat within the Project site is largely undisturbed, including at least two of the ephemeral streams located within the Project site, CDFW does not consider the recent disturbance to the site associated with the removal of wind turbines to preclude the presence of special-status plants. CDFW recommends the DEIR and its supporting documents be revised to include accurate information on the status and potential presence of special-status plant species within the Project site.

F-11

Without an appropriate assessment of the biological resources, particularly focused on special-status plants, appropriate avoidance, minimization, and/or mitigation measures cannot be identified, and it is uncertain if impacts to biological resources have been reduced to a level less than significant. CDFW recommends the DEIR and its supporting documents be revised to include the results of a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW’s *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018³), which includes conducting botanical field surveys at the times of year when plants will be both evident and identifiable. Based on the findings of a thorough, recent floristic-based assessment, CDFW recommends that the DEIR be revised to include appropriate avoidance, minimization, and mitigation measures.

Given the DEIR’s lack of a complete assessment of biological resources associated with special-status plants, CDFW recommends the City add the following mitigation measure to a revised DEIR to support the City in reducing impacts to a level less than significant:

³ CDFW, 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and*

Mitigation Measure BIO-[A]: Special-Status Plants

Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see <https://wildlife.ca.gov/Conservation/Plants>) shall be performed by a qualified biologist. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for revised MM BIO-1 and MM BIO-2, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], MM BIO-[C], and MM BIO-[D].

2) Nesting Birds

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders 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 Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), per its associated Implementing Agreement and Permits from CDFW and the U.S. Fish and Wildlife Service (USFWS), Take associated with Covered Activities will not be in violation of the Migratory Bird Treaty Act and will be consistent with Fish and Game Code sections 3503 and 3503.5; therefore, all Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. Having conferred Take Authorization of Covered Species and/or their habitats to this Project, the City of Palm Springs is obligated to take

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F-12

all necessary and appropriate actions, following applicable land use permit enforcement procedures and practices, to enforce the Project's compliance with the CVMSHCP, the state and federal permits associated with the CVMSHCP, and the CVMSHCP Implementing Agreement, which include avoiding the take of individuals, nests, and eggs of nesting birds including birds of prey.

Page 4.3.15 of the DEIR indicates that "site does have some Sonoran creosote shrub and provides suitable nesting habitat for the breeding, foraging and dispersing of nesting birds." CDFW concurs that the Project site contains suitable habitat for nesting birds and notes that the majority of the Project site contains sparse cover of native shrubs that are suitable for nesting birds. The DEIR includes a Mitigation Measure BIO-2 for nesting birds, indicating that "due to the presence of shrubs and the potential for avian nesting sites, in accordance with the Migratory Bird Treaty Act and all applicable section of the California Fish and Game Code, ground disturbance and vegetation clearance shall take place before typical avian nesting seasons of February 1 and August 31." Conducting work outside the peak nesting season is an important avoidance and minimization measure. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017⁴). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on-site. CDFW is concerned that ground-disturbing and vegetation removal activities conducted outside of the peak nesting season have the potential to impact nesting birds. CDFW considers Mitigation Measure BIO-2 to be insufficient in scope and timing to reduce impacts to a level less than significant.

To support the City in reducing impacts to nesting birds to a level less than significant, CDFW recommends that the City revise Mitigation Measure BIO-2 with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-2: Nesting Birds

To the greatest extent feasible, Project construction activities will avoid the peak nesting season (February 1 through September 15). Regardless of the time of

⁴ Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

F-12
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year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. ~~In accordance with the Migratory Bird Treaty Act and all applicable section of the California Fish and Game Code, ground disturbance and vegetation clearance shall take place before typical avian nesting seasons of February 1 and August 31.~~

3) *Burrowing Owl*

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

F-13

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders 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 Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules

and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the CVMSHCP, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. Section 3.5.6 of the NCCP Permit states burrowing owl “pairs or individuals will not be Taken” and reiterates that the “HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]” Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under the CVMSHCP.

Page 4.3.12 of the DEIR indicates “two (2) special-status, avian species potentially occurring within the project boundaries are the loggerhead shrike (*Lanius ludovicianus*) and burrowing owl (*Athene cunicularia*). [...] Although no burrowing owls were observed at the site during the field surveys, the site has the potential to attract and provide habitat for burrowing owls.” Page 17 of the Project’s Biological Resources Assessment states that “potentially suitable burrows were present on site due to small mammal activity (e.g. ground squirrel)”. Given the habitat type within and surrounding the Project site, including sparse cover with few shrubs, gentle topography, and presence of potentially suitable burrows, CDFW concurs that the Project site contains suitable habitat for burrowing owl. CDFW also notes that the Project’s site’s potential to support burrowing owl is evidenced by the documented, recent presence of burrowing owls occupying similar habitat located less than a mile to the southeast in areas that are currently subject to various levels of disturbance by development activities (e.g., Project Viento, Desert Gateway, etc.).

F-13
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Regarding survey methods, page 9 of the Biological Assessment Report indicates that “a burrowing owl assessment and subsequent protocol burrowing owl surveys were completed according to the Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan Area (City of Palm Springs 2006).” The Biological Assessment Report appears to mistakenly conflate requirements of the Western Riverside County Multiple Species Habitat Conservation Plan (WRMSHCP) and the CVMSHCP; CDFW clarifies that the Project is located within the CVMSHCP, which has requirements that are separate and distinct from those associated with the WRMSHCP. Page 9 of the Biological Assessment Report indicates that three focused surveys for burrowing owl were conducted in April 2023, and “transects were spaced no more than 30 meters to ensure 100 percent coverage. Rodent burrows were thoroughly examined for presence of sign (i.e., pellets, white wash, feathers, or prey remains), and suitable perches were inspected for BUOW pellets.” The DEIR lacks additional information on the survey methods used and

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findings from surveys for burrowing owl. For example, the DEIR and its supporting documents lack a complete description of survey methods, a map showing the locations of all burrows suitable for burrowing owl, the qualifications of surveyor(s), photos of the Project site, and signed field forms, among other survey report components as recommended in the CDFW 2012 *Staff Report on Burrowing Owl Mitigation*⁵ under the Survey Reports section of Appendix D (Breeding and Non-breeding Season Surveys and Reports). Given the DEIR's lack of clarity on survey methods and the lack of appropriate reporting, the number of suitable and occupied burrows within the Project site and surrounding areas is unknown. CDFW recommends that the DEIR be revised to include the findings of focused surveys for burrowing owl within the Project site following the guidelines in the *Staff Report on Burrowing Owl Mitigation*, including a complete description of survey methods and survey reports, along with appropriate avoidance, minimization, and mitigation measures for burrowing owl.

F-14

With regard to avoidance and minimization measures, the DEIR includes Mitigation Measure BIO-1 for burrowing owl, which indicates that a "pre-construction protocol survey for burrowing owls in accordance with the Coachella Valley Multiple Species Conservation Plan Area shall be conducted. This mitigation measure requires a clearance survey be conducted not more than 14 days prior to grubbing, grading, or other surface disturbances to determine whether the species still occurs on the site. A final clearance survey must be conducted 24 hours prior to ground disturbance. If the owl is present during the breeding season (February 15 through September 15), a qualified biologist will establish a buffer area (a no disturbance zone) around the active burrow. When it is determined that all young owls have permanently left the burrow (fledged), the buffer area may be abandoned, and the adult owls captured and relocated. All these activities must be governed by a plan approved by CDFW. If an owl is present, regardless of the presence of young, a qualified biologist must develop either an avoidance or a relocation plan for review and approval by the CDFW, approved under permit." CDFW appreciates the inclusion of requirements to coordinate with CDFW to determine appropriate methods of any planned burrowing owl relocations. However, CDFW is concerned that the measure lacks requirements for focused burrowing owl surveys, details on what to include within a burrowing owl plan if burrowing owls are detected, and appropriate avoidance, minimization, and mitigation measures. CDFW considers Mitigation Measure BIO-1 to be insufficient in scope and timing to reduce impacts to a level less than significant.

F-15

To support the City in reducing impacts to burrowing owl to a level less than significant, CDFW recommends the City revise Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strikethrough~~:

⁵ California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

Mitigation Measure BIO-1: Burrowing Owl Habitat Assessment and Surveys

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version) prior to all vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigating Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls and the conservation status of adjacent or nearby suitable habitat, along with proposed relocation actions. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If Project activities, including burrow exclusion and closure, could result in take of burrowing owl, appropriate CESA authorization should be obtained prior to commencement of Project activities.

Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012 or most recent version). Preconstruction surveys should

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be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities. ~~A pre-construction protocol survey for burrowing owls in accordance with the Coachella Valley Multiple Species Conservation Plan Area shall be conducted. This mitigation measure requires a clearance survey be conducted not more than 14 days prior to grubbing, grading, or other surface disturbances to determine whether the species still occurs on the site. A final clearance survey must be conducted 24 hours prior to ground disturbance. If the owl is present during the breeding season (February 15 through September 15), a qualified biologist will establish a buffer area (a no disturbance zone) around the active burrow. When it is determined that all young owls have permanently left the burrow (fledged), the buffer area may be abandoned, and the adult owls captured and relocated. All these activities must be governed by a plan approved by CDFW. If an owl is present, regardless of the presence of young, a qualified biologist must develop either an avoidance or a relocation plan for review and approval by the CDFW, approved under permit.~~

F-16

4) Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: divert or obstruct the natural flow of any river, stream, or lake; change the bed, channel, or bank of any river, stream, or lake; use material from any river, stream, or lake; or deposit or dispose of material into any river, stream, or lake. Note that "any river, stream, or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

F-17

Page 4.3.14 of the DEIR indicates the "BAR [Biological Assessment Report] conducted on August 22, 2023 (see *Appendix C*) did not indicate the presence of any riparian habitat on the Project site. Therefore, implementation of the proposed Project would have no impact on riparian habitat or other sensitive natural community as identified in local or regional plans, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service." Also, page 6 of the Biological Assessment Report states that "disturbance along the northern Project boundary in the form of a maintained road and recently installed underground infrastructure (electric) precludes potential offsite flows from entering the property." The DEIR and its supporting documents lack additional information describing how the maintained road and recently installed underground infrastructure would stop stormflows from entering the Project site from the north. In contrast, the DEIR indicates that the Project proposes the construction of significant

F-17
Cont

flood control infrastructure to address stormflows; page 4.9.22 states that “four (4) underground infiltration basins, two (2) above ground detention basins around Building 1 as well as two (2) underground detention basins around Building 2 would capture all offsite flows and runoff at the site.” CDFW has identified several ephemeral streams within the Project site, which are subject to Fish and Game Code section 1600 et seq. Based on review of historical aerial imagery using Google Earth, a minimum of two ephemeral streams are located within the western half of the Project site and one ephemeral stream within the eastern half of the Project site. Stormflows for these ephemeral streams located onsite originate from Mission Creek, west of Highway 62, and move through a network of ephemeral washes traversing a broad alluvial plain to the north before entering the Project site. Stream indicators for the ephemeral streams located onsite include, but are not limited to, evidence of erosion, scour, and stream-aligned vegetation visible in historical aerial imagery. CDFW considers the Project site to contain streams subject to Fish and Game Code section 1600 et seq.

To ensure that impacts to streams and associated fish and wildlife are reduced to a level less than significant, CDFW recommends that the City add the following mitigation measure to a revised DEIR:

Mitigation Measure BIO-[B]: CDFW Lake and Streambed Alteration Program

Prior to construction, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

F-18

5) *Artificial Nighttime Lighting*

The Project site is located adjacent to vacant areas containing native habitat to the north and east—areas that provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats including western yellow bat (*Lasiurus xanthinus*; CVMSHCP Covered Species), and other nocturnal and crepuscular wildlife. The Project’s proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in these vacant, vegetated areas adjacent to the Project site. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and

seasonal cycles; the detection of resources and natural enemies; and navigation.⁶ Many species use photoperiod cues for communication (e.g., bird song⁷), determining when to begin foraging,⁸ behavioral thermoregulation,⁹ and migration.¹⁰ Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.¹⁰

Although the Project description indicates that “all light sources in the site’s parking areas, walkway and on the exterior of proposed buildings would be shielded downward” (page 4.1.16 of the DEIR), CDFW considers these plans to shield lighting insufficient in scope and timing to reduce impacts to a level less than significant. To support the City in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends the City add the following mitigation measure to a revised DEIR:

F-18
Cont.

Mitigation Measure BIO-[C]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the City of Palm Springs and Project proponent shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Palm Springs and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The City of Palm Springs and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

F-19

6) Coachella Valley Multiple Species Habitat Conservation Plan

Salvage of Sand-Dependent Covered Species

Section 6.6.1 of the CVMSHCP (Obligations of Local Permittees) states that within and

⁶ Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. *Biological Reviews*, 88.4: 912-927.

⁷ Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

⁸ Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

⁹ Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

¹⁰ Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

F-19
Cont.

outside Conservation Areas “on parcels approved for Development, the Permittees shall encourage the opportunity to salvage Covered sand-dependent species in accordance with the Implementation Manual.” The DEIR and Biological Assessment Report lack information on the potential for Coachella Valley round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*) to occupy the Project site and surrounding area and appropriate avoidance and minimization measures. The Project site contains CVMSHCP modeled habitat for Coachella Valley round-tailed ground squirrel. To be consistent with CVMSHCP requirements, CDFW recommends that the City include in a revised DEIR the following mitigation measure:

Mitigation Measure BIO-[D]: Salvage of Sand-Dependent Covered Species

Prior to vegetation removal or ground-disturbing activities, the City of Palm Springs will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.

7) Landscaping

F-20

Page ES.3 of the DEIR indicates that the “proposed development would add new landscaping to the site with a mix of climate-adapted shrubs and grasses, and shade trees, in the parking areas and along building and perimeter buffers.” The DEIR lacks additional information on plant species that will be used as part of the landscape plan. CDFW recommends that the DEIR include recommendations regarding landscaping from Section 4.0 of the CVMSHCP “Table 4-112: Coachella Valley Native Plants Recommended for Landscaping” (pp. 4-180 to 4-182; <https://cvmshcp.org/plan-documents/>). CDFW also recommends incorporation of water-wise concepts in any Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. More information on native plants suitable for the Project location and nearby nurseries is available at Calscape: <https://calscape.org/>. Local water agencies/cities and resource conservation cities in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California’s Save our Water website: <https://saveourwater.com/>.

ENVIRONMENTAL DATA

F-21

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural

F-21
Cont

communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

F-22

ENVIRONMENTAL DOCUMENT FILING FEES

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


F-23

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information for a meaningful review of impacts to biological resources, including a complete assessment of biological resources for special-status plants and burrowing owl. CDFW recommends that a revised DEIR, including a complete assessment of biological resources be recirculated for public comment. The CEQA Guidelines indicate that recirculation is required when insufficient information in the DEIR precludes a meaningful review (§ 15088.5). CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised DEIR.

CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at jacob.skaggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Glenn Mlaker, Associate Planner
 City of Palm Springs
 February 10, 2025
 Page 17

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@Wildlife.ca.gov

Mary Beth Woulfe, U.S. Fish and Wildlife Service
marybeth_woulfe@fws.gov

Lory Salazar-Velasquez, U.S. Fish and Wildlife Service
lory_salazar-velasquez@fws.gov

Noelle Ronan, U.S. Fish and Wildlife Service
noelle_ronan@fws.gov

Peter Satin, Coachella Valley Association of Governments
psatin@cvag.org

Kathleen Brundige, Coachella Valley Association of Governments
kbrundige@cvag.org

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

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>Mitigation Measure BIO-[A]: Special-Status Plants</p> <p>Prior to Project construction activities, a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see https://wildlife.ca.gov/Conservation/Plants) shall be performed by a qualified biologist. Should any state-listed plant species (excluding CVMSHCP Covered Species) be present in the Project area, the Project proponent shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law (excluding CVMSHCP Covered Species) be</p>	<p>Timing: Prior to Project construction activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.</p>		
<p>Mitigation Measure BIO-2: Nesting Birds</p> <p>To the greatest extent feasible, Project construction activities will avoid the peak nesting season (February 1 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>	<p>Timing: No more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all phases of the Project.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>
<p>Mitigation Measure BIO-1: Burrowing Owl Habitat Assessment and Surveys</p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, 2012 or most recent version) prior to all vegetation removal or ground-disturbing activities. If burrowing owls are detected during the focused</p>	<p>Timing: Focused surveys: Prior to vegetation removal or ground-disturbing activities for all phases of the Project. Pre-construction surveys: No less</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigating Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls and the conservation status of adjacent or nearby suitable habitat, along with proposed relocation actions. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If Project activities, including burrow exclusion and closure, could result in take of burrowing owl, appropriate CESA authorization should be obtained prior to commencement of Project activities.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff</i></p>	<p>than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance for all phases of the Project and when there is a pause in construction of more than 30 days.</p> <p>Methods: See Mitigation Measure</p>	
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<p>Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p>Mitigation Measure BIO-[B]: CDFW Lake and Streambed Alteration Program</p> <p>Prior to construction, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project</p>	<p>Timing: Prior to construction.</p> <p>Methods: See Mitigation Measure.</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>

<p>Mitigation Measure BIO-[C]: Artificial Nighttime Lighting</p> <p>Throughout construction and the lifetime operations of the Project, the City of Palm Springs and Project proponent shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The City of Palm Springs and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The City of Palm Springs and Project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>	<p>Timing: Throughout construction and the lifetime operations of the Project.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>
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<p>Mitigation Measure BIO-[D]: Salvage of Sand-Dependent Covered Species</p> <p>Prior to vegetation removal or ground-disturbing activities, the City of Palm Springs will collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.</p>	<p>Timing: Prior to vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: City of Palm Springs and Project proponent</p> <p>Monitoring and Reporting: City of Palm Springs</p>
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APPENDIX G – LETTER G

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

79-650 Varner Road
Indio, CA 92203
(760) 772-5300
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



February 10, 2025

LETTER G

File No.: 630.17367.15339

City of Palm Springs
3200 East Tahquitz Avenue
Palm Springs, CA 92262

RE: SCH #2024010068

G-1

The California Highway Patrol (CHP), Indio Area, received the “Notice of Completion” of the Environmental document for the proposed project regarding the State Clearinghouse (SCH) number listed above. After review, we have concerns with the potential impact this project could have regarding traffic congestion.

G-2

Our concern relates to the proposed construction of two large warehouse buildings. The first building is estimated to be 1,516,174 square feet in size, with 258 truck trailer docks, four grade doors, and 928 parking spaces. The second building is estimated to be 388,530 square feet in size, with 42 truck trailer docks, two grade doors and 302 parking spaces. The proposed project is located in close proximity to Interstate 10, which is a major arterial route for commuters and commerce through the Coachella Valley and the State of California. It would be anticipated with the volume of truck trailer docks proposed, commercial traffic would significantly increase in the area of North Indian Canyon Drive and Interstate 10. This project could have a negative impact on CHP operations due to the increased commercial traffic congestion. Specifically, commercial traffic entering and exiting Interstate 10 at North Indian Canyon Drive. The increased traffic could necessitate the need for additional traffic control measures to mitigate the potential increase in traffic crashes within CHP jurisdiction.

G-3

If you have any questions regarding these concerns, please contact me or Lieutenant Kyle Johnson at (760) 772-5300

Sincerely,

A handwritten signature in blue ink, appearing to read "D.E. Efferson".

D.E. EFFERSON, Captain
Commander
Indio Area

Attachment(s)

Cc: Border Division



Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2024010068

Project Title: First Palm Springs Commerce Center
Lead Agency: The City of Palm Springs
Mailing Address: 9200 E Tahquitz Canyon Way
City: Palm Springs

Contact Person: Mr. Glenn Mlaker
Phone: 760-323-8245 x 8778
County: Riverside

Zip: 92262

Project Location: County: Riverside City/Nearest Community: City of Palm Springs
Cross Streets: 10th Avenue and North Indian Canyon Drive; 19th Avenue and North Indian Canyon Drive Zip Code: 92260
Longitude/Latitude (degrees, minutes and seconds): 33 ° 01 ' 181 " N / -116 ° 56 ' 091 " W Total Acres: 91.87
Assessor's Parcel No.: 666-320-010, 011, 012, 015, & 019 Section: 10 Twp.: 3S Range: 4E Base: NA
Within 2 Miles: State Hwy #: S R-62& I-10 Waterways: No
 Airports: No Railways: Yes Schools: No

Document Type:

- CEQA: NOP Draft EIR Supplement/Subsequent EIR (Prior SCH No.) Other: _____
 Early Cons Neg Dec Mit Neg Dec
 NEPA: NOI EA Draft EIS FONSI
 Other: Joint Document Final Document Other: _____

Local Action Type:

- General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Constal Permit
 Community Plan Site Plan Land Division (Subdivision, etc.) Other: 001A

Development Type:

- Residential: Units _____ Acres _____
 Office: Sq.ft. _____ Acres _____ Employees _____
 Commercial: Sq.ft. 7390,131 Acres 91.97 Employees 725
 Industrial: Sq.ft. _____ Acres _____ Employees _____
 Educational: _____
 Recreational: _____
 Water Facilities: Type _____ MGD _____
 Transportation: Type _____
 Mining: Mineral _____
 Power: Type _____ MW _____
 Waste Treatment: Type _____ MGD _____
 Hazardous Waste: Type _____
 Other: _____

Project Issues Discussed in Document:

- Aesthetic/Visual Fiscal Recreation/Parks Vegetation
 Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality
 Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian
 Biological Resources Minerals Soil Erosion/Compaction/Grading Growth Inducement
 Coastal Zone Noise Solid Waste Land Use
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Cumulative Effects
 Economic/Jobs Public Services/Facilities Traffic/Circulation Other: _____

Present Land Use/Zoning/General Plan Designation:

(GP Land Use: **Industrial with Wind Energy Overlay**), (Zoning: **M2 Manufacturing Zone**).

Project Description: (please use a separate page if necessary)

The proposed Project would include the development of two (2) warehouse buildings on an approximately 91.87 acres site with Assessor Parcel Numbers (APNs) 666-320-010, -011, -012, -015, and -019. The site is located at the southeast corner of 18th Avenue and N Indian Canyon Drive, 39th Avenue would provide the site's southern boundary while Karan Avenue is located to the west of site. Building 1 is approximately 1,516,174 square feet (sf), with 255 truck trailer docks, six (6) grade doors, 920 parking spaces for cars and trucks, of which 10 spaces would be for handicap parking, 25 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. Monument signs would be provided at the site entrances at 18th Avenue, and N Indian Canyon Drive. Two (2) office areas on each side of the building would be provided along North Indian Canyon Avenue and Indigo Drive, respectively. Site access would be gained and provided from North Indian Canyon Drive to the east and two (2) new internal roadways - Noble Drive to the south and Indigo Drive to the west. Building 2 is approximately 388,630 sf with 42 truck trailer docks, two (2) grade doors, 302 parking spaces for cars and trucks, of which eight (8) spaces would be for handicapped parking, 14 bicycle parking areas, as well as external building and internal roadway lighting, landscaping, and trash enclosure areas. Monument signs would be provided at the site entrances at 19 Avenue, and Noble Drive. One (1) office area would be provided at the southeast corner of the building. Site access would be gained and provided from the new roadway for Noble Drive to the north and 19th Avenue to the south. On-site stormwater retention basins serving the site would be constructed underground. The proposed Project would connect to existing water, wastewater, sewer and electric lines along N Indian Canyon Drive to the east and 18th Avenue to the south of the site.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

APPENDIX H – LETTER H

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X". If you have already sent your document to the agency please denote that with an "S".

- | | |
|---|---|
| <input checked="" type="checkbox"/> Air Resources Board | <input checked="" type="checkbox"/> Office of Historic Preservation |
| <input type="checkbox"/> Boating & Waterways, Department of | <input type="checkbox"/> Office of Public School Construction |
| <input checked="" type="checkbox"/> California Emergency Management Agency | <input type="checkbox"/> Parks & Recreation, Department of |
| <input checked="" type="checkbox"/> California Highway Patrol | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input checked="" type="checkbox"/> Caltrans District # 8 | <input checked="" type="checkbox"/> Public Utilities Commission |
| <input checked="" type="checkbox"/> Caltrans Division of Aeronautics | <input checked="" type="checkbox"/> Regional WQCB # 7 |
| <input type="checkbox"/> Caltrans Planning | <input type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input checked="" type="checkbox"/> Resources Recycling and Recovery, Department of |
| <input checked="" type="checkbox"/> Coachella Valley Mtns. Conservancy | <input type="checkbox"/> S.F. Bay Conservation & Development Comm. |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input checked="" type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Joaquin River Conservancy |
| <input checked="" type="checkbox"/> Conservation, Department of | <input type="checkbox"/> Santa Monica Mtns. Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Delta Protection Commission | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input type="checkbox"/> Education, Department of | <input checked="" type="checkbox"/> SWRCB: Water Quality |
| <input checked="" type="checkbox"/> Energy Commission | <input type="checkbox"/> SWRCB: Water Rights |
| <input checked="" type="checkbox"/> Fish & Game Region # 6 | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input type="checkbox"/> Food & Agriculture, Department of | <input checked="" type="checkbox"/> Toxic Substances Control, Department of |
| <input checked="" type="checkbox"/> Forestry and Fire Protection, Department of | <input checked="" type="checkbox"/> Water Resources, Department of |
| <input type="checkbox"/> General Services, Department of | <input type="checkbox"/> Other: US Army Corps of Engineers |
| <input type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Housing & Community Development | |
| <input checked="" type="checkbox"/> Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date Dec 23, 2024 Ending Date February 10, 2025

Lead Agency (Complete if applicable):

Consulting Firm: The Altum Group	Applicant: Mr. Paul Loubet, First Industrial Realty Trust Inc.
Address: 44-600 Village Court, Suite 100	Address: 3536 Concors Street, Suite 340
City/State/Zip: Palm Desert, CA 92260	City/State/Zip: Ontario, CA 91764
Contact: Anna Choudhuri	Phone: 310-321-3805
Phone: 760-346-4750	

Signature of Lead Agency Representative:  Date: 12/23/24

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

California Department of Transportation



DISTRICT 8
464 WEST 4TH STREET
SAN BERNARDINO CA, 92401
(909) 925-7520
www.dot.ca.gov

February 12, 2025

Route & Postmile #: I-10- PM 32.84
Cross Street: Indian Canyon Drive & 18th Street
GTS ID: 35067
SCH #: 2024010068

City of Palm Springs
Planning Department
Attn: Glenn Mlaker
3200 E Tahquitz Canyon Way,
Palm Springs, CA 92262

Subject: First Palm Springs Commerce Center Draft EIR – Northwest corner of Indian Canyon Drive & 18th Street, Palm Springs, CA 92258.

H-1 [The California Department of Transportation (Caltrans) Local Development Review (LDR) unit has completed the evaluation of the First Palm Springs Commerce Center Draft EIR.

H-2 [The project proposes a Major Development Permit application for a high cube warehouse in two (2) separate buildings. Building 1 equaling 1,516,174-square feet including office space, with 258 truck trailer docks, and 929 parking spaces for cars and trucks. Building 2 equaling 388,530-square feet including office space with 42 truck trailer docks, and 302 parking spaces for cars and trucks. The proposed project will connect to existing infrastructure to provide electricity, water, natural gas and a sanitary sewer line via connections from North Indian Canyon Drive. The project site occupies approximately 91.97 acres west of Indian Canyon Drive and south of 18th Avenue in the northern part of the City of Palm Springs.

Based on the information provided in the Draft EIR and its associated documents, we are submitting the following comments for your consideration:

System Planning

H-3 [If applicable, please ensure that the project complies with the standards, designs, and other requirements outlined in [Assembly Bill 98](#).

Traffic Forecasting

- H-4** 1. The study segments in the TIA include:
- 7. I-10 EB Ramps (NS) at Garnet Avenue (EW)
 - 8. I-10 WB Ramps (NS) at 20th Avenue (EW)
- The following segments should be studied:
- I-10 EB Ramps (EW) at Indian Canyon Drive
 - I-10 WB Ramps (EW) at Indian Canyon Drive (both of them)
- H-5** 2. The following intersections were not evaluated and should be added as study intersections:
- I-10 EB Ramps (EW) at Indian Canyon Drive
 - I-10 WB Ramps (EW) at Indian Canyon Drive (both of them)
- H-6** 3. The total Project Trips assigned in Figure 24 don't add up to the values shown in Table 3 (see below). There should be a total of 263 trips entering driveways at the site; however, there are only 124 (17 + 17 + 17 + 8 + 12 + 14 + 13 + 12 + 14). Furthermore, there are missing trips between Intersections 5 and 6; further illustrating the need to study the I-10 WB onramp.
- H-7** 4. The "Other Development Trip Generation" includes the amphitheater trips (1,000+ daily); however, those trips are for special events and not for a typical day.
- a. Please remove the trips from the event and revise the analysis.
 - b. The fair share analysis should be updated accordingly.

Equitable Access

- H-8** If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Caltrans Encroachment Permit

- H-9** Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit.
- For information regarding the Encroachment Permit application and submittal requirements, contact:
- Caltrans Office of Encroachment Permits
464 West 4th Street, Basement, MS 619
San Bernardino, CA 92401-1400
(909) 383-4526
D8.E-permits@dot.ca.gov
<https://dot.ca.gov/programs/traffic-operations/ep>

H-10

Thank you again for including Caltrans in the review process. Should you have any questions regarding this letter, or for future notifications and requests for review of new projects, please email LDR-D8@dot.ca.gov or call 909-925-7520.

Sincerely,



Victor Flores on behalf of Janki Patel

Acting Branch Chief - Local Development Review
Division of Transportation Planning
Caltrans District 8



City of Palm Springs
Planning Department

3200 E Tahquitz Canyon Way, Palm Springs, CA 92262