

**Comment Letter O1 – Adams Broadwell Joseph & Cardozo, Attorneys at Law**  
**Sheila M. Sannadan, Legal Assistant**  
**Lorrie J. LeLe, Legal Assistant**

**Christina Taylor**

**From:** Sheila M. Sannadan <ssannadan@adamsbroadwell.com>  
**Sent:** Monday, May 09, 2022 3:12 PM  
**To:** Christina Taylor; Nicole Wheelwright; Carole Kendrick  
**Subject:** RE: Request for Immediate Access to Public Records – Beaumont Summit Specific Plan Project (6128)  
**Attachments:** 6128-002j - Beaumont Summit Specific Plan Project - Imm PRA Req - 04-29-22.pdf

Good Afternoon,

Could you please tell me what is the status of this *immediate access* PRA request, submitted on 4/29/22? See attached.

Thank you.

Regards,  
Sheila

Sheila Sannadan  
Legal Assistant  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
Phone (650) 589-1660  
Fax (650) 589-5062  
[ssannadan@adamsbroadwell.com](mailto:ssannadan@adamsbroadwell.com)

**From:** Lorrie J. LeLe <jlele@adamsbroadwell.com>  
**Sent:** Friday, April 29, 2022 4:43 PM  
**To:** ctaylor@beaumontca.gov; nicolew@beaumontca.gov; ckendrick@beaumontca.gov  
**Cc:** Sheila M. Sannadan <ssannadan@adamsbroadwell.com>  
**Subject:** Request for Immediate Access to Public Records – Beaumont Summit Specific Plan Project (6128)

On behalf Californians Allied for a Responsible Economy, we submit this request for immediate access to public records for the Beaumont Summit Specific Plan project.

If you have any questions, please contact Sheila Sannadan.

Thank you,

*Lorrie LeLe*  
Legal Assistant  
Adams Broadwell Joseph & Cardozo  
520 Capitol Mall, Suite 350  
Sacramento, CA 95814  
[jlele@adamsbroadwell.com](mailto:jlele@adamsbroadwell.com) | Phone: 916.444.6201 Ext. 10 | Fax: 916.444.6209 |

O1-1

O1-2

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April 29, 2022

By Counsel/  
MARC D. JOSEPH  
DANIEL L. CARDOZO

\*Not admitted in California.  
Admitted in Colorado.

Via Email and U.S. Mail

Christina Taylor  
Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Nicole Wheelwright  
Deputy City Clerk  
Beaumont Civic Center  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [nicolew@beaumontca.gov](mailto:nicolew@beaumontca.gov)

Via Email Only

Carole Kendrick, Planning Manager  
Email: [ckendrick@beaumontca.gov](mailto:ckendrick@beaumontca.gov)

Re: Request for Immediate Access to Public Records – Beaumont  
Summit Specific Plan Project (SCH No. 2021090378)

Dear Ma. Taylor, Ma. Wheelwright, and Ms. Kendrick:

We are writing on behalf Californians Allied for a Responsible Economy ("CARECA") to request immediate access to any and all public records referring or related to the Beaumont Summit Specific Plan Project (SCH No. 2021090378) ("Project") proposed by the Exeter Cherry Valley Land, LCC ("Applicant"). This request includes, but is not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. This request does not include the Draft Environmental Impact Report ("DEIR") or documents referenced or relied upon in the DEIR, which we have requested in a separate letter pursuant to the California Environmental Quality Act.

O1-3

The Project entails the development of an approximately 188-acre site with e-commerce, commercial development, and open space components. The Project would also include 6.7 acres of public and private roads. The Project site is located 6128-002.

O1-4

April 29, 2022  
Page 2

within the San Gorgonio Pass area, which is located between the Coachella, San Jacinto, and Moreno valleys and includes the incorporated cities of Banning, Beaumont, and Calimesa as well as the unincorporated communities of Cherry Valley, Cabazon, and Banning Bench in Riverside County, California. The following Assessor Parcel Numbers (APNs) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28; 407-190-016; and 407-190-017.

O1-4

This request is made pursuant to the California Public Records Act, Government Code §§ 6250, 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.

O1-5

We request *immediate access* to review the above documents pursuant to section 6253(a) of the Public Records Act, which requires public records to be “open to inspection at all times during the office hours of the state or local agency” and provides that “every person has a right to inspect any public record.” Gov. Code § 6253(a). Therefore, the 10-day response period applicable to a “request for a copy of records” under Section 6253(c) does not apply to this request.

O1-6

My contact information is:

**U.S. Mail**

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

**Email**

ssannadan@adamsbroadwell.com

April 29, 2022  
Page 3

I will be contacting you to arrange for duplication/transmission of the documents. If you have any questions, please call our South San Francisco office at (650) 589-1660. Thank you for your assistance with this matter.

O1-7

Sincerely,



Sheila M. Sannadan  
Legal Assistant

**Christina Taylor**

---

**From:** Lorrie J. LeLe <ljlele@adamsbroadwell.com>  
**Sent:** Friday, April 29, 2022 4:49 PM  
**To:** Christina Taylor; Nicole Wheelwright; Carole Kendrick  
**Cc:** Sheila M. Sannadan  
**Subject:** Request for Mailed Notice of Actions and Hearings – Beaumont Summit Specific Plan Project (6128)  
**Attachments:** 6128-003j - Beaumont Summit Specific Plan Project - CEQA Notice Req - 04-29-22.pdf

Please find attached our request for mailed notice of actions and hearings for the Beaumont Summit Specific Plan project.

If you have any questions, please contact Sheila Sannadan.

O1-8

Thank you,

*Lorrie LeLe*

Legal Assistant  
Adams Broadwell Joseph & Cardozo  
520 Capitol Mall, Suite 350  
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ljlele@adamsbroadwell.com | Phone: 916. 444.6201 Ext. 10 | Fax: 916.444.6209 |

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ANDREW J. GRAF  
TANYA A. GULESSERIAN  
DARIEN K. KEY  
RACHAEL E. KOSS  
AIDAN P. MARSHALL  
TARA C. RENGIFO  
MICHAEL R. SEVILLE

Of Counsel  
MARC D. JOSEPH  
DANIEL L. CARDOZO

\*Not admitted to California.  
Licensed in Colorado.

April 29, 2022

**Via Email and U.S. Mail**

Christina Taylor  
Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Nicole Wheelwright, Deputy City Clerk  
Beaumont Civic Center  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [nicolew@beaumontca.gov](mailto:nicolew@beaumontca.gov)

**Via Email Only**

Carole Kendrick, Planning Manager  
Email: [ckendrick@beaumontca.gov](mailto:ckendrick@beaumontca.gov)

**Re: Request for Mailed Notice of Actions and Hearings – Beaumont  
Summit Specific Plan Project (SCH No. 2021090378)**

Dear Ms. Taylor, Ms. Wheelwright, and Ms. Kendrick:

We are writing on behalf of Californians Allied for a Responsible Economy (“CARECA”) to request mailed notice of the availability of any environmental review document, prepared pursuant to the California Environmental Quality Act, for the Beaumont Summit Specific Plan Project (SCH No. 2021090378) (“Project”) proposed by the Exeter Cherry Valley Land, LCC (“Applicant”), as well as a copy of the environmental review document when it is made available for public review.

O1-9

The Project entails the development of an approximately 188-acre site with e-commerce, commercial development, and open space components. The Project would also include 6.7 acres of public and private roads. The Project site is located within the San Gorgonio Pass area, which is located between the Coachella, San Jacinto, and Moreno Valley and includes the incorporated cities of Banning,

O1-10

April 29, 2022

Page 2

Beaumont, and Calimesa as well as the unincorporated communities of Cherry Valley, Cabazon, and Banning Bench in Riverside County, California. The following Assessor Parcel Numbers (APNs) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28; 407-190-016; and 407-190-017.

**We also request mailed notice of any and all hearings and/or actions related to the Project.** These requests are made pursuant to Public Resources Code Sections 21092.2, 21080.4, 21083.9, 21092, 21108, 21152 and 21167(f) and Government Code Section 65092, which require local agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send the above requested items by email and U.S. Mail to our San Francisco office as follows:

**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

O1-11

O1-12

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan  
Legal Assistant

**Christina Taylor**

**From:** Lorrie J. LeLe <jjlele@adamsbroadwell.com>  
**Sent:** Friday, April 29, 2022 4:43 PM  
**To:** Christina Taylor; Nicole Wheelwright; Carole Kendrick  
**Cc:** Sheila M. Sannadan  
**Subject:** Request for Immediate Access to Public Records – Beaumont Summit Specific Plan Project (6128)  
**Attachments:** 6128-002] - Beaumont Summit Specific Plan Project - Imm PRA Req - 04-29-22.pdf

On behalf Californians Allied for a Responsible Economy, we submit this request for immediate access to public records for the Beaumont Summit Specific Plan project.

If you have any questions, please contact Sheila Sannadan.

Thank you,

*Lorrie LeLe*

Legal Assistant  
Adams Broadwell Joseph & Cardozo  
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QJ  
TS

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OL-Counsel  
BARD D. JOSEPH  
DANIEL L. CARDOZO

April 29, 2022

\*Not admitted in California.  
Admitted in Colorado.

Via Email and U.S. Mail

Christina Taylor  
Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Nicole Wheelwright  
Deputy City Clerk  
Beaumont Civic Center  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [nicolew@beaumontca.gov](mailto:nicolew@beaumontca.gov)

Via Email Only

Carole Kendrick, Planning Manager  
Email: [ckendrick@beaumontca.gov](mailto:ckendrick@beaumontca.gov)

**Re: Request for Immediate Access to Public Records – Beaumont  
Summit Specific Plan Project (SCH No. 2021090378).**

Dear Ms. Taylor, Ms. Wheelwright, and Ms. Kendrick:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARECA") to request immediate access to any and all public records referring or related to the Beaumont Summit Specific Plan Project (SCH No. 2021090378) ("Project") proposed by the Exeter Cherry Valley Land, LCC ("Applicant"). This request includes, but is not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. This request does not include the Draft Environmental Impact Report ("DEIR") or documents referenced or relied upon in the DEIR, which we have requested in a separate letter pursuant to the California Environmental Quality Act.

01-14

The Project entails the development of an approximately 188-acre site with e-commerce, commercial development, and open space components. The Project would also include 6.7 acres of public and private roads. The Project site is located 6128-002.

 printed on recycled paper

April 29, 2022

Page 2

within the San Gorgonio Pass area, which is located between the Coachella, San Jacinto, and Moreno valleys and includes the incorporated cities of Banning, Beaumont, and Calimesa as well as the unincorporated communities of Cherry Valley, Cabazon, and Banning Bench in Riverside County, California. The following Assessor Parcel Numbers (APNs) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28; 407-190-016; and 407-190-017.

This request is made pursuant to the California Public Records Act, Government Code §§ 6250, 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 6253(a) of the Public Records Act, which requires public records to be "open to inspection at all times during the office hours of the state or local agency" and provides that "every person has a right to inspect any public record." Gov. Code § 6253(a). Therefore, the 10-day response period applicable to a "request for a copy of records" under Section 6253(c) does not apply to this request.

My contact information is:

U.S. Mail

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

Email

[seannadan@adamsbroadwell.com](mailto:seannadan@adamsbroadwell.com)

April 29, 2022

Page 3

I will be contacting you to arrange for duplication/transmission of the documents. If you have any questions, please call our South San Francisco office at (650) 589-1660. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan  
Legal Assistant

SMS-ljl

**Christina Taylor**

---

**From:** Lorrie J. LeLe <ljlele@adamsbroadwell.com>  
**Sent:** Friday, April 29, 2022 4:33 PM  
**To:** Christina Taylor; Nicole Wheelwright; Carole Kendrick  
**Cc:** Sheila M. Sannadan  
**Subject:** Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report – Beaumont Summit Specific Plan Project (6128)  
**Attachments:** 6128-001j - Beaumont Summit Specific Plan Project - DEIR Ref Req - 04-29-22.pdf

On behalf of Californians Allied for a Responsible Economy, we submit the attached request for immediate access to documents for the Beaumont Summit Specific Plan project.

O1-15

If you have any questions, please contact Sheila Sannadan.

Thank you,

*Lorrie LeLe*

Legal Assistant  
Adams Broadwell Joseph & Cardozo  
520 Capitol Mall, Suite 350  
Sacramento, CA 95814  
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April 29, 2022

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ANDREW J. GRAP  
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TARA C. RENGIFO  
MICHAEL B. NEVILLE

Of Counsel  
MARC D. JOSEPH  
DANIEL L. CARDOZO

Not admitted in California  
Licensed in California

**Via Email and U.S. Mail**

Christina Taylor  
Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Nicole Wheelwright, Deputy City Clerk  
City Clerk's Office  
Beaumont Civic Center  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [nicolew@beaumontca.gov](mailto:nicolew@beaumontca.gov)

**Via Email Only**

Carole Kendrick, Planning Manager  
Email: [ckendrick@beaumontca.gov](mailto:ckendrick@beaumontca.gov)

**Re: Request for Immediate Access to Documents Referenced in the  
Draft Environmental Impact Report - Beaumont Summit  
Specific Plan Project (SCH No. 2021090378)**

Dear Ms. Taylor, Ms. Wheelwright, and Ms. Kendrick:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARECA") 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 Beaumont Summit Specific Plan Project (SCH No. 2021090378) ("Project") proposed by the Exeter Cherry Valley Land, LCC ("Applicant"). *This request excludes a copy of the DEIR and its appendices. This request also excludes any documents that are currently available on the City of Beaumont website, as of today's date.<sup>1</sup>*

01-16

The Project entails the development of an approximately 188-acre site with e-commerce, commercial development, and open space components. The Project would also include 6.7 acres of public and private roads. The Project site is located

<sup>1</sup> Accessed <https://www.beaumontca.gov/> on April 29, 2022.  
6128-001

April 29, 2022

Page 2

within the San Gorgonio Pass area, which is located between the Coachella, San Jacinto, and Moreno valleys and includes the incorporated cities of Banning, Beaumont, and Calimesa as well as the unincorporated communities of Cherry Valley, Cabazon, and Banning Bench in Riverside County, California. The following Assessor Parcel Numbers (APNs) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28; 407-190-016; and 407-190-017.

O1-17

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.<sup>2</sup>

O1-18

I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, please use the following contact information for all correspondence:

U.S. Mail

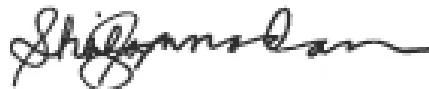
Sheila Sannadan  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan  
Legal Assistant

SMS:ljl

<sup>2</sup> 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 Rutherford* (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.  
6128-0011

***Responses to Comment Letter O1 – Adams Broadwell Joseph & Cardozo, Attorneys at Law***

***Sheila M. Sannadan, Legal Assistant***  
***Lorrie J. LeLe, Legal Assistant***

**O1-1** Comment noted. Refer to response to comment O1-6 and O1-7 below.

**O1-2** Comment noted. Refer to response to comment O1-6 and O1-7 below.

**O1-3** Comment noted. This comment does not raise any CEQA related issues but is a public records request. Refer to responses to comments O1-6 and O1-7 below.

**O1-4** This comment is a summary of the Project's description and location. No further response is warranted.

**O1-5** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O1-6** The City responded to the commentor's request on June 13<sup>th</sup> through the 16<sup>th</sup> and on the 27<sup>th</sup>.

**O1-7** See response to O1-6 above.

**O1-8** The commentor's email correspondence requesting for mailed notice of actions and hearings for the proposed Project has been noted.

**O1-9** The proposed Project's CEQA notice of availability and the DEIR in its entirety is available on the City's website at <https://www.beaumontca.gov/1239/Beaumont-Summit-Station> and on State Clearinghouse's website located at <https://ceqanet opr.ca.gov/2021090378/2>. The City will add the commentor to the Project's distribution list for any future communications pertaining to the Project.

**O1-10** This comment is a summary of the Project's description and location. No further response is warranted.

**O1-11** The City will add the commentor to the Project's distribution list for any future communications pertaining to the Project.

**O1-12** As noted above, the City will provide mail notices of any and all hearings and/or actions related to the Project, but the commentor can access the DEIR in its entirety from the websites provided above.

**O1-13** Comment noted. Refer to responses to comments O1-6 and O1-7 above.

**O1-14** This letter is a duplicate and was already responded to. See responses to comments O1-3 through O1-7 above.

**O1-15** The commentor's email correspondence requesting for any and all documents has been noted.

**O1-16** Comment Noted, the comment does not raise any CEQA related issues but is a public records request.

**O1-17** This comment is a summary of the Project's description and location.

**O1-18** All the documents referenced, incorporated by reference, and relied upon are listed in **Section 9.0, References** of the DEIR with links to each respective document, with the exception of the technical studies that are incorporated into the DEIR's appendices. The commentor can view the appendices on the City's website and click on the URL links provided in **Section 9.0** to view the referenced documents.

**Comment Letter O2 – Mitchell M. Tsai, Attorney at Law**  
**Malou Reyes, Paralegal**

**Christina Taylor**

---

**From:** Malou Reyes <malou@mitchtsailaw.com>  
**Sent:** Friday, April 22, 2022 4:52 PM  
**To:** steven mehlman; Christina Taylor  
**Cc:** Mitchell Tsai; Ronald Giang; Brandon Young; Hind Baki; Maria Sarmiento; Rebekah Youngblood; Malou Reyes; Steven Thong  
**Subject:** SWRCC - [City of Beaumont, Beaumont Summit Station] - PRA Request  
**Attachments:** 20220422\_SWRCC\_Beaumont\_SummitStation\_PRArequest\_Signed.pdf

Good afternoon,

Attached please find our Public Records Act ("PRA") request regarding the above mentioned project in the City of Beaumont. This PRA Request also includes a request to be placed on the Advanced Notice and Interested Parties List for this project.

Please confirm receipt of this email and its attachment.

Thank you,  
Malou

--

**Malou Reyes**  
Paralegal  
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\*\*\* Our Office Has Recently Moved. Please Note New Mailing Address \*\*\*\*

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**Mitchell M. Tsai**  
*Attorney At Law*

139 South Hudson Avenue  
Suite 200  
Pasadena, California 91101

**VIA E-MAIL**

April 22, 2022

Steven Mehlman, City Clerk  
City of Beaumont  
550 E. 6<sup>th</sup> Street  
Beaumont, CA 92223  
Em: [smehlman@beaumontca.gov](mailto:smehlman@beaumontca.gov)

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6<sup>th</sup> Street  
Beaumont, CA 92223  
Em: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

**RE: Public Records Act and Mailing List Request Regarding  
Beaumont Summit Station Project (SCH #: 2021090378).**

Dear Mr. Mehlman and Ms. Taylor,

On behalf of Southwest Regional Council of Carpenters ("SWRCC" or "Southwest Carpenters") and its members, this Office requests that the City of Beaumont ("City") provide any and all information referring or related to the Beaumont Summit Station Project ("Project") pursuant to the California Public Records Act ("PRA"), Cal. Government ("Gov't") Code §§ 6250–6270 (collectively "PRA Request").

O2-2

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

O2-3

The Southwest Regional Council of Carpenters is a labor union representing more than 50,000 union carpenters in six states, including California, and has a strong

O2-4

City of Beaumont – Summit Station Project  
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interest in well-ordered land use planning and addressing the environmental impacts of development projects, such as the Project.

## **I. PUBLIC RECORDS ACT REQUEST.**

Southwest Carpenters is requesting any and all information referring or related to the Project.

The Public Records Act defines the term "public record" broadly as "any writing containing information relating to the conduct of the public's business . . . regardless of physical form and characteristics." Gov't Code § 6252(d). "Records" includes all communications relating to public business regardless of physical form or characteristics, including but not limited to any writing, picture, sound, or symbol, whether paper, magnetic, electronic, text, other media, or written verification of any oral communication. Included in this request are any references in any appointment calendars and applications, phone records, or text records. These "records" are to include, but are not limited to correspondences, e-mails, reports, letters, memorandums, and communications by any employee or elected official of City concerning the Project.

O2-5

Please include in your response to this request the following examples of "records," as well as any similar physical or electronic forms of communication: any form of writing such as correspondence, electronic mail records ("email"), legal and factual memoranda, facsimiles, photographs, maps, videotapes, film, data, reports, notes, audiotapes, or drawings. Cal. Government Code § 6252(g) (defining a writing to including "any record thereby created, regardless of the manner in which the record has been stored"). Responsive correspondence should include, *inter alia*, emails, text messages, or any other form of communication regardless of whether they were sent or received on public or privately-owned electronic devices "relating to the conduct of the public's business." Cal. Government Code § 6252(e); *Citizens for Ceres v. Superior Ct. ("Ceres")* (2013) 217 Cal. App. 4th 889, 909; *Citizens for Open Gov't v. City of Lodi ("Lodi")* (2012) 205 Cal.App.4th 296, 307, 311; *City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 625 (finding that a public employee or officer's "writings about public business are not excluded" from the California Public Records Act "simply because they have been sent, received, or stored in a personal account.").

O2-6

This Office requests any and all information referring or related to the Project, including but not limited to:

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- (1) All Project application materials;
- (2) All staff reports and related documents prepared by the City with respect to its compliance with the substantive and procedural requirements of the California Environmental Quality Act, Public Resources Code § 21000 et seq., and the CEQA Guidelines, title 14, California Code of Regulations, § 15000 et seq. (collectively “CEQA”) and with respect to the action on the Project;
- (3) All staff reports and related documents prepared by the City and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the agency pursuant to CEQA;
- (4) Any transcript or minutes of the proceedings at which the decisionmaking body of the City heard testimony on, or considered any environmental document on, the Project, and any transcript or minutes of proceedings before any advisory body to the public agency that were presented to the decisionmaking body prior to action on the environmental documents or on the Project;
- (5) All notices issued by the City to comply with CEQA or with any other law governing the processing and approval of the Project;
- (6) All written comments received in response to, or in connection with, environmental documents prepared for the Project, including responses to the notice of preparation;
- (7) All written evidence or correspondence submitted to, or transferred from, the City with respect to compliance with CEQA or with respect to the Project;
- (8) Any proposed decisions or findings submitted to the decisionmaking body of the City by its staff, or the Project proponent, Project opponents, or other persons;
- (9) The documentation of the final City decision and approvals, including the final environmental impact report, mitigated negative declaration, negative declaration, or notice of exemption, and all documents, in addition to those referenced in paragraph (3), cited

O2-7

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or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA;

- (10) Any other written materials relevant to the public agency's compliance with CEQA or to its decision on the merits of the Project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the Project and either made available to the public during the public review period or included in the City's files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA; and
- (11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of any litigation.

Please respond within 10 days from the date you receive this request as to whether this request specifies identifiable records not exempt from disclosure under the PRA or otherwise privileged or confidential, and are therefore subject to disclosure. This Office understands that this time may be extended up to 14 days for unusual circumstances as provided by Cal. Government Code § 6253(c), and that we will be notified of any extension and the reasons justifying it.

We request that you provide all documents in electronic format and waive any and all fees associated with this Request. SWRCC is a community-based organization. Please notify and obtain express approval from this Office before incurring any duplication costs.

If any of the above requested documents are available online, please provide us with the URL web address at which the documents may be downloaded. If any of the requested documents are retained by the City in electronic computer-readable format such as PDF (portable document format), please provide us with pdf copies of the documents via email, or inform us of the location at which we can copy these documents electronically.

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In preparing your response, please bear in mind that you have an obligation under Government Code section 6253.1 to (1) identify all records and information responsive to our request or the purpose of our request; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

In responding to this request, please bear in mind that any exemptions from disclosure you may believe to be applicable are to be narrowly construed. *Markes v. Santa Monica-Malibu Unified Sch. Dist.* (2012) 202 Cal. App. 4th 1250, 1262; and may be further narrowed or eliminated by the adoption of Proposition 59, which amended article I, section 3(b)(2) of the California Constitution to direct that any “statute ... or other authority ... [that] limits the right of access” to “information concerning the conduct of the people’s business” must be “narrowly construed.”

As for any records that you nonetheless decline to produce on the grounds of an exemption, please bear in mind that the case law under the Public Records Act imposes a duty on you to distinguish between the exempt and the non-exempt portion of any such records, and to attempt in good faith to redact the exempt portion and to disclose the balance of such documents.

O2-9

Please bear in mind further that should you choose to withhold any document from disclosure, you have a duty under Government Code section 6255, subd. (a) to “justify withholding any record by demonstrating that the record in question is exempt under express provisions” of the Public Records Act or that “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

Finally, please note that you must retain and not destroy any and all records, notwithstanding any local record retention or document destruction policies. As the Court noted in *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733 that a public agency “must retain ‘[a]ll written evidence or correspondence submitted to, or transferred from’ . . . with respect to” CEQA compliance or “with respect to the project.”

## **II. NOTICE LIST REQUEST.**

We also ask that you put this Office on its notice list for any and all notices issued under the CEQA and the Planning and Zoning Law.

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April 22, 2022  
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In particular, we request that City send by mail or electronic mail notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivision for the Project, or supported, in whole or in part, through permits, contracts, grants, subsidies, loans, or other forms of approvals, actions or assistance, including but not limited to the following:

- Notices of any public hearing held in connection with the Project; as well as
- Any and all notices prepared pursuant to CEQA, including but not limited to:
- Notices of determination that an Environmental Impact Report ("EIR") or supplemental EIR is required for a project, prepared pursuant to Public Resources Code Section 21080.4;
- Notices of availability of an EIR or a negative declaration for a project prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations;
- Notices of approval or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of approval or certification of any EIR or negative declaration prepared pursuant to Public Resources Code Section 21152 or any other provision of law;
- Notice of exemption from CEQA prepared pursuant to Public Resources Code section 21152 or any other provision of law; and
- Notice of any Final EIR prepared pursuant to CEQA.

O2-10

This Office is requesting notices of any approvals or public hearings under CEQA and the California Planning and Zoning Law. This request is filed pursuant to California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 requiring agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

City of Beaumont - Summit Station Project  
April 22, 2022  
Page 7 of 7

Please send notice by regular and electronic mail to:

Mitchell M. Tsai, Attorney At Law  
139 South Hudson Avenue,  
Suite 200  
Pasadena, California 91101  
Em: [mitch@mitchtsailaw.com](mailto:mitch@mitchtsailaw.com)  
Em: [ronald@mitchtsailaw.com](mailto:ronald@mitchtsailaw.com)  
Em: [brandon@mitchtsailaw.com](mailto:brandon@mitchtsailaw.com)  
Em: [beckah@mitchtsailaw.com](mailto:beckah@mitchtsailaw.com)  
Em: [maria@mitchtsailaw.com](mailto:maria@mitchtsailaw.com)  
Em: [hind@mitchtsailaw.com](mailto:hind@mitchtsailaw.com)  
Em: [steven@mitchtsailaw.com](mailto:steven@mitchtsailaw.com)  
Em: [malou@mitchtsailaw.com](mailto:malou@mitchtsailaw.com)  
Em: [info@mitchtsailaw.com](mailto:info@mitchtsailaw.com)

We look forward to working with you. If you have any questions or concerns, please do not hesitate to contact our Office.

Sincerely,



Mitchell M. Tsai  
Attorneys for Southwest Regional Council  
of Carpenters

**Christina Taylor**

**From:** Malou Reyes <malou@mitchtsailaw.com>  
**Sent:** Thursday, April 21, 2022 10:28 AM  
**To:** Christina Taylor  
**Cc:** Rebekah Youngblood  
**Subject:** Re: Summit Station Draft EIR Notice of Availability

Thanks for the quick response.

Have a great day.

On Thu, Apr 21, 2022 at 9:55 AM Christina Taylor <[CTaylor@beaumontca.gov](mailto:CTaylor@beaumontca.gov)> wrote:

Thank you for letting me know. We will get that corrected. Section 4.0 is attached. If you find any other issues, please let me know.

CHRISTINA TAYLOR

*Community Development Director*

City of Beaumont

550 E. 6th Street, Beaumont, Ca 92223

Desk (951) 572-3212

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#ACITYELEVATED

**From:** Malou Reyes <[mmalou@mitchtsilaw.com](mailto:mmalou@mitchtsilaw.com)>  
**Sent:** Thursday, April 21, 2022 9:44 AM  
**To:** Christina Taylor <[CTaylor@beaumontca.gov](mailto:CTaylor@beaumontca.gov)>  
**Subject:** Re: Summit Station Draft EIR Notice of Availability

Thank you Ms. Taylor,

I checked the DEIR for the project on the City's website and noticed that Section 4.0 (Environmental Impact Analysis) is actually a duplicate of Section 3.0 (Project Description). Could I have a copy of Section 4.0 - Environmental Impact Analysis?

02  
-11

Thanks again,

Malou

On Wed, Apr 20, 2022 at 9:02 PM Christina Taylor <[CTaylor@beaumontca.gov](mailto:CTaylor@beaumontca.gov)> wrote:

Greetings,

You are receiving this email because you have requested to be notified of project related activity for the proposed Summit Station Specific Plan.

Attached is the Notice of Availability for the Draft EIR for the proposed project. A link to view the Draft EIR is contained in the attached document or the Draft EIR and other related documents can be found on the City's website here <https://www.beaumontca.gov/1239/Beaumont-Summit-Station>

Information on the public hearings and how to provide comments is included in the attached document.

The City looks forward to receiving your comments.

CHRISTINA TAYLOR

*Community Development Director*

City of Beaumont

550 E. 6th Street, Beaumont, Ca 92223

[BeaumontCa.gov](http://BeaumontCa.gov)

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\*\*\* Our Office Has Recently Moved. Please Note New Mailing Address \*\*\*

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**Mitchell M. Teal**  
Attorney At Law

139 South Hudson Avenue  
Suite 200  
Pasadena, California 91101

**VIA E-MAIL**

June 6, 2022

Christina Taylor  
Community Development Director  
550 E. 6<sup>th</sup> Street  
Beaumont CA 92223  
Em: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

RE: Draft Environmental Impact Report for the Beaumont Summit Specific Plan Project (SCH No. 2021090378)

Dear Christina Taylor,

On behalf of the Southwest Regional Council of Carpenters (“SWRCC” or “Southwest Carpenters”), my Office is submitting these comments on the City of Beaumont’s (“City” or “Lead Agency”) Draft Environmental Impact Report (“DEIR”) (SCH No. 2021090378) for the Beaumont Summit Specific Plan Project (“Project”).

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

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

The Southwest Carpenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Moreover, SWRCC requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“CEQA”), Cal Public Resources Code (“PRC”) § 21000 *et seq.* and the

02-12

City of Beaumont – Beaumont Summit Specific Plan Project  
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California Planning and Zoning Law (“Planning and Zoning Law”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

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

O2-13

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

O2-14

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

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

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

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

02-15

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

02-16

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

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

02-17

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

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/agendas/governing-board/2021/2021-may7-027.pdf?sfvrsn=10>

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

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

<sup>5</sup> City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

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

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

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

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.<sup>8</sup> The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

O2-18

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

O2-19

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

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

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

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

### **A. Background Concerning the California Environmental Quality Act**

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.<sup>14</sup> California Code of Regulations ("CCR" or "CEQA Guidelines") § 15002(a)(1).<sup>15</sup> "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]'" *Citizens of Galt's Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'r's* (2001) 91 Cal. App. 4th 1344, 1354 ("Berkeley Jets"); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

02-20

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Galt's Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially

<sup>14</sup> The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal. Pub. Res. Code § 21083. The CEQA Guidelines are given "great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous." *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

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lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

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

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

O2-20

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449–450).

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

O2-21

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

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Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.<sup>9</sup>

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

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

**Construction Site Design:**

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.

02-21

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

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- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

**Testing Procedures:**

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her

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human resources (HR) representative and provide them with a copy of Annex A.

**Planning**

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

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

02-22

SWRCC has also developed a rigorous Infection Control Risk Assessment ("ICRA") training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.<sup>11</sup>

02-23

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

<sup>10</sup> See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at [https://www.cpwr.com/sites/default/files/1/NAFTU\\_CPTW\\_Standards\\_COVID-19.pdf](https://www.cpwr.com/sites/default/files/1/NAFTU_CPTW_Standards_COVID-19.pdf); Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at [https://www.lacounty.gov/building-and-safety/docs/pw\\_guidelines-construction-sites.pdf](https://www.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf).

<sup>11</sup> For details concerning SWRCC's ICRA training program, see <http://icrahealthcare.com/>.

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The City should require the Project to be built using a workforce trained in ICRA protocols.

## II. THE ENVIRONMENTAL IMPACT REPORT IS INADEQUATE

### A. The DEIR Fails to Properly Consider All Feasible Mitigation for Noise

CEQA requires that an environmental document identify and discuss the significant effects of a Project, alternatives and how those significant effects can be mitigated or avoided. CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a); An environmental documents discussion of potentially significant effects must “provide an adequate analysis to inform the public how its bare numbers translate to create potential adverse impacts or it must adequately explain what the agency does know and why, given existing scientific constraints, it cannot translate potential health impacts further.” *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 521; *see also* citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405; *see also* PRC §§ 21002.1(e), 21003(b).

The Court may determine whether a CEQA environmental document sufficiently discloses information required by CEQA *de novo* as “noncompliance with the information disclosure provisions” of CEQA is a failure to proceed in a manner required by law. PRC § 21005(a); *see also* *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 515; CEQA Guidelines.

02-24

The DEIR states that the Project will have a significant and unavoidable impact on Noise on Cherry Valley Blvd at three locations, Project Access to Hannon Rd, Hannon Rd to Union St and Union St to Nancy Ave. The DEIR states however, that mitigation was determined to be infeasible to reduce mobile traffic noise to Normally Acceptable levels in accordance with the Land Use Compatibility standards. However, there is no information to demonstrate what mitigations were considered or how they were not feasible. The DEIR should be recirculated with demonstrations that mitigations are not feasible.

### B. The DEIR Fails to Consider Any Mitigations for Transportation

An agency must adopt any and all feasible mitigation measures identified in the EIR that would mitigate or avoid the project's significant environmental impacts. PRC §§ 21002.1(b); 21081(a)(1); CEQA Guidelines §§ 15021(a)(2), (3), 15091(a)(1).

02-25

The DEIR states the Project will have a significant and unavoidable impact having a

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higher VMT threshold than City's recommended thresholds. The DEIR concludes there is a significant and unavoidable impact because the reduction of VMT impacts cannot be assured. However, the DEIR does not consider or propose any mitigations at all. Despite claiming the impact would be significant and unavoidable, the City is required to consider all feasible mitigations. Here, the DEIR does not contain any mitigations at all.

**C. The DEIR Fails to Analyze the Project's Impacts to Sensitive Receptors**

The DEIR identifies the closest sensitive receptor as a residential building located 67 feet to the east of the project. The DEIR states that by follow Mitigations MM AQ-1 through MM AQ-6, the impact to the sensitive receptors would be less than significant. It concludes that following the mitigations will reduce the hazards to .0009 and .08 for residents and .0007 and .07 for workers. However, there is no analysis as to how the DEIR arrived at that conclusion. It just states it as a matter of fact. The DEIR should be recirculated with an analysis stating how the mitigation measures lower the levels to less than significant.

02-26

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

**A. Background Regarding the State Planning and Zoning Law**

Each California city and county must adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy (See *DeVita v. County of Napa* (1995) 9 Cal. App. 4th 763, 773), and serves as a “constitution” or “charter” for all future development. *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. App. 3d 531, 540.

General plan consistency is “the linchpin of California’s land use and development laws; it is the principle which infused the concept of planned growth with the force of law.” See *Debottrani v. Norco City Council* (1985) 171 Cal. App. 3d 1204, 1213.

02-27

State law mandates two levels of consistency. First, a general plan must be internally or “horizontally” consistent: its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal. App. 3d 698, 704. A general plan amendment thus may not be internally inconsistent, nor may it cause the

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general plan as a whole to become internally inconsistent. See DeVitz, 9 Cal. App. 4th at 796 fn. 12.

Second, state law requires “vertical” consistency, meaning that zoning ordinances and other land use decisions also must be consistent with the general plan. See Gov. Code § 65860(a)(2) (land uses authorized by zoning ordinance must be “compatible with the objectives, policies, general land uses, and programs specified in the [general] plan.”); see also Neighborhood Action Group v. County of Calaveras (1984) 156 Cal. App. 3d 1176, 1184. A zoning ordinance that conflicts with the general plan or impedes achievement of its policies is invalid and cannot be given effect. See Lesher, 52 Cal. App. 3d at 544.

State law requires that all subordinate land use decisions, including conditional use permits, be consistent with the general plan. See Gov. Code § 65860(a)(2); Neighborhood Action Group, 156 Cal. App. 3d at 1184.

02-27

A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. See Endangered Habitats League v. County of Orange (2005) 131 Cal. App. 4th 777, 782-83; Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors (1998) 62 Cal. App. 4th 1332, 1341-42 (“FUTURE”).

Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. See Napa Citizens, 91 Cal. App. 4th at 378-79; see also Lesher, 52 Cal. App. 3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

B. The City is Required to Review the Project’s Consistency with Regional Housing Plans, Sustainable Community Strategy and Regional Transportation Plans

CEQA Guidelines section 15125(d) requires that an environmental document “discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. See also Golden Door Properties, LLC v. County of San Diego (2020) 50 Cal. App. 5th 467, 543.

02-28

The Project should thoroughly evaluate the consistency with the City’s General Plan, City’s Regional Housing Needs Assessment targets, Sustainable Community Strategy

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and Regional Transportation Plan. The Project fails to analyze consistency with any of these applicable plans.

#### IV. CONCLUSION

The Southwest Carpenters request that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

O2-29

Sincerely,



Mitchell M. Tsai  
Attorneys for the Southwest  
Regional Council of Carpenters

Attached:

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

*This page intentionally left blank.*

**Responses to Comment Letter O2 – Mitchell M. Tsai, Attorney at Law**

**Malou Reyes, Paralegal**

**O2-1** The commentor's email correspondence and attached letter has been received. The City will put the commentor(s) on the Project's distribution list for any future communications pertaining to the Project.

**O2-2** The proposed Project's CEQA noticing and the DEIR in its entirety is available on the City's website at <https://www.beaumontca.gov/1239/Beaumont-Summit-Station> and on State Clearinghouse's website located at <https://ceqanet opr.ca.gov/2021090378/2>.

**O2-3** Refer to response to comment O2-2. As noted above, the City will put the commentor(s) on the Project's distribution list for any future communications pertaining to the Project.

**O2-4** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O2-5** This comment is related to the Commentor's request for public records and does not raise any CEQA related issues. Thus, no further response is warranted.

**O2-6** Comment noted. The City provided a response to the commentor on May 9<sup>th</sup>, 2022.

**O2-7** This comment is related to the Commentor's request for public records and does not raise any CEQA related issues.

**O2-8** This comment is related to the Commentor's request for public records and does not raise any CEQA related issues.

**O2-9** This comment is related to the Commentor's request for public records and does not raise any CEQA related issues.

**O2-10** The City will put the commentor(s) on the Project's distribution list for any future communications pertaining to the Project.

**O2-11** The commenter is requesting a copy of **Section 4.0, Environmental Impact Analysis** of the DEIR. The City sent the commenter a digital copy of **Section 4.0** via email on April 21, 2022.

**O2-12** The City appreciates the commentors comments and will the commentor(s) on the Project's distribution list for any future communications pertaining to the Project.

**O2-13** The comment suggests that the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce for the Project. However, this isn't a requirement under CEQA or the City of Beaumont. However, your comment will be taken into consideration by decision-makers.

**O2-14** This comment suggests that the Project require a percentage of workers to reside within 10 miles of the Project site to reduce trip lengths, reduce GHG emissions, and provide local economic benefits. The Project would produce more jobs and therefore would support the improvements designated by S in pursuit of an improved jobs-housing-balance for the County. Because the region is housing-rich, it is expected that jobs at the Project site would be drawn from the local and regional labor force. However, this is not a requirement of CEQA or the City of Beaumont.

**O2-15** This comment states the importance of developing a skilled workforce to the economy and states that well trained workers are key to delivering emissions reductions. However, this comment fails to make a connection between these two statements and does not explain how training workers will reduce GHG emissions.

**O2-16** This comment references a clarification of WAIRE Mitigation Plan Guidelines issued during SCAQMD Board Meeting on May 7, 2021 which states the use of local state certified apprenticeship programs or skilled workforce with a local hire component can be counted as points toward WAIRE compliance. The comment also notes that the City of Hayward 2040 General Plan supports local hire incentives.

The South Coast AQMD Rule 2305 requires warehouses to achieve their WAIRE Points Compliance Obligation (WPCO). As stated previously, the Project can include a local hire component to generate points toward achieving the WPCO, however this is not required. In addition, the Project is located in the City of Beaumont, not in the City of Hayward. The City does not provide incentives for local hires or require a Project to hire local workers.

**O2-17** As noted in response to comment O2-16, the Project is located in the City of Beaumont, not the City of Hayward. The City does not provide incentives for local hires or require a Project to hire local workers.

**O2-18** The comment suggests that local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. However, this comment fails to make a connection between these two statements and does not explain how training workers will reduce VMT impacts. Refer to **Section 4.15, Transportation**, which discusses the Project's proposed TDMs that would help reduce VMT-related impacts.

**O2-19** Refer to responses O2-13 through O2-18. The comment also suggests that the Project be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project's environmental impacts and to advance progress towards the State of California's environmental goals. This comment is vague and doesn't explain why or how adhering to standards exceeding the 2019 CGBSC would mitigate environmental impacts. The City has adopted the 2019 CGBSC which the Project would be developed consistently with. Note that the new 2022 California Building Standards Code will be published July 1, 2022, with an effective date of January 1, 2023. The project will comply with the 2022 California Building Standards Codes in-place at the time of construction.

**O2-20** Comment Noted – the Comment recites the purpose of CEQA and does not raise any comments specific to the DEIR.

**O2-21** CEQA does not require disease specific analysis that Commentor is requesting and requiring a disease specific analysis or finding of significance is not required or warranted for COVID-19. The Project is required to comply with applicable health and safety rules and at the time the Project is under construction and operation COVID-19 protocols will be adhered to as required at that time.

**O2-22** COVID-19 protocols are continually changing. As discussed in O-21 above, the Project is required to comply with applicable health and safety codes and to the extent that COVID-19 protocols are required at that time, they will be implemented as applicable.

**O2-23** Comment noted. This comment refers to work at a healthcare facility which is not being proposed at this location.

**O2-24** This comment notes that CEQA Guidelines require discussions of potentially significant effects must provide adequate analysis to inform the public of potential adverse effects. The comment then goes on to acknowledge the EIR identified three locations where noise impacts would be significant and unavoidable, and the comment suggests that the EIR does not explain what mitigation measures were considered and why they were determined not to be feasible.

However, page 38 of **Appendix J, Noise Assessment** states that traffic noise could exceed interior noise standards if windows were left open and identifies typical off-site roadway noise mitigation and explains why they are not feasible.

- Rubberized asphalt could be used to repair impacted roads. This mitigation could only be imposed on on-site roadways since the Applicant does not have authorization or control to make off-site improvements. Therefore, applying rubberized asphalt to off-site roadways is not feasible.
- Sound walls or noise attenuation barriers could be constructed to reduce road noise. This mitigation measure was found to be infeasible because sound walls or barriers would restrict right of way and impact views.

**O2-25** As shown on page 6 of the VMT memo (Dated February 1, 2022), the Project would provide transportation demand management (TDM)/VMT Mitigation Measures as noted below:

- Provide a transportation information center and on-site TDM coordinator to educate residents, employers, employees, and visitors of surrounding transportation options.
- Promote bicycling and walking through design features such as showers for employees, self-service bicycle repair area, etc. around the Project site.
- Each building shall provide secure bicycle storage space equivalent to two percent of the automobile parking spaces provided.
- Each building shall provide a minimum of two shower and changing facilities within 200 yards of a building entrance.

- Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
- Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service.
- Incorporate incentives for using alternative travel modes, such as preferential load/unload areas or convenient designated parking spaces for carpool/vanpool users.
- Provide meal options onsite or shuttles between the facility and nearby meal destinations.
- Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

**02-26** This comment addresses health risk impacts associated with sensitive receptors. The comment notes that chronic and acute noncancerous impacts would be reduced by **MM AQ-1** through **AQ-6** and states that the EIR does not explain how the analysis was done. However, the health risk analysis is discussed in detail on pages 23 through 30 of the Health Risk Assessment included in **Appendix B, Health Risk Assessment**. In addition, the comment fails to acknowledge that chronic and acute noncancerous impacts were already below the threshold prior to mitigation, and that the mitigation required to reduce cancer risk to less than significant would result in a further reduction of chronic and acute impacts.

**02-27** Commentor provides an overview of the requirement of a City's General Plan. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**02-28** The comment correctly states that CEQA requires the DEIR to analyze the Project for consistency with the City's General Plan, specific plans and regional plans. **Section 4.10, Land Use and Planning**, of the DEIR includes the consistency analysis that includes the City's General Plan (including housing element) as well as SCAG's Regional Transportation Plan and Sustainable Community Strategy. Commentor does not raise any specific issues related to that analysis but a blanket statement which is noted.

**02-29** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**Comment Letter O3 – Adams Broadwell Joseph & Cardozo, Attorneys at Law**  
**Tara C. Rengifo, Alisha C. Pember**

**Christina Taylor**

---

**From:** Alisha C. Pember <apember@adamsbroadwell.com>  
**Sent:** Monday, June 06, 2022 4:59 PM  
**To:** Christina Taylor  
**Cc:** Tara C. Rengifo  
**Subject:** Comments on the Draft Environmental Impact Report for the Beaumont Summit Station Specific Plan (SCH No. 2021090378)  
**Attachments:** 6128-006acp - DEIR Comm Beaumont Summ Station Proj and Exhibits A-B (6-6-22).pdf

Good afternoon,

Please find attached **Comments on the Draft Environmental Impact Report for the Beaumont Summit Station Specific Plan (SCH No. 2021090378) and Exhibits A-B**.

We are also providing a Dropbox link containing supporting references: <https://www.dropbox.com/sh/rmqnsmn3g2m92t8/AAAFBPwL4cZV8KJdIDhVoibLa?dl=0>.

A hard copy of our Comments and Exhibits A-B will be sent out via overnight delivery today.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

Alisha C. Pember  
Adams Broadwell Joseph & Cardozo  
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*106 pp letter  
sent as attachment*

O3-1

**Cc:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>

**Subject:** Second Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

Please find attached our **Second Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)** and **Exhibits A-C**.

A hard copy will be sent out in today's mail.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

Alisha C. Pember  
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June 2, 2022

**Via Email and U.S. Mail**

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
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Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Carole Kendrick, Planning Manager  
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**Re: Second Request to Extend the Public Review and Comment  
Period for the Draft Environmental Impact Report for  
Beaumont Summit Station Project (SCH No. 2021090378)**

Dear Ms. Taylor and Ms. Kendrick:

We are writing on behalf of Californians Allied for a Responsible Economy (“CARECA”) to respectfully request that the City of Beaumont (“City”) extend the public review and comment period for the Draft Environmental Impact Report (“DEIR”) prepared for the Beaumont Summit Station Project (SCH No. 2021090378) (“Project”), proposed by Exeter Cherry Valley Land, LLC. We previously requested an extension of time on the public comment period in a letter dated May 13, 2022, to which the City did not directly respond.<sup>1</sup> To date, the City has failed to produce any of the DEIR reference documents requested by CARECA pursuant to the California Environmental Quality Act (“CEQA”), during the DEIR’s public comment period, resulting in violations of CEQA’s procedural requirements and CARECA’s rights to access the documents relied upon by the City in its environmental review. The City

03-1

<sup>1</sup> Letter from Tara Rengifo, Adams Broadwell Joseph & Cardozo, to Christina Taylor, City of Beaumont (May 13, 2022). Attached hereto as Exhibit A.  
6128-005aep

June 2, 2022  
Page 2

has also failed to provide access to records sought pursuant to the Public Records Act (“PRA”).

The current public comment period on the DEIR ends on Monday, June 6, 2022, which is about one business day from the date of this letter. We request an extension of the public comment period for at least 45 days, the minimum public review period set out in the CEQA, due to the City’s failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period.

This request is made pursuant to Public Resources Code section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), which require that “all documents referenced,” relied upon, and “incorporated by reference,” in a draft environmental impact report be “available for public review” during the entire comment period, and ***“readily accessible to the public during the lead agency’s normal working hours.”<sup>2</sup>***

On April 29, 2022, we submitted a letter to the City, pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting ***“immediate access to any and all documents referenced, incorporated by reference, and relied upon”*** in the DEIR (emphasis added). The City did not respond to this request. On May 11, 2022, we emailed the City, again expressing the need for the City to provide access to all documents referenced in the DEIR in response to our request. We submitted the first letter to request an extension of time on the public comment period on May 13, 2022. The letter identified several DEIR reference documents that were not attached to the DEIR or available online. The City responded on May 23, 2022, that the DEIR documents and other project documents are available either online or in-person.<sup>3</sup> On May 26, we responded via email to request access to the following documents referenced in the DEIR:

- Project’s Development Agreement
- Preliminary WAIRE calculations referenced at page 28 in Appendix A
- Original native files for AERMOD

<sup>2</sup> Public Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007).

<sup>3</sup> Email from Christina Taylor, City of Beaumont, to Tara Rengifo, Adams Broadwell Joseph & Cardozo (May 23, 2022). Attached hereto as Exhibit B.  
6128-005nep

June 2, 2022  
Page 3

- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.<sup>4</sup>

The City did not respond to our May 26 request. To date, the City has failed to provide CARECA, and potentially other members of the public, with access to all documents referenced and relied upon in the DEIR, as required by law.

O3-5

We have identified several documents referenced in the DEIR and its appendices that remain missing, many weeks after we requested access to them. CARECA therefore lacks access to critical supporting documents to the DEIR which it has a right to review during the CEQA public comment period. The missing documents are critical to understanding and commenting on the DEIR's analysis of the Project's impacts to several critical resource areas.

The missing documents include, but are not limited to, the following:

- Project's Development Agreement
- Beaumont Summit Station Specific Plan
- Preliminary WAIRE calculations referenced at page 28 in Appendix A
- Original native files for AERMOD
- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.

O3-6

Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR that is required by CEQA. CARECA and other members of the public are also unable to evaluate the accuracy of the City's analyses, or the efficacy of the City's proposed mitigation measures. Additionally, the size of the DEIR and the Project's complexity make it difficult to effectively comment without the referenced documents by the current comment deadline of June 6, 2022.

<sup>4</sup> Email from Tara Rengifo, Adams Broadwell Joseph & Cardozo, to Christina Taylor, City of Beaumont (May 26, 2022). Attached hereto as Exhibit C.  
6128-005acp

June 2, 2022

Page 4

Courts have held that the failure to provide even a few pages of CEQA documents for a portion of the review period invalidates the entire process, and that such a failure must be remedied by permitting additional public comment.<sup>5</sup> It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.<sup>6</sup> By failing to make all documents referenced and incorporated by reference in the DEIR “readily available” during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of CARECA and other members of the public who wish to meaningfully review and comment on the DEIR.

O3-7

In addition to our request for the DEIR reference documents pursuant to CEQA, we also submitted a PRA request pursuant to Government Code §§ 6250, et seq., dated April 29, 2022, for immediate access to any and all public records referring or related to the Project. The request included, but was not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. The City has not responded to our PRA request either, as mandated by the PRA.<sup>7</sup> For this reason, we ask that the City produce all responsive records as soon as possible.

O3-8

Accordingly, we request that:

- 1) the City immediately provide us with access to the documents requested in our DEIR reference document request dated April 29, 2022, including but not limited to, the documents enumerated by this letter.
- 2) the City extend the public review and comment period on the DEIR for at least 45 days from the date on which the City releases these documents for public review. If the missing documents are provided by tomorrow, we request an extension to Monday, July 18, 2022.
- 3) the City immediately provide us with access to the documents requested in our PRA request dated April 29, 2022.

<sup>5</sup> *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

<sup>6</sup> *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 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.”).

<sup>7</sup> Gov’t Code § 6253(c).  
6128.003(c)(p)



June 2, 2022  
Page 5

Given the short time before the current comment deadline, please contact me as soon as possible with your response to this request, but no later than Friday, June 3, 2022.

03-9

Please feel free to email me at [TRengifo@adamsbroadwell.com](mailto:TRengifo@adamsbroadwell.com) with any questions. Thank you for your prompt attention and response.

Sincerely,  
*Tara C. Rengifo*  
Tara C. Rengifo  
Associate Attorney

Attachments

TCR:ncp

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)

May 13, 2022

Of Counsel  
MARC D. JOSEPH  
DANIEL L. CARDOZO

**Via Email and U.S. Mail**

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223

Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Re: **Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)**

Dear Ms. Taylor:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARECA") to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. The current public comment period ends on June 6, 2022. We request an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act ("CEQA") due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period.

O3-10

This request is made pursuant to Public Resources Code section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), which require that "all documents referenced," relied upon, and "incorporated by reference," in a draft environmental impact report be "available for public review" during the entire comment period, and "***readily accessible to the public during the lead agency's normal working hours.***"<sup>1</sup>

O3-11

<sup>1</sup> Public Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007).  
6128-004acp

May 13, 2022  
Page 2

On April 29, 2022, we submitted a letter to the City, pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting ***“immediate access to any and all documents referenced, incorporated by reference, and relied upon”*** in the DEIR (emphasis added). The City did not respond to this request. On May 11, 2022, we emailed the City again expressing the need for the City to provide access to all documents referenced in the DEIR in response to our request. To date, the City has failed to respond to these requests and has not provided CARECA, and potentially other members of the public, with access to all documents referenced and relied upon in the DEIR, as required by law.

O3-12

We have identified several documents referenced in the DEIR and its appendices that remain missing, two weeks after we requested access to them. CARECA therefore lacks access to critical supporting documents to the DEIR which it has a right to review during the CEQA public comment period. The missing documents are critical to understanding and commenting on the DEIR’s analysis of the Project’s impacts to several critical resource areas.

O3-13

The missing documents include, but are not limited to, the following: the Project’s Development Agreement; preliminary WAIRE calculations referenced at page 28 in Appendix A; HPA Architecture, Conceptual Site Plan: Brookside Ave. and Cherry Valley Blvd., June 24, 2021; EXETER Property Group, Conceptual Site Plan, June 2021; CalEEMod 2020.4.0 model data input files; and Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.

O3-14

Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR that is required by CEQA. CARECA and other members of the public are also unable to evaluate the accuracy of the City’s analyses, or the efficacy of the City’s proposed mitigation measures. Additionally, the size of the DEIR and the Project’s complexity make it difficult to effectively comment without the referenced documents by the current comment deadline of June 6, 2022.

Courts have held that the failure to provide even a few pages of CEQA documents for a portion of the review period invalidates the entire process, and that

May 13, 2022  
Page 3

such a failure must be remedied by permitting additional public comment.<sup>2</sup> It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.<sup>3</sup> By failing to make all documents referenced and incorporated by reference in the DEIR “readily available” during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of CARECA and other members of the public who wish to meaningfully review and comment on the DEIR.

O3-15

In addition to our request for the DEIR reference documents pursuant to CEQA, we also submitted a Public Records Act (“PRA”), Government Code §§ 6250, *et seq.*, request dated April 29, 2022, to the City for immediate access to any and all public records referring or related to the Project. The request included, but was not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. The request did not include the DEIR, or documents referenced or relied upon in the DEIR, which we requested in a separate letter pursuant to CEQA. The City has not responded to our PRA request either, as mandated by the PRA.<sup>4</sup> For this reason, we ask that the City produce all responsive records as soon as possible.

O3-16

Accordingly, we request that:

- 1) the City immediately provide us with access to the documents requested in our DEIR reference document request dated April 29, 2022, including but not limited to, the documents enumerated by this letter.
- 2) the City extend the public review and comment period on the DEIR for at least 45 days from the date on which the City releases these documents for public review. If the missing documents are provided today, we request an extension to Monday, June 27, 2022.
- 3) the City immediately provide us with access to the documents requested in our PRA request dated April 29, 2022.

<sup>2</sup> *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

<sup>3</sup> *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 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.”).

<sup>4</sup> Gov’t Code § 6253(c).

6128-004aep

May 13, 2022

Page 4

Given the short time before the current comment deadline, please contact me as soon as possible with your response to this request, but no later than Tuesday, May 17, 2022.

03-17

Please feel free to email me at [TRengifo@adamsbroadwell.com](mailto:TRengifo@adamsbroadwell.com) with any questions. Thank you for your prompt attention and response.

Sincerely,

*Tara C. Rengifo*

Tara C. Rengifo  
Associate Attorney

TCR:acp

**From:** [Christina Taylor](#)  
**To:** [Tara C. Rengifo](#)  
**Cc:** [Christina Caro](#)  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)  
**Date:** Monday, May 23, 2022 1:24:45 PM  
**Attachments:** [Image001.png](#)

---

Good afternoon,

The DEIR documents and all other project documents are available online or in person for anyone who would like to review. They can be found on the City's website here <https://www.beaumontca.gov/1239/Beaumont-Summit-Station>, in person at City Hall or at the Beaumont Library.

CHRISTINA TAYLOR  
*Deputy City Manager*

City of Beaumont  
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Desk (951) 572-3212  
[BeaumontCa.gov](#)  
[Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



#ACITYELEVATED

---

**From:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Sent:** Thursday, May 19, 2022 10:37 AM  
**To:** Christina Taylor <ctaylor@beaumontca.gov>  
**Cc:** Christina Caro <ccaro@adamsbroadwell.com>  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good morning, Ms. Taylor,

On behalf of Californians Allied for a Responsible Economy ("CARECA"), we submitted a letter dated May 13, 2022, to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the

O3-18

Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. Please see attached letter.

The public comment period on the DEIR ends on June 6, 2022. We requested an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act ("CEQA") due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period. Given the short time before the current comment deadline, we asked that the City respond to the request for extension of time by Tuesday, May 17, 2022. We have not received a response from the City. Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having a meaningful opportunity to comment on the DEIR that is required by CEQA.

Best,  
Tara

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
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Fax: (650) 589-5062

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---

**From:** Alisha C. Pember <[apember@adamsbroadwell.com](mailto:apember@adamsbroadwell.com)>  
**Sent:** Friday, May 13, 2022 3:36 PM  
**To:** [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)  
**Cc:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Subject:** Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

Alisha C. Pember  
Adams Broadwell Joseph & Cardozo

O3-19

601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
(650) 589-1660 voice, Ext. 24  
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**From:** [Tara C. Rengifo](#)  
**To:** [Christina Taylor](#)  
**Cc:** [Christina Caro](#)  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project; (SCH No. 2021090378)  
**Date:** Thursday, May 26, 2022 1:27:00 PM  
**Attachments:** [image001.png](#)

Dear Ms. Taylor,

Will you please provide the following information referenced in the DEIR?

- Project's Development Agreement
- Preliminary WAIRE calculations referenced at page 28 in Appendix A
- Original native files for AERMOD
- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013

O3-20

Will you also please let me know where I can find information disclosing the current average VMT per capita for residential?

O3-21

Thank you for your assistance.

Best,  
Tara

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
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**From:** Christina Taylor <[ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)>  
**Sent:** Monday, May 23, 2022 1:25 PM  
**To:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Cc:** Christina Caro <[ccaro@adamsbroadwell.com](mailto:ccaro@adamsbroadwell.com)>  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

The DEIR documents and all other project documents are available online or in person for anyone who would like to review. They can be found on the City's website here <https://www.beaumontca.gov/1239/Beaumont-Summit-Station>, in person at City Hall or at the Beaumont Library.

CHRISTINA TAYLOR  
*Deputy City Manager*

City of Beaumont  
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[BeaumontCa.gov](http://BeaumontCa.gov)  
[Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



#ACITYELEVATED

---

**From:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Sent:** Thursday, May 19, 2022 10:37 AM  
**To:** Christina Taylor <[Ctaylor@beaumontca.gov](mailto:Ctaylor@beaumontca.gov)>  
**Cc:** Christina Caro <[ccaro@adamsbroadwell.com](mailto:ccaro@adamsbroadwell.com)>  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good morning, Ms. Taylor,

On behalf of Californians Allied for a Responsible Economy ("CARECA"), we submitted a letter dated May 13, 2022, to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. Please see attached letter.

The public comment period on the DEIR ends on June 6, 2022. We requested an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act ("CEQA") due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period. Given the short time before the current comment deadline, we asked that the City respond to the request for extension of time by Tuesday, May 17, 2022. We have not received a response from the City. Without access to these critical DEIR

O3-22

reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having a meaningful opportunity to comment on the DEIR that is required by CEQA.

Best,  
Tara

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
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**Cc:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Subject:** Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

O3-23

Alisha C. Pember  
Adams Broadwell Joseph & Cardozo  
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(650) 589-1660 voice, Ext. 24  
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**Christina Taylor**

**From:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Sent:** Thursday, May 26, 2022 1:27 PM  
**To:** Christina Taylor  
**Cc:** Christina Caro  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Dear Ms. Taylor,

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Q3  
-24

Will you also please let me know where I can find information disclosing the current average VMT per capita for residential?

Thank you for your assistance.

Best,  
Tara

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
Phone: (650) 589-1660  
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Good afternoon,

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CHRISTINA TAYLOR  
*Deputy City Manager*

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**From:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Sent:** Thursday, May 19, 2022 10:37 AM  
**To:** Christina Taylor <[ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)>  
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Good morning, Ms. Taylor,

On behalf of Californians Allied for a Responsible Economy ("CARECA"), we submitted a letter dated May 13, 2022, to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. Please see attached letter.

The public comment period on the DEIR ends on June 6, 2022. We requested an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act ("CEQA") due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period. Given the short time before the current comment deadline, we asked that the City respond to the request for extension of time by Tuesday, May 17, 2022. We have not received a response from the City. Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having a meaningful opportunity to comment on the DEIR that is required by CEQA.

Q3  
25

Best,  
Tara

Tara C. Rengifo (she/her)

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601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
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**From:** Alisha C. Pember <[apember@adamsbroadwell.com](mailto:apember@adamsbroadwell.com)>  
**Sent:** Friday, May 13, 2022 3:36 PM  
**To:** [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)  
**Cc:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>  
**Subject:** Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

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O3-26

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**Christina Taylor**

**From:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Sent:** Thursday, May 19, 2022 10:37 AM  
**To:** Christina Taylor  
**Cc:** Christina Caro  
**Subject:** RE: Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)  
**Attachments:** 6128-004acp - Req for Ext of Time - Beaumont Summit Station DEIR (5-13-22).pdf

Good morning, Ms. Taylor,

On behalf of Californians Allied for a Responsible Economy ("CARECA"), we submitted a letter dated May 13, 2022, to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. Please see attached letter.

The public comment period on the DEIR ends on June 6, 2022. We requested an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act ("CEQA") due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period. Given the short time before the current comment deadline, we asked that the City respond to the request for extension of time by Tuesday, May 17, 2022. We have not received a response from the City. Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having a meaningful opportunity to comment on the DEIR that is required by CEQA.

Q3  
-27

Best,  
Tara

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**From:** Alisha C. Pember <apember@adamsbroadwell.com>  
**Sent:** Friday, May 13, 2022 3:36 PM  
**To:** ctaylor@beaumontca.gov  
**Cc:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Subject:** Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

Alisha C. Pember  
Adams Broadwell Joseph & Cardozo  
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Of Counsel  
MARC D. JOSEPH  
DANIEL L. CARDOZO

May 13, 2022

**Via Email and U.S. Mail**

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Email: [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Re: **Request to Extend the Public Review and Comment Period for  
the Draft Environmental Impact Report for Beaumont Summit  
Station Project (SCH No. 2021090378)**

Dear Ms. Taylor:

We are writing on behalf of Californians Allied for a Responsible Economy (“CARECA”) to respectfully request that the City of Beaumont (“City”) extend the public review and comment period for the Draft Environmental Impact Report (“DEIR”) prepared for the Beaumont Summit Station Project (SCH No. 2021090378) (“Project”), proposed by Exeter Cherry Valley Land, LLC. The current public comment period ends on June 6, 2022. We request an extension of at least 45 days, the minimum public review period set out in the California Environmental Quality Act (“CEQA”) due to the City’s failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period.

O3-28

This request is made pursuant to Public Resources Code section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), which require that “all documents referenced,” relied upon, and “incorporated by reference,” in a draft environmental impact report be “available for public review” during the entire comment period, and “readily accessible to the public during the lead agency’s normal working hours.”<sup>1</sup>

<sup>1</sup> Public Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007).  
6128-004acp

May 13, 2022  
Page 2

On April 29, 2022, we submitted a letter to the City, pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting *"immediate access to any and all documents referenced, incorporated by reference, and relied upon"* in the DEIR (emphasis added). The City did not respond to this request. On May 11, 2022, we emailed the City again expressing the need for the City to provide access to all documents referenced in the DEIR in response to our request. To date, the City has failed to respond to these requests and has not provided CARECA, and potentially other members of the public, with access to all documents referenced and relied upon in the DEIR, as required by law.

We have identified several documents referenced in the DEIR and its appendices that remain missing, two weeks after we requested access to them. CARECA therefore lacks access to critical supporting documents to the DEIR which it has a right to review during the CEQA public comment period. The missing documents are critical to understanding and commenting on the DEIR's analysis of the Project's impacts to several critical resource areas.

The missing documents include, but are not limited to, the following: the Project's Development Agreement; preliminary WAIRE calculations referenced at page 28 in Appendix A; HPA Architecture, Conceptual Site Plan: Brookside Ave. and Cherry Valley Blvd., June 24, 2021; EXETER Property Group, Conceptual Site Plan, June 2021; CalEEMod 2020.4.0 model data input files; and Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.

Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR that is required by CEQA. CARECA and other members of the public are also unable to evaluate the accuracy of the City's analyses, or the efficacy of the City's proposed mitigation measures. Additionally, the size of the DEIR and the Project's complexity make it difficult to effectively comment without the referenced documents by the current comment deadline of June 6, 2022.

Courts have held that the failure to provide even a few pages of CEQA documents for a portion of the review period invalidates the entire process, and that

6128-004sep

May 13, 2022

Page 3

such a failure must be remedied by permitting additional public comment.<sup>2</sup> It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.<sup>3</sup> By failing to make all documents referenced and incorporated by reference in the DEIR “readily available” during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of CARECA and other members of the public who wish to meaningfully review and comment on the DEIR.

In addition to our request for the DEIR reference documents pursuant to CEQA, we also submitted a Public Records Act (“PRA”), Government Code §§ 6250, *et seq.*, request dated April 29, 2022, to the City for immediate access to any and all public records referring or related to the Project. The request included, but was not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. The request did not include the DEIR, or documents referenced or relied upon in the DEIR, which we requested in a separate letter pursuant to CEQA. The City has not responded to our PRA request either, as mandated by the PRA.<sup>4</sup> For this reason, we ask that the City produce all responsive records as soon as possible.

Accordingly, we request that:

- 1) the City immediately provide us with access to the documents requested in our DEIR reference document request dated April 29, 2022, including but not limited to, the documents enumerated by this letter.
- 2) the City extend the public review and comment period on the DEIR for at least 45 days from the date on which the City releases these documents for public review. If the missing documents are provided today, we request an extension to Monday, June 27, 2022.
- 3) the City immediately provide us with access to the documents requested in our PRA request dated April 29, 2022.

<sup>2</sup> *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

<sup>3</sup> *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 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.”).

<sup>4</sup> Gov’t Code § 6253(c).

6128-004acp

May 13, 2022

Page 4

Given the short time before the current comment deadline, please contact me as soon as possible with your response to this request, but **no later than Tuesday, May 17, 2022.**

Please feel free to email me at [TRengifo@adamsbroadwell.com](mailto:TRengifo@adamsbroadwell.com) with any questions. Thank you for your prompt attention and response.

Sincerely,

*Tara C. Rengifo*

Tara C. Rengifo  
Associate Attorney

TCR:acp

**Christina Taylor**

---

**From:** Alisha C. Pember <apember@adamsbroadwell.com>  
**Sent:** Friday, May 13, 2022 3:36 PM  
**To:** Christina Taylor  
**Cc:** Tara C. Rengifo  
**Subject:** Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)  
**Attachments:** 6128-004acp - Req for Ext of Time - Beaumont Summit Station DEIR (5-13-22).pdf

Good afternoon,

Please see the attached correspondence.

If you have any questions, please contact Tara Rengifo.

Thank you.

Alisha Pember

Alisha C. Pember  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
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O3-29

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**Christina Taylor**

**From:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Sent:** Friday, June 03, 2022 1:07 PM  
**To:** Christina Taylor  
**Subject:** Beaumont Summit Station Comment Cutoff Time

Dear Ms. Taylor,

Will you please let me know the cutoff time to submit comments on the Draft EIR for the Beaumont Summit Station Project? I did not see a time identified in the [Notice of Availability](#).

03-30

Thank you,  
Tara

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
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**Christina Taylor**

**From:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Sent:** Friday, June 03, 2022 1:41 PM  
**To:** Christina Taylor  
**Cc:** Christina Caro  
**Subject:** RE: Beaumont Summit Station Comment Cutoff Time

Dear Ms. Taylor,

Thank you for your response. It is my understanding that comments will be considered timely submitted until 11:59pm on Monday, June 6 based on your response. Please let me know if that is incorrect.

Regarding the City's intended denial of our request for extension of time on the public review and comment period for this project, will the City produce the DEIR reference documents requested in our letter dated June 2, 2022, pursuant to Public Resources Code section 21092(b)(1) and CEQA Guidelines section 15087(c)(5)? As specified in the letter, the records include:

O3-31

- Project's Development Agreement
- Beaumont Summit Station Specific Plan
- Preliminary WAIRe calculations referenced at page 28 in Appendix A
- Original native files for AERMOD
- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Leck Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.

Sincerely,

Tara C. Rengifo (she/her)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)  
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**From:** Christina Taylor <Ctaylor@beaumontca.gov>  
**Sent:** Friday, June 3, 2022 1:33 PM  
**To:** Tara C. Rengifo <trengifo@adamsbroadwell.com>  
**Subject:** RE: Beaumont Summit Station Comment Cutoff Time

The NOA, bottom of page 2 identifies the public review period. The review period closes June 6, 2022. The City does not intend to extend the review period.

CHRISTINA TAYLOR  
*Deputy City Manager*

City of Beaumont  
550 E. 6th Street, Beaumont, Ca 92223  
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[BeaumontCa.gov](http://BeaumontCa.gov)  
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#ACITYELEVATED

**From:** Tara C. Rengifo <[trengifo@adamsbroadwell.com](mailto:trengifo@adamsbroadwell.com)>

**Sent:** Friday, June 03, 2022 1:07 PM

**To:** Christina Taylor <[Ctaylor@beaumontca.gov](mailto:Ctaylor@beaumontca.gov)>

**Subject:** Beaumont Summit Station Comment Cutoff Time

Dear Ms. Taylor,

Will you please let me know the cutoff time to submit comments on the Draft EIR for the Beaumont Summit Station Project? I did not see a time identified in the [Notice of Availability](#). [03-32]

Thank you,  
Tara

Tara C. Rengifo (she/her)  
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TARA C. RENGIFO  
MICHAEL R. SEVILLE

Of Counsel  
MARC D. JOSEPH  
DANIEL L. CARDOZO

June 6, 2022

**Via Email and Overnight Mail**

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223  
Fax: (951) 769-8526  
Email: ctaylor@beaumontca.gov

**Re: Comments on the Draft Environmental Impact Report for the  
Beaumont Summit Station Specific Plan (SCH No. 2021090378)**

Dear Ms. Taylor:

We are writing on behalf of Californians Allied for a Responsible Economy (“CARECA”) regarding the Draft Environmental Impact Report (“DEIR”) for the Beaumont Summit Station Specific Plan Project (SCH No. 2021090378) (“Project”) prepared by the City of Beaumont (“City”). The Project entails the development of an approximately 188-acre site with e-commerce, commercial development, and open space components.<sup>1</sup> The following Assessor Parcel Numbers (“APNs”) are associated with the Project site: 407-230-22, -23, -24, -25, -26, -27, -28; 407-190-016; and 407-190-017.<sup>2</sup>

The Project proposes to divide the site into five parcels, with Parcels 1, 2, and 3 designated for e-commerce uses with supporting office as follows:

- Building 1: 985,860 square feet
- Building 2: 1,213,235 square feet
- Building 3: 358,370 square feet.<sup>3</sup>

<sup>1</sup> City of Beaumont, *Draft Environmental Impact Report for the Beaumont Summit Station Project* at 3-2—3-3 (April 2022)(hereinafter, “DEIR”).

<sup>2</sup> *Id.*

<sup>3</sup> City of Beaumont, *Notice of Availability; Draft Environmental Impact Report for the Beaumont Summit Station Project* (April 21, 2022).  
6128-006acp

O3-33

O3-34

June 6, 2022  
Page 2

Parcel 4 would include the development of up to 150,000 square feet of commercial uses, as follows:

- Hotel: 100,000 square feet (220 hotel rooms)
- Food Uses: 25,000 square feet
- General Retail: 25,000 square feet.<sup>4</sup>

Parcel 5 would remain as open space.<sup>5</sup> The Project includes the adoption of the new Beaumont Summit Station Specific Plan, General Plan Amendments, Tentative Parcel Map, approval of a Plot Plan/Site Plan, and a Development Agreement.<sup>6</sup> The proposed Project would also include various on-site and off-site improvements including roadway improvements, utility connections, and rights-of-way to support the Project.<sup>7</sup>

The DEIR fails in significant aspects to perform its function as an informational document that is meant “to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment” and “to list ways in which the significant effects of such a project might be minimized.”<sup>8</sup> The DEIR fails to provide an accurate and complete Project Description and the alternatives analysis in the DEIR is deficient on multiple grounds. First, the DEIR’s project objectives are impermissibly narrow and improperly constrain the alternatives analysis. Second, the DEIR dismisses the environmentally superior alternative without adequate analysis. Third, the DEIR must analyze a 55% reduced Project size, which would substantially reduce significant impacts, as supported by the attached expert comments. Finally, the Project’s Development Agreement may improperly constrain the Project’s alternatives analysis in the DEIR.

Additionally, the DEIR fails to adequately disclose and mitigate the Project’s potentially significant impacts. As supported by the attached expert comments, the DEIR omits an analysis of the air quality impacts from transport refrigeration units (“TRUs”), which are a reasonably foreseeable Project use, and fails to assess the potential increase in air quality impacts due to the Beaumont-Cherry Valley Water District’s 2022 Resolution authorizing water use restrictions. The DEIR also does

O3-35

O3-36

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391. 6128-006aep

June 6, 2022  
Page 3

not disclose and mitigate the full scope of the Project's impacts on health. The DEIR's Health Risk Assessment ("HRA") underestimates Diesel Particulate Matter ("DPM") from the Project's back-up generators, omits an analysis of non-diesel low NOx and zero emission technology options for back-up generators, improperly segments the analysis of the Project's health risks between the construction and operations phases, relies on an inadequate receptor grid to calculate DPM, and its Air Dispersion Model has flaws that result in inaccurate estimates of the Project's operational emissions, among other deficiencies.

With regards to the Project's significant impacts from greenhouse gas ("GHG") emissions, the DEIR's greenhouse gas ("GHG") emissions impact analysis is deficient and there is substantial evidence demonstrating that additional feasible mitigation measures are available to further reduce the Project's significant impacts from GHG emissions from mobile sources. There are omissions and deficiencies with the Project's VMT impacts analysis, including that the threshold is unsupported by substantial evidence and the DEIR fails to disclose the significant VMT impacts due to the Project's land use change from residential to industrial and commercial. The DEIR also fails to consider all feasible mitigation measures to reduce the Project's significant transportation impacts to less than significant levels. With regards to the DEIR's hazards assessment, the full scope of the Project's impacts from hazardous materials is insufficiently evaluated in the DEIR. The DEIR fails to disclose the Project's conflicts with California housing laws, which result in unmitigated significant impacts. The DEIR's subsequent finding that the Project will not displace a substantial amount of housing is therefore incorrect and unsupported by substantial evidence.

O3-37

The DEIR also fails to meaningfully analyze the Project's impacts on water supply given the site's lack of recycled water infrastructure to offset potable water use. The full scope of the Project's impacts on biological resources are not adequately disclosed and mitigated in the DEIR. Specifically, the Project's significant impacts to the federally and state endangered Least bell's vireo will not be mitigated to less than significant levels, and the payment of local development mitigation fees is not adequate mitigation for this impact or the Project's other significant impacts on biological resources. Finally, the wildfire baseline set forth in the DEIR omits critical information necessary to inform the impact analysis.

O3-38

Based upon an in-depth review of the DEIR, and for the reasons stated herein and in the attached expert comments, the DEIR must be revised and

6128-006aep

June 6, 2022

Page 4

recirculated to adequately inform the decision-makers and public of the Project's significant environmental impacts and feasible mitigation measures.

O3-39

These comments were prepared with the assistance of air quality, GHG emissions, health risk assessment, and hazardous materials expert Dr. James Clark, Ph.D. Dr. Clark's comments and his *curriculum vitae* are attached as Exhibit A. These comments were also prepared with the assistance of traffic and transportation expert Mr. Daniel Smith, P.E. Mr. Smith's comments and his *curriculum vitae* are attached as Exhibit B.

O3-40

## **I. STATEMENT OF INTEREST**

CARECA 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 the City of Beaumont, and in Riverside County.

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

O3-41

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

June 6, 2022  
Page 5

## II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.<sup>9</sup> “CEQA’s fundamental goal [is] fostering informed decision-making.”<sup>10</sup> “The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind.”<sup>11</sup>

“The foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”<sup>12</sup> CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.<sup>13</sup> “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures.<sup>14</sup>

O3-42

Whether an EIR complies with CEQA’s requirements depends on whether the EIR “includes enough detail ‘to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’...A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”<sup>15</sup> Insufficient analysis or outright omissions regarding the magnitude of the environmental impact are not substantial evidence questions; instead, “the inquiry is predominantly legal and, [a]s such, it is generally subject to independent

<sup>9</sup> 14 C.C.R. § 15002(a)(1).

<sup>10</sup> *Laurel Heights Improvement Assn.*, 47 Cal.3d at 402.

<sup>11</sup> *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.

<sup>12</sup> *Communities for a Better Env’t. v. Cal. Res. Agency* (2002) 103 Cal. App.4th 98, 109.

<sup>13</sup> 14 CCR § 15002(a)(1).

<sup>14</sup> 14 CCR § 15002(a)(2) and (3); *See also Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

<sup>15</sup> *Golden Door Properties, LLC v. Cty. of San Diego* (2020) 50 Cal. App. 5th 467, 505; *See also Save our Peninsula Comm. v. Monterey Cty. Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, 118 (“The error [in failing to include relevant information in the EIR] is prejudicial if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”)

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review.”<sup>16</sup> As the Supreme Court recently clarified, a conclusory discussion of an environmental impact that an EIR deems significant may be held to be inadequate as a matter of law “without reference to substantial evidence,” even where mixed questions of law and fact are involved.<sup>17</sup> “A clearly inadequate or unsupported study is entitled to no judicial deference.”<sup>18</sup> To the extent factual questions arise, a substantial evidence standard of review applies.<sup>19</sup>

Moreover, the substantive mandate of CEQA prohibits public agencies from approving projects if feasible alternatives or mitigation measures are available that would substantially lessen the significant environmental effects of such projects.<sup>20</sup> A lead agency must mitigate or avoid the significant environmental effects of a project whenever it is feasible to do so.<sup>21</sup> The burden is on the agency to affirmatively demonstrate that it has considered feasible measures to lessen or avoid the project’s significant effects.<sup>22</sup> As stated by the California Supreme Court, “there [must] be a disclosure of ‘the analytic route the...agency traveled from evidence to action.’”<sup>23</sup>

### **III. THE DEIR FAILS TO ADEQUATELY DESCRIBE THE PROJECT**

The DEIR does not meet CEQA’s requirements because it fails to include an accurate, complete, and stable Project Description, rendering the entire analysis inadequate. California courts have repeatedly held that “an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document].”<sup>24</sup> CEQA requires that a project be described with enough particularity that its impacts can be assessed.<sup>25</sup> Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.<sup>26</sup>

The DEIR explains that approval of a development agreement is one of the Project’s required approvals but fails to attach a proposed development agreement

O3-43

O3-44

<sup>16</sup> *Id.*

<sup>17</sup> *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 514, 516.

<sup>18</sup> *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm’rs* (2001) 91 Cal. App. 4th 1344, 1355, as modified on denial of reh’g (Sept. 26, 2001).

<sup>19</sup> *Golden Door Properties, LLC*, 50 Cal. App. 5th at 505.

<sup>20</sup> Pub. Res. Code § 21002.

<sup>21</sup> *Id.* at 21002.1(b).

<sup>22</sup> *Vill. Laguna of Laguna Beach, Inc. v. Bd. of Supervisors* (1982) 134 Cal. App. 3d 1022, 1034–35.

<sup>23</sup> *Id.*

<sup>24</sup> *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.

<sup>25</sup> *Id.* at 192.

<sup>26</sup> *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

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to the DEIR and fails to describe its proposed terms.<sup>27</sup> As a result, the DEIR fails to describe this critical component of the Project.

A development agreement is a contract between an agency and a developer establishing certain development rights with any person having a legal or equitable interest in the property at issue. While a development agreement must advance an agency's local planning policies, it may also contain provisions that vary from otherwise applicable zoning standards and land use requirements as long as the project is consistent with the general plan and any applicable specific plan. For this reason, it is critical that the terms of a proposed development agreement be disclosed to the public and analyzed during the Project's CEQA review process in order to determine whether the development agreement may have potentially significant impacts that are not otherwise inherent in the Project.

O3-45

When a development agreement is required to implement a project, it is considered part of the project under CEQA.<sup>28</sup> Development agreements must be enacted in accordance with the Government Code and applicable local planning codes and must undergo environmental review at the time of adoption. Therefore, any development agreement for the Project must be described in the DEIR and considered by the City's decision makers at the same time as the rest of the Project approvals.

O3-46

The DEIR fails to include any discussion of the terms being considered for inclusion in the Project's current development agreement. The DEIR must be revised to correct this omission. In particular, the public must be allowed to consider whether the proposed development agreement will have significant impacts in addition to the impacts disclosed in the DEIR *before* the City enters a long-term contract with the applicant which could guarantee the long-term existence of those impacts during the life of the contract.

O3-47

#### **IV. THE ALTERNATIVES ANALYSIS IN THE DEIR IS DEFICIENT**

The Project Description in an EIR must include a description of the Project Objectives. "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain *most* of the basic

O3-48

<sup>27</sup> DEIR at 3-17.

<sup>28</sup> See Gov. Code §§ 65864, *et seq.*; 14 C.C.R. §§15352(a), (b), 15378; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.

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objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”<sup>29</sup> CEQA “make clear that ‘[o]ne of its [an EIR’s] major functions … is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.’”<sup>30</sup>

#### **A. The DEIR’S Project Objectives are Impermissibly Narrow and Improperly Constrain the Alternatives Analysis**

One of the Project Objectives is to “[f]acilitate the development of underutilized land currently planned for residential uses with uses that maximize the use of the site as a large format e-commerce center consisting of one or more buildings with total e-commerce building space in excess of 2,557,465 square feet in size and approximately 150,000 square feet of mixed commercial uses responding to market demand.”<sup>31</sup> As written, this Project Objective improperly constricts the alternatives analysis by impeding any alternative other than the Project itself. For example, an alternative that includes residential uses is foreclosed because the objective limits the site to commercial uses only. Similarly, any reduction to building intensity is precluded by specifying the total square footage for both the e-commerce buildings and the areas with mixed commercial uses.

O3-49

The limiting effect of this Project Objective is evidenced in the DEIR’s alternatives analysis, which is severely deficient. Other than the “No Project” Alternative, the DEIR analyzed only one alternative to the Project. The Reduced Building Intensity Alternative “would entail the development of e-commerce and commercial uses, but at a smaller square footage (15 percent less) than what was proposed for the Project. The Alternative would involve the development of 2,173,846 square feet of e-commerce space.”<sup>32</sup> The DEIR identified the Reduced Building Intensity Alternative as “the environmentally superior Alternative because it would reduce some of the potentially significant impacts of the proposed Project,” but dismissed this Alternative as “not capable of meeting all of the basic objectives of the Project” without further explanation.<sup>33</sup>

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<sup>29</sup> 14 C.C.R. § 15126.6(a) (emphasis added).

<sup>30</sup> *Laurel Heights Improvement Assn.*, 47 Cal. 3d at 400.

<sup>31</sup> DEIR at 3-8.

<sup>32</sup> *Id.* at 6-16.

<sup>33</sup> *Id.* at 6-22.

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In *We Advoc. Through Env't Rev. v. Cnty. of Siskiyou*, the court held that “the County produced a flawed EIR” by taking an “artificially narrow approach for describing the project objectives, … ensur[ing] that the results of its alternatives analysis would be a foregone conclusion.”<sup>34</sup> The court reasoned that “as a result, [the County] transformed the EIR’s alternatives section—often described as part of the “core of the EIR” [internal citation omitted]—into an empty formality.”<sup>35</sup> There, the EIR’s “stated project objectives, mirroring the proposed project itself, consist[ed] largely of the use of ‘the full production capacity of the existing Plant’ and the ‘operation of the Plant as soon as possible.’”<sup>36</sup> The court determined that “if the principal project objective is simply pursuing the proposed project, then no alternative other than the proposed project would do. All competing reasonable alternatives would simply be defined out of consideration.”<sup>37</sup> The court also held that the error was prejudicial: “[b]ecause the City effectively described the principal project objective as operating the project as proposed, it dismissively rejected anything other than the proposed project. In doing so, it prejudicially prevented informed decision making and public participation.”<sup>38</sup>

O3-50

Here, the DEIR’s Project Objectives to develop “a large format e-commerce center” “with total e-commerce building space in excess of 2,557,465 square feet in size and approximately 150,000 square feet of mixed commercial uses” is effectively a description of the proposed Project, thereby preventing any alternative to the Project from achieving these stated objectives.<sup>39</sup> “One of [an EIR’s] major functions … is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official.”<sup>40</sup> The DEIR’s narrowly tailored Project Objectives prohibits the alternatives analysis mandated by CEQA. This error is particularly egregious given that the Reduced Building Intensity Alternative would reduce some of the potentially significant impacts of the proposed Project, including impacts to biological resources, cultural resources, energy, geology and soils, hazardous materials, hydrology and water quality, population and housing, public services, recreation, and utilities and service systems.<sup>41</sup>

<sup>34</sup> *We Advoc. Through Env't Rev. v. Cnty. of Siskiyou*, 2022 WL 1499576, at \*8 (Cal. Ct. App. Apr. 20, 2022).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> DEIR at 3-8.

<sup>40</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.

<sup>41</sup> DEIR at 6-22—6-23.

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Additionally, a meaningful assessment of a reduced intensity alternative is particularly important for this Project given that the original Sunny-Cal Specific Plan for the site was reduced in size and scope.<sup>42</sup> Specifically, the plan was “modified to eliminate all commercial properties and higher density residential units, to reduce the number of residential units from 907 to 597, and to exclude the 120-acre portion of the Danny Thomas Ranch, thus reducing the size or footprint of the SCSP from 323.3 to 200 acres....”<sup>43</sup> This reduction in intensity was in response to the City Planning Commission’s suggestion to change the project at a public hearing in July of 2005.<sup>44</sup> Given this history, an adequate discussion of a reduced intensity alternative to the Project is critical to ensure consistency with the goals and policies of the City as well as to meaningfully avoid or reduce the Project’s significant environmental impacts.

#### **B. The DEIR Dismisses the Environmentally Superior Alternative Without Adequate Analysis**

“The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”<sup>45</sup> An EIR is required to identify the environmentally superior alternative from among the range or reasonable alternatives that are evaluated.<sup>46</sup> “CEQA does not permit a lead agency to omit any discussion, analysis, or even mention of any alternatives that feasibly might reduce the environmental impact of a project on the *unanalyzed theory* that such an alternative *might not* prove to be environmentally superior to the project. The purpose of an EIR is to provide the facts and analysis that would support such a conclusion so that the decision maker can evaluate whether it is correct.”<sup>47</sup>

CEQA requires that “the discussion of alternatives [] focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, *even if these alternatives would impede to some degree the attainment of the project objectives*, or would be more costly.”<sup>48</sup> Therefore, even if all of the Project Objectives may not be achieved, the DEIR must not dismiss

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<sup>42</sup> *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal. App. 4th 316, 325.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> 14 C.C.R. § 15126.6(d).

<sup>46</sup> *Id.* at § 15126.6(e)(2).

<sup>47</sup> *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal. App. 4th 1277, 1305.

<sup>48</sup> 14 C.C.R. § 15126.6(b) (emphasis added).

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an otherwise environmentally superior alternative. However, DEIR fails to explain which Project Objectives would not be achieved by the Reduced Building Intensity Alternative and instead sets forth the conclusory assertion that this Alternative is “not capable of meeting all of the basic objectives of the Project.”<sup>49</sup> The DEIR omits any further analysis about which Project Objectives are not achieved and therefore the conclusion set forth in the alternatives analysis is not supported by substantial evidence. The failure to include this discussion in the DEIR is an omission in the analysis that prohibits informed decision making and meaningful public participation.

**C. The City Must Analyze a 55% Reduced Project Size Alternative in a Revised DEIR**

CEQA Guidelines requires an EIR to “describe a range of reasonable alternatives to the project, [], which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”<sup>50</sup> “There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.”<sup>51</sup> Moreover, “a public agency cannot approve a project if the EIR identifies one or more significant effects on the environment, unless the agency makes a finding with respect to each significant effect that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures *or alternatives* identified in the EIR and makes a statement of overriding consideration with respect to the significant effects.”<sup>52</sup>

Here, Mr. Smith explained in his comments that the DEIR should have evaluated a 55% reduction in Project size, which would have reduced the Project’s significant impacts on VMT to less than significant levels.<sup>53</sup> Mr. Smith explained, “If the Project did conform to City VMT significance thresholds, its e-commerce component alone would generate between about 50,000 and 64,000 VMT per day depending on considerations like employee density.”<sup>54</sup> If the DEIR removes the

<sup>49</sup> DEIR at 6-22.

<sup>50</sup> 14 C.C.R. § 15126.6(a).

<sup>51</sup> *Id.*

<sup>52</sup> *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal. App. 5th 867, 877; See also Pub. Res. Code § 21081.

<sup>53</sup> Smith Comments at 3.

<sup>54</sup> *Id.*

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Project Objectives that improperly constrict the alternatives analysis by impeding any alternative other than the Project itself, as explained above, significant reductions in the Project size may still achieve most of the other Project Objectives (e.g., “Provide a land use plan that is sensitive to the environment through avoidance of sensitive resources, aesthetically pleasing through application of design guidelines, and places compatible land uses and facilities in an appropriate location;” “Provide access patterns that minimize traffic conflicts;” “Provide a comprehensive land use plan that designates the distribution, location, and extent of land uses.”)<sup>55</sup>

Given that the DEIR concludes that the Project’s cumulative transportation impacts are significant and unavoidable (as well as related air quality and GHG emissions, many of which result from mobile source emissions),<sup>56</sup> the DEIR must consider a reduced-size alternative which would lessen or avoid these impacts. Mr. Smith provides substantial evidence demonstrating that a 55% reduction in Project size alternative would avoid some or all of the Project’s significant transportation impacts and is likely to achieve most of the Project Objectives (absent the objectives that do not comply with CEQA’s requirements). The City must consider this alternative in a revised and recirculated DEIR.

**D. The Development Agreement May Improperly Constrain the Project’s Alternatives Analysis in the DEIR**

California law allows cities to enter into contracts with landowners to provide a period of time in which to complete a development project, known as a “development agreement.”<sup>57</sup> A development agreement is a legislative act approved by ordinance that must be disclosed in the project description under CEQA Guidelines Section 15124.<sup>58</sup> Although a development agreement provides a developer with vested rights to complete a development without changes in the land use regulations over the term of the agreement, such agreements must not “commit the agency to the project” prior to compliance with CEQA or “foreclose[] alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project,” including the no project alternative.<sup>59</sup> “In applying this

<sup>55</sup> DEIR at 3-7—3-8.

<sup>56</sup> DEIR at 1-8.

<sup>57</sup> Gov’t Code § 65864.

<sup>58</sup> 14 C.C.R. § 15124(d)(1)(B).

<sup>59</sup> *Id.* at § 15004(b)(4)(C); *See also Save Tara v. City of W. Hollywood* (2008) 45 Cal. 4th 116, 138, as modified (Dec. 10, 2008).

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principle to conditional development agreements, courts should look not only to the terms of the agreement but to the surrounding circumstances to determine whether, as a practical matter, the agency has committed itself to the project as a whole or to any particular features, so as to effectively preclude any alternatives or mitigation measures that CEQA would otherwise require to be considered, including the alternative of not going forward with the project.”<sup>60</sup>

Here, the Project Description in the DEIR briefly mentions that “[a] statutory development agreement...may be processed concurrently with the approval of this Specific Plan.”<sup>61</sup> The DEIR further states that “[t]he development agreement would include, among other items, the term of entitlements and any provisions for off-site improvements if applicable.”<sup>62</sup> The DEIR does not include any additional discussion about the Development Agreement and the Development Agreement is not attached to the DEIR as an appendix. CARECA repeatedly requested a copy of the Development Agreement for review pursuant to CEQA as a document referenced in the DEIR and the Public Records Act (“PRA”), but the City repeatedly refused to produce a copy of the Development Agreement. To the extent that any of the terms of the Development Agreement foreclose an otherwise feasible alternative, the Development Agreement should be amended, and the DEIR analysis must be revised accordingly.

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## **V. THE DEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE THE PROJECT'S SIGNIFICANT IMPACTS**

“The foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”<sup>63</sup> Whether an EIR adequately discussed a project’s environmental impacts “is an issue distinct from the extent to which the agency is correct in its determination whether the impacts are significant.”<sup>64</sup> Even if the EIR concludes an impact is significant, the EIR must nevertheless “reasonably describe the nature and magnitude of the adverse effect.”<sup>65</sup> The ultimate inquiry is whether the EIR includes enough detail to enable those who did not participate in its preparation to understand and to

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<sup>60</sup> *Id.* at 139.

<sup>61</sup> DEIR at 3-17.

<sup>62</sup> *Id.*

<sup>63</sup> *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal. App.4th 98, 109.

<sup>64</sup> *Sierra Club v. Cty. of Fresno* (2018) 6 Cal. 5th 502, 514.

<sup>65</sup> *Id.*

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consider meaningfully the issues raised by the proposed project.<sup>66</sup> An adequate description of environmental impacts also “inform[s] the critical discussion of mitigation measures and project alternatives at the core of the EIR.”<sup>67</sup>

The failure to provide the information required by CEQA is a failure to proceed in the manner required by CEQA.<sup>68</sup> Challenges to an agency’s failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered or to disclose information about a project’s environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency’s factual conclusions.<sup>69</sup> Even when substantial evidence questions arise, reviewing courts will not “uncritically rely on every study or analysis presented by a project proponent in support of its position.”<sup>70</sup>

#### **A. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project’s Impacts on Air Quality**

The South Coast Air Basin (“Basin”) already experiences high levels of air pollution due to “the nation’s second largest urban area combined with meteorological conditions and topography that create the ideal conditions for the formation of pollutants such as ozone and fine particulate matter (PM2.5, particles less than 2.5 microns in diameter).”<sup>71</sup> Pollutants of concern in the Basin include O3, PM10, and PM2.5, and the Basin is currently designated as a nonattainment area with respect to the State O3, PM10, and PM2.5 standards, as well as the national 8-hour O3 and PM2.5 standards.<sup>72</sup>

In 2020, the Basin exceeded federal standards on 49 percent of the days, mainly due to exceedances of ozone and PM2.5.<sup>73</sup> The maximum measured concentrations for these pollutants in 2020 were among the highest in the

<sup>66</sup> *Id.* at 516.

<sup>67</sup> *Id.* at 514.

<sup>68</sup> *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

<sup>69</sup> *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

<sup>70</sup> *Berkeley Keep Jets Over the Bay Com.*, 91 Cal.App.4th at 1355.

<sup>71</sup> South Coast Air Quality Management District (“SCAQMD”), *Draft 2022 AQMD* at 2-1 (May 2022), available at: <http://www.aqmd.gov/home/air-quality/clean-air-plans/air-quality-mgt-plan>.

<sup>72</sup> DEIR at 4.2-4; 4.2-10.

<sup>73</sup> SCAQMD, *Draft 2022 AQMD* at 2-68 (May 2022), available at: <http://www.aqmd.gov/home/air-quality/clean-air-plans/air-quality-mgt-plan>.  
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country.”<sup>74</sup> “While ozone trends had shown continual improvement historically, trends over the past decade have been mostly flat.”<sup>75</sup> The Project site and surrounding areas are ranked in the 99<sup>th</sup> percentile for ozone pollution, according to the Office of Environmental Health Hazard Assessment’s CalEnviroScreen.<sup>76</sup>

The South Coast Air Quality Management District (“SCAQMD”) recognized in its 2022 Draft Air Quality Management Plan that “[w]hile economic growth is beneficial for the region, it presents a challenge to air quality improvement efforts as projected growth could offset the progress made in reducing VOC, NOx, SOx, and PM2.5 emissions through adopted regulations from the South Coast AQMD and CARB.”<sup>77</sup> As recognized in the DEIR, this Project would result in unavoidable significant impacts with respect to air quality plan consistency and operational emissions with the majority of the Project’s emission exceedances being from mobile sources.<sup>78</sup>

O3-61

Statewide, “[h]eavy-duty trucks comprise the largest source of NOx in the state, contributing nearly a third of all statewide NOx emissions as well as more than a quarter of total statewide diesel particulate matter (PM) emissions.”<sup>79</sup> According to the California Air Resources Board (“CARB”), “[i]f California is to meet its health-based ambient air quality standards, we need to reduce levels of NOx emissions from on-road heavy-duty trucks by 85 percent. This will help us achieve the 2008 75 ppb ozone standard required by 2031 in the South Coast region.”<sup>80</sup> However, this Project will add significant levels of NOx emissions to the Basin, particularly from on-road heavy-duty trucks, resulting in unmitigated, significant air quality impacts.

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Office of Environmental Health Hazard Assessment (“OEHHA”), *CalEnviroScreen 4.0*, available at: <https://oehha.ca.gov/calenviroscreen>. Census tract 606043811.

<sup>77</sup> DEIR at 3-29.

<sup>78</sup> *Id.* at 4.2-35; 4.2-57. Phase 1 of the Project is expected to generate 10,050 daily trips, which includes 5,522 passenger car trips, 3,906 van delivery trips, and 622 truck trips, and Phase 2 of the Project is estimated to generate 485 daily trips, which include employee commutes to work, retail customers, and delivery trips. *Id.* at 4.2-31; 4.2-33.

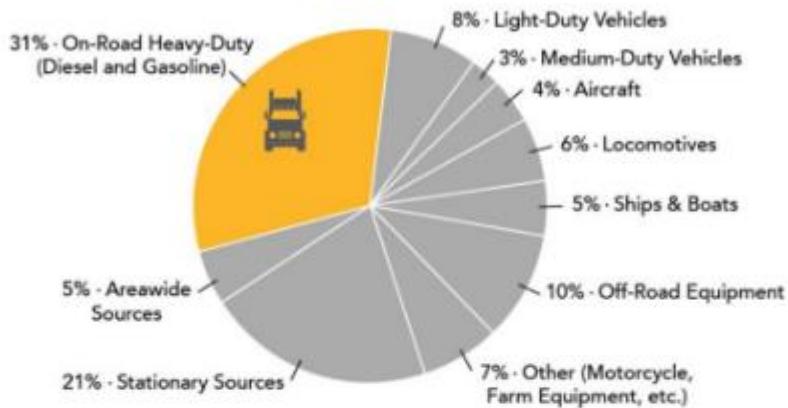
<sup>79</sup> California Air Resources Board, *Facts about the Low NOx Heavy-Duty Omnibus Regulation*, available at: [https://ww2.arb.ca.gov/sites/default/files/classic/msprog/hdlnox/files/HD\\_NOx\\_Omnibus\\_Fact\\_Sheet.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/msprog/hdlnox/files/HD_NOx_Omnibus_Fact_Sheet.pdf).

<sup>80</sup> *Id.*

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Sources of NO<sub>x</sub> Emissions in California



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The DEIR fails to disclose or adequately mitigate the Project's significant impacts to air quality to the maximum extent feasible, as required by CEQA. In particular, the DEIR omits an analysis of the air quality impacts from TRUs, which are a reasonably foreseeable Project use, and fails to assess the potential increase in air quality impacts due to the Beaumont-Cherry Valley Water District's 2022 Resolution authorizing water use restrictions. PDF AQ-4 and PDF AQ-10 will not meaningfully reduce the Project's significant impacts on air quality and must be included as binding mitigation. MM AQ-3 for a Transportation Demand Management Program is devoid of the necessary criteria for measuring the effectiveness of the measure, and MM AQ-1 must be strengthened to reduce the Project's significant NOx emissions and DPM emissions during construction in Phases 1 and 2. For the reasons stated herein, the DEIR's air quality analysis is deficient and must be revised.

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<sup>81</sup> *Id.*  
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a. The DEIR Improperly Omits an Analysis of the Air Quality Impacts from TRUs

MM AQ-4 states, “The buildings’ electrical room shall be sufficiently sized to hold additional panels that may be needed in the future to supply power to trailers with transport refrigeration units (TRUs) during the loading/unloading of refrigerated goods.”<sup>82</sup> (4.2-40) However, according to the DEIR, cold storage is not an allowed use in the Specific Plan zone, which is the existing zoning for the Project site,<sup>83</sup> and PDF AQ-1 expressly states that the Project will not involve TRUs.<sup>84</sup> Despite expressly acknowledging the potential for cold storage uses in MM AQ-4, the Project’s air quality analysis modeled the warehouses as unrefrigerated, meaning the DEIR’s projected Project emissions did not include emissions from TRUs.<sup>85</sup>

O3-64

The DEIR’s omission of emissions from TRUs from its air quality analysis is not supported by substantial evidence. As explained in Dr. Clark’s comments, TRUs are reasonably foreseeable based on the requirement in MM AQ-4 and the DEIR improperly excludes emissions from TRUs in the impact analysis.<sup>86</sup> By failing to account for the Project’s TRU emissions in the public health impacts analysis, Dr. Clark concluded that the DEIR is “intentionally underestimating the foreseeable health risk to the community as well as the associated GHG emissions from the operation of the TRUs.”<sup>87</sup>

b. The DEIR Fails to Assess the Potential Increase in Air Quality Impacts Due to the Beaumont-Cherry Valley Water District’s 2022 Resolution Authorizing Water Use Restrictions

The DEIR explains that the Project would be subject to SCAQMD Rules for reducing fugitive dust, identified in Standard Conditions (“SC”) AQ-1.<sup>88</sup> “Standard



<sup>82</sup> DEIR at 4.2-40.

<sup>83</sup> Although the DEIR claims that “[c]old storage is also not an allowed use in the Specific Plan,” this statement is not supported by substantial evidence because the DEIR does not include a copy of the amended Specific Plan for public review and comment, thereby hindering informed decision-making and meaningful public participation.

<sup>84</sup> *Id.* at 3-4; 4.2-20.

<sup>85</sup> *Id.*

<sup>86</sup> Clark Comments at 24-25.

<sup>87</sup> *Id.* at 25.

<sup>88</sup> DEIR at 4.2-28.

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Conditions are existing requirements and standard conditions that are based on local, state, or federal regulations or laws that are frequently required independently of CEQA review.<sup>89</sup> SC AQ-1 states, “Prior to the issuance of grading permits, the City Engineer shall confirm that the Grading Plan, Building Plans and Specifications require all construction contractors to comply with [SCAQMD’s] Rules 402 and 403 to minimize construction emissions of dust and particulates.”<sup>90</sup> Specifically, SCAQMD Rule 403 for Fugitive Dust “requires fugitive dust sources to implement best available control measures for all sources, and all forms of visible particulate matter are prohibited from crossing any property line. This rule is intended to reduce PM10 emissions from any transportation, handling, construction, or storage activity that has the potential to generate fugitive dust.”<sup>91</sup> The measures required by SC AQ-1 may include, but are not limited to, the following:

- “Portions of a construction site to remain inactive longer than a period of three months will be seeded and **watered** until grass cover is grown or otherwise stabilized.
- All on-site roads will be paved as soon as feasible or **watered** periodically or chemically stabilized.
- All material transported off-site will be either sufficiently **watered** or securely covered to prevent excessive amounts of dust. ...
- Where vehicles leave a construction site and enter adjacent public streets, the streets will be swept daily or **washed down** at the end of the work day to remove soil tracked onto the paved surface.”<sup>92</sup>

O3-65

However, on April 28, 2022, the Board of Directors of the Beaumont-Cherry Valley Water District adopted Resolution 2022-12 entitled, “A Resolution Of The Board Of Directors Of The Beaumont-Cherry Valley Water District Authorizing The Implementation Of Water Use Restrictions And Rescinding Resolution 2016-05.”<sup>93</sup> The Resolution declared that the Beaumont-Cherry Valley Water District is in a Level 3 water shortage, which is defined as a moderate shortage with mandatory

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<sup>89</sup> *Id.* at 4.2-36.

<sup>90</sup> *Id.* at 4.2-37.

<sup>91</sup> *Id.* at 4.2-10.

<sup>92</sup> *Id.* at 4.2-37 (emphasis added).

<sup>93</sup> Beaumont-Cherry Valley Water District, *Resolution 2022-12* (April 28, 2022), available at: <https://bcvwd.org/wp-content/uploads/2022/05/2022-12r.pdf>.  
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water reductions.<sup>94</sup> A Level 3 water shortage occurs when “[u]p to a 30% reduction in normal (average), ‘long-term’ averaged supply occurs.”<sup>95</sup> During a Level 3 water shortage, the Beaumont-Cherry Valley Water District will encourage the “[u]se of recycled or non-potable water for construction activities,” and “[n]o new construction meters will be approved.”<sup>96</sup>

Attachment A to the Resolution sets forth the District’s specific prohibitions and water use restrictions based on a Level 3 water shortage.<sup>97</sup> Section 1 pertaining to mandatory prohibitions on water waste states, “Under the Emergency Regulations adopted on January 4, 2022 (effective January 18, 2022), by the State Water Resources Control Board the following are prohibited: The use of potable water for street cleaning ***or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public.***”<sup>98</sup> Section 2 governing water use restrictions states, “Issuance of construction meters shall be conditionally allowed under the following: a. Activities related to rough grading shall be subject to Board Approval. i. Applicant shall identify to staff grading duration, approximate quantity of water needed and conditions for which the Board of Directors is to consider.”<sup>99</sup>

The DEIR’s air quality impact analysis fails to analyze whether the District’s prohibitions on water waste and water use restrictions will impact the feasibility of the Project’s compliance with SC AQ-1 and SCAQMD Rule 403. The DEIR also does not evaluate whether the Project’s air quality impacts will increase given the Beaumont-Cherry Valley Water District’s 2022 Resolution prohibiting the use of potable water for “construction site preparation...unless no other method can be used or as needed to protect the health and safety of the public.”<sup>100</sup> Finally, the DEIR fails to discuss other methods of construction site preparation and dust control which would be used in place of potable water. The DEIR must not only disclose which methods for fugitive dust control will be utilized if watering is not an

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<sup>94</sup> *Id.*; See also Beaumont-Cherry Valley Water District, *Water Shortage Contingency Plan* at 16 (September 2021), available at: [https://bcvwd.org/wp-content/uploads/2021/10/2020-BCVWD-WSCP-ADOPTED\\_2021-08-26.pdf](https://bcvwd.org/wp-content/uploads/2021/10/2020-BCVWD-WSCP-ADOPTED_2021-08-26.pdf).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Beaumont-Cherry Valley Water District, *Resolution 2022-12* (April 28, 2022), available at: <https://bcvwd.org/wp-content/uploads/2022/05/2022-12r.pdf> (emphasis added).

<sup>98</sup> *Id.* (emphasis added).

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

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option due to prohibitions and restrictions on water use, but also assess the potential increase in air quality impacts given these alternative methods.

c. PDF AQ-4 and PDF AQ-10 Will Not Meaningfully Reduce the Project's Significant Impacts on Air Quality

An EIR is an informational document that must inform decision-makers and the public of “feasible measures which could minimize significant adverse impacts....”<sup>101</sup> “[W]hen a project is approved that will significantly affect the environment, CEQA places the burden on the approving agency to affirmatively show that it has considered the identified means of lessening or avoiding the project’s significant effects and to explain its decision allowing those adverse changes to occur.”<sup>102</sup> Here, the DEIR fails to demonstrate that the Project’s significant impacts to air quality are mitigated to the maximum extent feasible as required by CEQA.

O3-70

The DEIR concludes that the “majority of the Project’s emission exceedances are from mobile sources that cannot feasibly be reduced below the SCAQMD threshold.”<sup>103</sup> The DEIR relies on Project Design Features (“PDFs”) and mitigation measures to reduce emissions from mobile sources, but improperly dismisses the feasibility of additional measures to mitigate the Project’s significant operational emissions on the grounds that “[e]missions from motor vehicles are controlled by State and Federal standards and the Project has no control over these standards.”<sup>104</sup> This conclusion is not supported by substantial evidence.

O3-71

Although not incorporated as binding mitigation, in violation of CEQA, PDF AQ-4 attempts to address the Project’s significant emissions from mobile sources, particularly heavy-duty trucks, by requiring all heavy-duty vehicles associated with Phase 1 of the Project to be model year 2010 or later.<sup>105</sup> PDF AQ-4 also states that it mandates that this requirement be included as part of tenant’s agreement with third-party carriers.<sup>106</sup> CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.<sup>107</sup> The

O3-72

<sup>101</sup> 14 C.C.R. §§ 15121(a), 15126.4(a).

<sup>102</sup> *Lotus v. Dep’t of Transportation* (2014) 223 Cal. App. 4th 645, 654.

<sup>103</sup> DEIR at 4.2-34.

<sup>104</sup> *Id.*

<sup>105</sup> DEIR at 4.2-22.

<sup>106</sup> *Id.*

<sup>107</sup> 14 C.C.R. § 15370.

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actions required under PDF AQ-4 are not currently binding or enforceable, because they are not included in the Project's Mitigation Monitoring and Reporting Plan ("MMRP"). PDF AQ-4 must be included in the DEIR as a mitigation measure because it is intended to reduce the Project's significant air quality impacts. PDF AQ-4 is not designed to simply modify a physical element of the Project, as is inherent in any project "design feature," but instead is included for the purpose of reducing the Project's significant air quality impacts. This makes PDF AQ-4 a mitigation measure within the meaning of CEQA.

Additionally, our air quality expert, Dr. James Clark, analyzed the emission reductions which would result from "changing the minimum allowable model year from 2010 to 2018" and determined that requiring heavy-duty trucks to be "model year 2018 or later would result in:

- A 48% reduction in NOx emissions from trucks operating on site.
- A 42% reduction in diesel particulate matter (DPM) emissions from trucks measured as particulate matter less than 2.5 microns (PM<sub>2.5</sub>) operating on site.
- A 42% reduction in DPM emissions from trucks measured as particulate matter less than 10 microns (PM<sub>10</sub>) operating on site.
- A 50% reduction in reactive organic gases (ROGs) from trucks operating on site.<sup>108</sup>

Based on his calculations, Dr. Clark concluded that changing the requirement to model year 2018 or later for all heavy-duty vehicles entering or operated on the Phase 1 project site would reduce the Project's significant NOx emissions substantially and ensure the Project is below SCAQMD thresholds.<sup>109</sup> The imposition of all feasible air quality mitigation for the Project is mandatory given that the DEIR concludes that the Project will result in significant and unavoidable air quality impacts due to exceedances of SCAQMD significance thresholds and inconsistencies with the AQMP.<sup>110</sup> Yet, the DEIR fails to evaluate whether additional mitigation beyond a 2010 model year cut-off is feasible despite the substantial emission reductions from such a change and the feasibility of enforcing a revised cut-off date contractually through the tenant agreement, as proposed in PDF AQ-4.<sup>111</sup> Accordingly, substantial evidence demonstrates that the

O3-73

<sup>108</sup> Clark Comments at 13.

<sup>109</sup> *Id.*

<sup>110</sup> DEIR at 4.2-26; *Covington*, 43 Cal.App.5th at 879-883.

<sup>111</sup> See 14 C.C.R. § 15126.4(a)(2).

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DEIR has not proposed all feasible mitigation measures to minimize the Project's significant impacts on air quality and thus the DEIR is deficient.

Dr. Clark also commented that PDF AQ-10 will not reduce the Project's significant emissions of NOx and ROG as a result of the Project's heavy-duty trucks.<sup>112</sup> PDF AQ-10 requires the installation of 30 electric light-duty vehicle charging stations and installation of conduit for 59 future electric light-duty vehicle charging stations.<sup>113</sup> Electric charging stations or other efficiency measures for heavy-duty trucks are not proposed by PDF AQ-10. However, Dr. Clark explained that the Project's passenger vehicles account for less than 6% of NO<sub>x</sub> emissions across the site while heavy duty trucks account for 75% of the emissions of NO<sub>x</sub>.<sup>114</sup> Even with implementation of PDF AQ-10, Dr. Clark emphasized that "the site will cause excess emissions of NO<sub>x</sub> in area already heavily impacted by ozone and ozone pre-cursors."<sup>115</sup> Dr. Clark therefore recommended "[a]dditional binding mitigation for the project that focuses on the primary source of NOx associated with the project, i.e., the heavy duty trucks utilizing the site...," including:

- Contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
- Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2018 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2023. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP). Additional incentive funds are available from the Carl Moyer Program and Voucher Incentive Program.
- Include contractual language in tenant lease agreements that requires the tenant to be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Advanced Clean Trucks Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.

O3-74

<sup>112</sup> Clark Comments at 7-9.

<sup>113</sup> DEIR at 4.2-23.

<sup>114</sup> Clark Comments at 7-8.

<sup>115</sup> *Id.* at 8.

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- Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than ***two minutes*** while on site.”<sup>116</sup>

For the foregoing reasons, the DEIR fails to demonstrate that the Project’s significant impacts to air quality are mitigated to the maximum extent feasible as required by CEQA. The City must consider these additional mitigation measures before it can adopt a statement of overriding considerations for the Project.

d. MM AQ-3 for a Transportation Demand Management Program is Devoid of the Necessary Criteria for Measuring the Effectiveness of the Measure

CEQA requires an EIR to include a detailed statement of feasible mitigation measures proposed to minimize significant effects on the environment.<sup>117</sup> A description of feasible mitigation measures is part of “the core” of an EIR.<sup>118</sup> Formulation of mitigation measures cannot be deferred.<sup>119</sup> “The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will [be] considered, analyzed, and potentially incorporated in the mitigation measure.”<sup>120</sup>

MM AQ-3 requires the implementation of a Transportation Demand Management (“TDM”) program.<sup>121</sup> The timing for the preparation and submittal of the TDM is generally set forth in MM AQ-3 as “[p]rior to issuance of Phase 1 and Phase 2 occupancy permits....”<sup>122</sup> MM AQ-3, however, fails to specify specific performance standards for reducing the use of single occupant vehicles by employees and also omits a timeline for achieving the TDM strategies and undertaking the implementing actions. These omissions violate the requirements

<sup>116</sup> *Id.* at 8-9.

<sup>117</sup> Pub. Res. Code § 21100; 14 C.C.R. § 15126.4(a)(1).

<sup>118</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

<sup>119</sup> 14 C.C.R. § 15126.4(a)(1)(B).

<sup>120</sup> *Id.*

<sup>121</sup> DEIR at 4.2-39.

<sup>122</sup> *Id.* at 4.2-39.

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under CEQA Guidelines section 15126.4 to provide a detailed statement of feasible mitigation measures in an EIR. MM AQ-3 also fails to set forth clear monitoring and reporting requirements to ensure that the TDM is properly implemented. The failure to identify specific performance standards, timelines, and monitoring/reporting requirements makes MM AQ-3 uncertain and speculative.

e. **MM AQ-1 Must be Strengthened to Reduce the Project's Significant NOx Emissions and DPM Emissions During Construction in Phases 1 and 2**

CEQA prohibits a public agency from “approv[ing] projects as proposed if there are feasible [] mitigation measures available which would substantially lessen the significant environmental effects of such projects, ....”<sup>123</sup> Here, additional feasible mitigation is available with regards to MM AQ-1 to further reduce the Project's significant NOx emissions as well as emissions from DPM, which our expert determined to be significant and severely underestimated in the DEIR as discussed below.

O3-77

During Phase 1 of construction activities, the DEIR finds that “unmitigated construction emissions would exceed the SCAQMD threshold for the ozone precursors NOX and ROG (VOC) without implementation of MM AQ-1 and MM AQ-2.”<sup>124</sup> The DEIR further recognizes that “[c]onstruction of the Project would result in the generation of DPM emissions from the use of required off-road diesel equipment required.”<sup>125</sup> “Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors.”<sup>126</sup> MM AQ-1 requires in part that “[a]ll off-road diesel-powered construction equipment greater than 50 horsepower meets California Air Resources Board Tier 4 Final off-road emissions standards.”<sup>127</sup> MM AQ-1 therefore limits the Tier 4 requirement to equipment greater than 50 horsepower without justification. To address the Project's air quality and public health impacts during construction activities, this measure must be broadened to require all off-road diesel-powered construction equipment to be Tier 4 equipment—regardless of horsepower.

O3-78

<sup>123</sup> Pub. Res. Code § 21002.

<sup>124</sup> DEIR at 4.2-28.

<sup>125</sup> *Id.* at 4.2-50.

<sup>126</sup> *Id.* at 4.2-51.

<sup>127</sup> *Id.* at 4.2-38.

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### **B. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project's Impacts on Public Health**

The DEIR's discussion of public health impacts from air pollutants generated by the Project is inadequate. CEQA Guidelines section 15126.2 mandates that an EIR "identify and focus on the significant environmental effects of the proposed project ... examin[ing] [] changes in the existing physical conditions in the affected area," that it identify and describe "[d]irect and indirect significant effects of the project on the environment," and that the discussion should include, among other things, "relevant specifics of ... health and safety problems caused by the physical changes...."<sup>128</sup> As recognized by the California Supreme Court in *Sierra Club v. Cnty. of Fresno*, this section "also suggests that a connection be drawn between the two segments of information presented in the EIR—potential project emissions and human health impacts. Such a connection would meet CEQA's requirements."<sup>129</sup>

Here, the DEIR does not disclose and mitigate the full scope of the Project's impacts on public health. The DEIR's HRA underestimates DPM from the Project's back-up generators, omits an analysis of non-diesel low NOx and zero emission technology options for back-up generators, improperly segments the analysis of the Project's health risks between the construction and operations phases, relies on an inadequate receptor grid to calculate DPM, and its Air Dispersion Model has flaws that result in inaccurate estimates of the project's operational emissions, among other things. The Project is also sited without adequate buffers from sensitive receptors and is therefore inconsistent with General Plan Policy 8.4.3 and the DEIR fails to adequately analyze the cumulative health impacts in the highly impacted communities surrounding the Project site.

03-79

For the reasons stated herein, the DEIR's health analysis is deficient and must be revised.

#### **a. The HRA Failed to Fully Account for Back-up Generator Usage Onsite and Therefore Underestimates Emissions from DPM**

Internal combustion engines ("ICEs") are commonly used for emergency backup for electric power generation in the Basin and the SCAQMD adopted regulations requiring permits for stationary ICEs rated over 50 brake horsepower

<sup>128</sup> 14 C.C.R. §15126.2(a).

<sup>129</sup> *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 520.  
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(bhp).<sup>130</sup> “Based on the [SC]AQMD’s permitting database, there are over 12,000 permitted emergency ICEs at a range of facilities such as commercial buildings, hospitals, convalescent facility medical support systems, cell towers, police facilities, schools,” and more.<sup>131</sup> Most ICEs are diesel-fueled.<sup>132</sup> According to the SCAQMD, “[a]pproximately 90 percent of permitted stationary emergency ICEs are diesel-fueled, and are estimated to emit the vast majority of NOx emissions.”<sup>133</sup> “Emissions from emergency standby ICEs are notable due to the large quantity of this equipment in the [SC]AQMD, as well as the advanced age of the equipment.”<sup>134</sup>

O3-80

The HRA model relies on the assumption that the Project will involve three 750 horsepower (hp) back-up generators that would be operated up to 50 hours per year.<sup>135</sup> Dr. Clark determined that the HRA’s estimation of usage for these three back-up generators is too low given the substantial increase in operational emissions from back-up generators in the Basin due to unscheduled events such as, Public Safety Power Shutoffs (“PSPS”) and extreme heat events.<sup>136</sup> Based on substantial evidence provided in his comments, Dr. Clark reasoned that it is more likely that the back-up generators will be used up to 200 hours per year and therefore the emissions from DPM in the HRA are severely underestimated.<sup>137</sup>

O3-81

Dr. Clark explained that the number of extreme heat events “is likely to increase in California with the continuing change in climate the State is currently undergoing,” and that in 2019, “[t]he total duration of the PSPS events lasted between 141 hours to 154 hours [.]”<sup>138</sup> According to Dr. Clark, “[p]ower produced during PSPS or extreme heat events is expected to come from engines regulated by CARB and California’s 35 air pollution control and air quality management districts (air districts). Of particular concern are health effects related to emissions from diesel back-up engines.”<sup>139</sup>

O3-82

<sup>130</sup> SCAQMD, *Draft 2022 AQMD; Appendix IV-A* at IV-A-95 (May 2022), available at: <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2022-air-quality-management-plan/appiv-a.pdf?sfvrsn=18>.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* at IV-A-95—96.

<sup>134</sup> *Id.* at IV-A-95.

<sup>135</sup> DEIR, Appendix A at Appendix A.

<sup>136</sup> Clark Comments at 16-17.

<sup>137</sup> *Id.* at 17.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

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Dr. Clark also referenced the California Public Utilities Commission's de-energization report, which determined that there were nearly "806 PSPS events [] that impacted almost 973,000 customers (~7.5% of households in California)..." in October 2019.<sup>140</sup> During those PSPS events, approximately 1,810 stationary generators were operating, which generated 126 tons of NOx, 8.3 tons of PM, and 8.3 tons of DPM.<sup>141</sup> Dr. Clark determined that "[f]or every PSPS or Extreme Heat Event [] triggered during the operational phase of the project, significant concentrations of DPM will be released."<sup>142</sup> The additional release of DPM pollution from back-up generators during PSPS or extreme heat events is unaccounted for in the DEIR's analysis and therefore the Project's health impacts are underestimated. Dr. Clark recommended that a revised DEIR be prepared to include an analysis of the operation of additional BUGs up to 200 hours per year during PSPS and extreme weather events.<sup>143</sup>

O3-83

b. The DEIR HRA Must Evaluate Non-Diesel Low NOx and Zero Emission Technology Options for Back-Up Generators

The DEIR explains that "it is unknown whether emergency backup generators would be used," but the DEIR assumes that "[b]ackup generators would only be used in the event of a power failure and would not be part of the Project's normal daily operations."<sup>144</sup> The DEIR also assumes that any back-up generators utilized by the Project would be diesel-powered. However, alternative technologies to diesel-powered back-up generators are available to supply emergency back-up power and these alternative technologies must be disclosed and evaluated in the DEIR. As recognized by the SCAQMD, "Cleaner technologies are gaining traction as alternatives for use as backup power sources, and [], many are currently in use in the [SC]AQMD."<sup>145</sup> SCAQMD analyzes the following alternative technologies in the 2022 draft AQMD report: fuel cells, gas turbines, battery energy storage systems, and lower emission fuels.<sup>146</sup> An evaluation of these alternative technologies and/or fuels to support back-up emergency power generation for the Project is improperly

O3-84

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* at 18.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> DEIR at 4.7-26.

<sup>145</sup> SCAQMD, *Draft 2022 AQMD: Appendix IV-A* at IV-A-96 (May 2022), available at: <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2022-air-quality-management-plan/appiv-a.pdf?sfvrsn=18>.

<sup>146</sup> *Id.* at IV-A-95—99.

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omitted from the DEIR's analysis even though these technologies and/or fuels may be technically feasible and available.

c. The DEIR Improperly Segmented the Analysis of the Project's Health Risks During the Construction Phase and the Operational Phase

Dr. Clark commented that the DEIR's public health impacts analysis is deficient because the DEIR separately analyzed the construction phase health risks from the operation phase health risks, thereby piecemealing the analysis to minimize the significance of the Project's public health impacts.<sup>147</sup> This approach violates CEQA. Instead, according to Dr. Clark, "[f]or the cumulative risk to the sensitive receptors (residents near the site), the risk should be assessed together (added together). The construction phase and the operational phase will impact residents near the site and the total risk from both phases should be presented as a whole."<sup>148</sup>

O3-85

d. The HRA Model Input Relied on an Inadequate Receptor Grid to Calculate DPM

According to Dr. Clark, the numerical HRA "for Project failed use a fine enough receptor grid to adequately calculate the concentrations of DPM in the community."<sup>149</sup> The DEIR modeled receptors with a maximum of 50-meter grid spacing. However, Dr. Clark explained that "[a]dditional clarity to the model output is added when the distance between receptors is decreased and the number of receptors is increased within the model domain."<sup>150</sup> Dr. Clark recommended that the DEIR be revised to include a reduced spacing of receptors.<sup>151</sup>

O3-86

e. The HRA's Air Dispersion Model Has Flaws That Result in Inaccurate Estimates of the Project's Operational Emissions

Dr. Clark's comments explain that the HRA's modeling approach is significantly flawed in that the model fails to analyze emissions from building

<sup>147</sup> Clark Comments at 18.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.* at 19-20.

<sup>150</sup> *Id.* at 20.

<sup>151</sup> *Id.*

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downwash.<sup>152</sup> In doing so, the HRA underestimates DPM pollution—and resulting increased cancer risk—from building downwash, especially for receptors near the buildings. Dr. Clark cited to SCAQMD guidance for health risk assessments for mobile sources of diesel emissions, which “requires the inclusion of building heights and dimensions for building downwash calculations.”<sup>153</sup> Nevertheless, building downwash was improperly excluded from the HRA impacts analysis.

The DEIR’s analysis is therefore flawed in neglecting to account for building downwash and the HRA’s resulting conclusions about the Project’s health risks are unsupported and understated. The HRA must be revised to include an analysis of building downwash.

f. The Project is Sited Without Adequate Buffers from Sensitive Receptors and is Therefore Inconsistent with General Plan Policy 8.4.3

General Plan Policy 8.4.3 states, “Avoid the siting of new projects and land uses that would produce localized air pollution (e.g., Interstate 10, SR-60 high traffic roads, certain industrial facilities) in a way that would adversely impact existing air quality-sensitive receptors including schools, childcare centers, senior housing, and subsidized affordable housing. The recommended minimum distance separating these uses should be 500 feet.”<sup>154</sup> The Project is sited with single family residences adjacent to the east, within 165 feet to the south, 530 feet to the southeast, and 740 feet to the west.<sup>155</sup> Thus, sensitive receptors are located within 500 feet of the Project, which is inconsistent with the 500-foot setback recommended in Policy 8.4.3. The DEIR fails to assess this policy inconsistency.

Moreover, if sensitive land uses cannot be avoided within 500 feet of sources of localized air pollution, Policy 8.4.4 identifies “potential design mitigation options.”<sup>156</sup> The DEIR does not analyze or adopt the mitigation recommended by Policy 8.4.4 with the exception of PDF AQ-18, which states, “During Phase 1 the Project shall improve vegetation and tree canopy for all sensitive receptors’

<sup>152</sup> *Id.* at 18-19.

<sup>153</sup> *Id.* at 19.

<sup>154</sup> City of Beaumont, *Beaumont General Plan* (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521).

<sup>155</sup> DEIR at 4.2-5.

<sup>156</sup> City of Beaumont, *Beaumont General Plan* (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521). 6128-006aep

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properties located within a 300-foot radius of the Project boundary for a maximum one-time contribution of \$5,000 per sensitive receptor's property.”<sup>157</sup> If in fact the sensitive land uses cannot be avoided within 500 feet of sources of localized air pollution, the DEIR must support this conclusion with substantial evidence and also analyze the feasibility of additional mitigation, including those measures proposed under Policy 8.4.4. PDF AQ-18 must also be amended to require improvements to vegetation and tree canopy for all sensitive receptors' properties located within a 500-foot radius of the Project boundary, as is consistent with Policy 8.4.3.

g. The DEIR Fails to Adequately Analyze the Cumulative Health Impacts in the Highly Impacted Communities Surrounding the Project Site

Dr. Clark commented that the DEIR does not adequately explain that many of the Project's surrounding communities are already disproportionately affected by air pollution and experience elevated levels of negative health effects. The Project will exacerbate these conditions, particularly given the DEIR's conclusion that the Project would result in significant and unavoidable impacts to air quality, GHG emissions, noise, and transportation.<sup>158</sup> By failing to analyze the existing air pollution and health conditions of communities in the direct vicinity of the Project site, the DEIR fails to accurately assess the Project's cumulative health impacts.

O3-91

According to the Office of Emergency Health Hazard Assessment's (“OEHHA”) CalEnviroScreen 4.0, the census tract in which the Project is located is in the top 1% of census tracts in California for ozone and in the top 65% of census tracts in California for traffic density.<sup>159</sup> Dr. Clark's comments explain that the DEIR fails to adequately analyze the extent to which the Project's impacts will exacerbate these existing conditions. An agency is required to find that a “project may have a ‘significant effect on the environment’ if, among other things, “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.”<sup>160</sup> CEQA requires lead agencies to “identify

O3-92

<sup>157</sup> DEIR at 4.2-24.

<sup>158</sup> DEIR at 1-8.

<sup>159</sup> CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment (“OEHHA”) that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. OEHHA, *CalEnviroScreen 4.0; Census Tract 6065043811*, available at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>.

<sup>160</sup> Pub. Res. Code § 21083(b)(3); See also 14 C.C.R. § 15126.2 (project may cause a significant effect by bringing people to hazards).

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critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds from being reached."<sup>161</sup> The fact that an area already is polluted makes it more likely that any additional, unmitigated pollution will be significant.

As supported by Dr. Clark's comments, the DEIR must be revised to "assess the impacts of adding the thousands of additional vehicle miles per day on the criteria pollutant and DPM emissions on the local community. The City should revise its air quality and health risk analysis to include the cumulative impact of the additional vehicle miles traveled in the local area and present it in an R-EIR."<sup>162</sup> In failing to provide this information, the DEIR deprives the decision-makers and public of an accurate characterization of the Project's cumulative air quality and public health impacts.

O3-93

### C. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project's Impacts on GHG Emissions

The DEIR concludes that "the Project-related GHG emissions would exceed the SCAQMD's threshold of 10,000 MTCO<sub>2</sub>eq despite implementation of MM AQ-3 through MM AQ-6 and MM GHG-1 through MM GHG-4 and could impede statewide 2030 and 2050 GHG emission reduction targets."<sup>163</sup> Furthermore, the DEIR concludes that the Project would result in a significant cumulative GHG impact.<sup>164</sup> Despite the DEIR's conclusions that the Project would result in significant and unavoidable GHG impacts, the DEIR erroneously concludes that no additional feasible mitigation measures exist to reduce the Project's GHG emissions to levels that are less than significant.<sup>165</sup>

O3-94

As supported herein and in the attached expert report, the DEIR's GHG impacts analysis is deficient and there is substantial evidence demonstrating that additional feasible mitigation measures are available to reduce the Project's significant impacts from GHG emissions from mobile sources.

O3-95

<sup>161</sup> *Id.* at § 21000(d).

<sup>162</sup> Clark Comments at 24.

<sup>163</sup> DEIR at 4.7-53.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

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a. The Project Conflicts with GHG Emission Reduction Plans and Policies and Therefore the Project Does Have a Significant Impact with Respect to Impact 4.7-2

The DEIR concludes that the Project does not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions and therefore, the Project does not have a significant impact on GHG emissions with regards to this threshold of significance.<sup>166</sup> The DEIR nevertheless identifies Impact 4.7-2 as a significant and unavoidable impact but only because the Project's long-term operational GHG emissions exceed the City's significance threshold of 3,000 MTCO2e per year despite the implementation of mitigation measures.<sup>167</sup> However, the Project also has a significant impact on GHG emissions because the Project is inconsistent with specific plans and policies analyzed in the DEIR. The DEIR's conclusion otherwise that the Project is consistent with these plans or policies is not supported by substantial evidence.

O3-96

First, Goal 7 in the City of Beaumont's "Sustainable Beaumont Plan" is to "[d]ecrease GHG emissions through reducing vehicle miles traveled."<sup>168</sup> The DEIR incorrectly identifies the Project as consistent with Goal 7 because "[t]he Project will incorporate a Transportation Design Management program...."<sup>169</sup> However, the DEIR concludes that the Project would result in significant and unavoidable impacts on Vehicle Miles Traveled ("VMT") and GHG emissions even with implementation of a TDM program and the Project's other mitigation measures.<sup>170</sup>

O3-97

The GHG analysis expressly states that the TDM program required by MM AQ-3 "will reduce GHG emissions from employees commuting to work, [but] the number of delivery trips and retail customer trips would *not* be reduced by a TDM program," and "the Project's emissions would still exceed the 3,000 MTCO2e per year threshold."<sup>171</sup> Moreover, the DEIR concludes that "[a]dditional mitigation to further reduce these emissions is not feasible."<sup>172</sup> Thus, by the DEIR's own admission, the Project's GHG emissions from the Project's VMT cannot be reduced

O3-98

<sup>166</sup> *Id.* at 4.7-52.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 4.7-41.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.* at 1-8.

<sup>171</sup> *Id.* at 4.7-35 (emphasis added).

<sup>172</sup> *Id.*

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to less than significant levels even with MM AQ-3 and therefore the Project is inconsistent with Goal 7 of the Sustainable Beaumont Plan.

Second, the Riverside County Climate Action Plan Screening Table assigns thirty-four points because “Solar panels provide 100 percent of power needs of the project.”<sup>173</sup> However, this requirement is not guaranteed by MM GHG-1 and therefore the points assigned to this measure are not supported by substantial evidence. MM GHG-1 requires the installation or acquisition of some type of renewable energy to provide 100 percent of the expected building load, but does not require the installation of solar panels specifically; “Phase 1 of the Project shall install solar photovoltaic (PV) panels or other source of renewable energy generation on-site, or otherwise acquire energy from the local utility that has been generated by renewable sources, that would provide 100 percent of the expected building load....”<sup>174</sup> Additionally, MM GHG-1 only requires renewable energy resources to provide the energy for Phase 1 of the Project—not the entire Project as stated in the Table. MM GHG-1 does not address the energy requirements for Phase 2 of the Project. Therefore, the DEIR’s conclusion in the Riverside County Climate Action Plan Screening Table is not based on substantial evidence.

O3-99

The DEIR also evaluates the Project’s consistency with the Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”).<sup>175</sup> Goal 5 is to reduce GHG emissions and improve air quality.<sup>176</sup> The DEIR concludes that the Project is consistent with Goal 5 because “[t]he Project is located within an urban area in proximity to existing truck routes and freeways. Location of the project within a developed area would reduce trip lengths, which would reduce GHG and air quality emissions.”<sup>177</sup> (4.7-47—4.7-48). This analysis is not supported by substantial evidence in the DEIR. The DEIR determines that the Project will have unavoidable and significant impacts associated with air quality, GHG emissions, and transportation.<sup>178</sup> Even with the implementation of mitigation measures, PDFs, and standard conditions, the Project’s Phase 1 GHG emissions are estimated at 34,306 MTCO<sub>2</sub>e per year and Phase 2 GHG emissions would be 11,311 MTCO<sub>2</sub>e per year, which far exceed the 3,000 MTCO<sub>2</sub>e per year threshold.<sup>179</sup> The Project is

O3-100

<sup>173</sup> *Id.* at 4.7-44.

<sup>174</sup> *Id.* at 4.7-39.

<sup>175</sup> *Id.* at 4.7-47.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.* at 4.7-47—4.7-48.

<sup>178</sup> *Id.* at 1-8.

<sup>179</sup> *Id.* at 4.7-35—4.7-36.

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therefore not consistent with Goal 5 and the DEIR's conclusion otherwise is not supported by substantial evidence.

Finally, the DEIR analyzes the Project's consistency with applicable CARB Scoping Plan Measures, including high global warming potential gases regulated by the CARB Refrigerant Management Program, C.C.R. section 95380.<sup>180</sup> "The regulations are applicable to refrigerants used by large air conditioning systems and large commercial and industrial refrigerators and cold storage system."<sup>181</sup> The DEIR provides no factual analysis and simply concludes that the Project is consistent with the regulations.<sup>182</sup> The DEIR must set forth a meaningful evaluation to support the consistency conclusion, particularly given that the DEIR is inconsistent about whether the Project will in fact involve TRUs, as explained above.

O3-101

b. Additional Mitigation Measures Must be Required to Reduce the Project's Significant Impacts from GHG Emissions

CEQA prohibits an agency from approving a project for which there are feasible mitigation measures that would substantially lessen the significant environmental effects of the project.<sup>183</sup> To reject a mitigation measure, the agency must make a finding that the measure is infeasible.<sup>184</sup> While "an agency need not 'adopt every nickel and dime mitigation scheme brought to its attention or proposed in the project EIR,' [] it must incorporate feasible mitigation measures' 'when such measures would 'substantially lessen' a significant environmental effect.'"<sup>185</sup>

O3-102

Despite the DEIR's conclusions that the Project would result in significant and unavoidable GHG impacts, the DEIR erroneously concludes that no additional feasible mitigation measures exist to reduce the Project's GHG emissions to levels that are less than significant.<sup>186</sup> In part, the DEIR dismisses the feasibility of additional mitigation to reduce the Project's mobile emissions "due to the limited

O3-103

<sup>180</sup> *Id.* at 4.7-51.

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> Pub. Res. Code § 21002.

<sup>184</sup> *Id.* at § 21081.

<sup>185</sup> *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal. App. 5th 867, 879.

<sup>186</sup> *Id.*

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ability of the City of Beaumont to address emissions resulting from trucks, cars, and/or emissions generated by these trucks outside of the City's limits."<sup>187</sup>

The DEIR's conclusion that no additional mitigation is feasible to reduce the Project's significant GHG emissions is unsupported by substantial evidence. CEQA requires an EIR to describe mitigation measures which are both enforceable and effective to minimize significant impacts.<sup>188</sup> To satisfy CEQA's requirements, mitigation measures must be feasible, reasonably be expected to avoid or minimize significant adverse impacts, and stated as conditions of approval in a permit, agreement or other legally binding document or incorporated into a plan, policy, regulation, or project design.<sup>189</sup> As supported herein and in the attached expert report, there is substantial evidence demonstrating that additional feasible mitigation measures are available to reduce the Project's significant impacts from GHG emissions from mobile sources. The DEIR is deficient in failing to consider and adopt these additional feasible measures.

O3-104

Dr. Clark's examination of the Project's CalEEMOD analysis demonstrates "that the single largest source of GHG from the project during operations are the large trucks which will be entering and exiting the Project Site."<sup>190</sup> Dr. Clark therefore recommends that the Project's mitigation measures "focus on the trucks entering and leaving the Project Site to have any impact on GHG emissions."<sup>191</sup> Dr. Clark identified six mitigation measures recommended by the California Air Resources Board and SCAQMD to reduce the Project's operational GHG emissions, including:

1. "Include contractual language in tenant lease agreements that requires 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.
2. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
3. Include contractual language in tenant lease agreements requiring all trucks, and cars entering the Project site be zero-emission.

O3-105

<sup>187</sup> *Id.* at 4.7-36.

<sup>188</sup> 14 C.C.R. § 15126.4(a)(1).

<sup>189</sup> *Id.* at § 15126.4(a)(2).

<sup>190</sup> Clark Comments at 14.

<sup>191</sup> *Id.*

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4. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2018 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.
5. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.
6. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level.”<sup>192</sup>

Accordingly, a good-faith, reasoned analysis is entirely missing in the DEIR regarding the feasibility of additional mitigation measures, such as the measures identified above.<sup>193</sup> Thus, the DEIR lacks the evidence necessary to support its conclusion that no further mitigation measures are feasible.

O3-106

#### **D. The DEIR Fails to Disclose the Full Scope of the Project's Impacts from Hazardous Materials**

The DEIR fails to assess the impacts of waste from the former chicken ranch that the Project will be built upon. Dr. Clark explained that the Project's Phase I Site Assessment fails to disclose whether arsenic is present in the soils on the site from previous site operations.<sup>194</sup> Specifically, roxarsone is an arsenic-based antibiotic fed to chickens that may be present given the site's former uses as an egg and poultry farm.<sup>195</sup> Dr. Clark's comments explain that neither the DEIR nor the Phase I Site Assessment discloses or analyzes the presence of roxarsone in the site's soils and the resulting impacts.<sup>196</sup> Dr. Clark commented that “[m]ore than 95 percent of the roxarsone fed to chickens is excreted in chicken waste which is regularly applied as fertilizer. The arsenic from these applications can leach into surface and ground water supplies and be transformed into inorganic arsenic, a

O3-107

<sup>192</sup> *Id.* at 15-16.

<sup>193</sup> Covington, 43 Cal. App. 5th at 881.

<sup>194</sup> Clark Comments at 24.

<sup>195</sup> DEIR at 4.8-2.

<sup>196</sup> Clark Comments at 24.

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known carcinogen. Residual arsenic in soils will harm nearby residents when the soils are disturbed and migrates offsite.”<sup>197</sup> The failure to assess the potential presence of roxarsone in the soils on site given the Project site’s former uses is a glaring omission in the DEIR.

#### **E. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project’s Impacts on Traffic and Transportation**

The City’s General Plan encourages the “identif[ication] [of] strategies to encourage timely and efficient goods movement that does not significantly contribute to congestion, air pollution, and noise in Beaumont.”<sup>198</sup> Contrary to this goal in the General Plan, the DEIR finds that the Project will significantly contribute to air pollution, climate change and GHG emissions, and VMT. With regards to the Project’s transportation impacts, the DEIR concludes that “[e]ven with implementation of regulatory requirements, standard conditions of approval and implementation of reasonable and feasible mitigation measures, the Project would result in unavoidable significant impacts with respect to inconsistency with CEQA Guidelines § 15064.3, subdivision (b) (Impact 4.15-2) and significant cumulative transportation impacts.”<sup>199</sup>

O3-108

The Project’s VMT impacts analysis has many omissions and deficiencies, including that the threshold is unsupported by substantial evidence and the DEIR fails to disclose the significant VMT impacts due to the Project’s land use change from residential to industrial and commercial. The DEIR also fails to consider all feasible mitigation measures to reduce the Project’s significant transportation impacts to less than significant levels.

a. **The Project is Sited in an Area with No Existing or Planned Transit Stops in Conflict with Transit Plans and Policies, which is an Undisclosed Significant Impact in the DEIR**

CEQA Guidelines section 15064.3 sets forth specific considerations for analyzing a project’s transportation impacts.<sup>200</sup> “Generally, vehicle miles traveled is the most appropriate measure of transportation impacts,” but CEQA Guidelines

O3-109

<sup>197</sup> *Id.*

<sup>198</sup> City of Beaumont, *Beaumont General Plan* at 115 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521).

<sup>199</sup> DEIR at 4.15-24.

<sup>200</sup> 14 C.C.R. § 15064.3(a).  
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establishes that “[o]ther relevant considerations may include the effects of the project on transit and non-motorized travel.”<sup>201</sup>

Impact 4.15-1 evaluates whether the Project will conflict with a program plan, ordinance or policy addressing the circulation system, including transit.<sup>202</sup> The City operates its own bus system throughout the City, but the City “does not have any rail service or high quality transit as identified by HCD.”<sup>203</sup> The DEIR states that no public transit stops are located in the vicinity of the Specific Plan area, but nevertheless dismisses any impacts on local public transit service.<sup>204</sup> However, the lack of public transit in the vicinity of the Project site conflicts with many goals and policies in the City’s General Plan. As explained in Mr. Smith’s comments, “[i]f the Project causes nonconformance to General Plan provisions, these General Plan inconsistencies must be identified as a significant impact requiring mitigation.”<sup>205</sup> A discussion of these General Plan inconsistencies is improperly omitted from the DEIR and the resulting significant impact is undisclosed.

For example, General Plan Goal 3.1, Policy 3.1.8 requires “new major centers and larger residential developments to be accessible to major transportation facilities as well as be well-connected to transit,” and Policy 3.1.8 requires “new major centers and larger residential developments to be accessible to major transportation facilities, a well-connected street network, and safe and efficient access to transit.”<sup>206</sup> The Project is not “well-connected to transit” and will not provide for “safe and efficient access to transit” because there are no existing or planned public transit stops within the vicinity of the Project site. Policy 5.1.4 in the General Plan’s Economic Development and Fiscal Element “[e]ncourages growth and expansion of businesses and employment centers near public transit to increase transportation options for employees and limit traffic congestion.”<sup>207</sup> This Project on the other hand proposes to develop massive e-commerce buildings and mixed commercial uses on a site without accessible public transit in the Project vicinity, which encourages development that significantly increases VMT. The Project is

O3-110

<sup>201</sup> *Id.*

<sup>202</sup> DEIR at 4.15-16.

<sup>203</sup> City of Beaumont, *Draft Housing Element; 6<sup>th</sup> Cycle 2021-2029* at F-27 (April 2022), available at: <https://www.beaumontca.gov/DocumentCenter/View/37595/Draft-Housing-Element-6th-Cycle-2021-2029>.

<sup>204</sup> DEIR at 4.15-16.

<sup>205</sup> Smith Comments at 6.

<sup>206</sup> DEIR at 4.10-5.

<sup>207</sup> *Id.* at 4.15-12.

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therefore inconsistent with Policy 5.1.4 as well. General Plan Goal 4.1, Policy 4.1.5 requires “residential and commercial development standards that strengthen connections to transit and promote walking to neighborhood services.”<sup>208</sup> The Project will not “strengthen connections to transit,” but instead will significantly increase VMT in the area and is therefore inconsistent with Policy 4.1.5.

Finally, the DEIR improperly omits any analysis of whether the Project could significantly impact transit service by additional ridership that could increase demand above local transit system’s capacity. This analysis must be included in the DEIR’s transportation impacts analysis.

O3-111

b. The DEIR’s VMT Threshold is Unsupported by Substantial Evidence

The purpose of an EIR “is to identify the significant effects on the environment of [the] project.”<sup>209</sup> In this determination, thresholds of significance play a role. “A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.”<sup>210</sup> CEQA Guidelines establish that “[w]hen adopting or using thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.”<sup>211</sup> Here, the City’s VMT threshold is unsupported by substantial evidence, as detailed in Mr. Smith’s expert comments.

O3-112

According to Mr. Smith, “the City [] set very lenient VMT significant impact thresholds of 3 percent less than the City’s average VMT per Served Person (SP) at 2040 General Plan Build-out and 3 percent than the average Home Based Work (“HBW”) VMT per employee. These thresholds work out to be 30.4 VMT per SP and 8.9 HBW VMT per employee.”<sup>212</sup> The City declined to adopt the Office of Planning & Research’s recommended 15 percent reduction in VMT on the basis that “a

O3-113

<sup>208</sup> City of Beaumont, *Beaumont General Plan* at 121 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521).

<sup>209</sup> Pub. Res. Code § 21002.1(a).

<sup>210</sup> 14 C.C.R. § 15064.7(a).

<sup>211</sup> *Id.* at § 15064.7(c).

<sup>212</sup> Smith Comments at 1.  
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threshold of three percent below existing VMT... is appropriate for projects within the City of Beaumont, given that it would create consistency with, and progress the goals of the SCAG RTP/SCS.”<sup>213</sup> However, Mr. Smith stated in his comments that “the RTP/SCS sets forth a transportation performance result to ‘Reduce vehicle miles traveled per capita by 5 percent,’ not 3 percent.”<sup>214</sup> The City has therefore failed to support its selected VMT threshold with substantial evidence and as a result, Mr. Smith commented that “the DEIR’s impact analysis must be revised.”<sup>215</sup>

c. The DEIR Fails to Disclose the Significant VMT Impacts Due to the Project’s Land Use Change from Residential to Industrial and Commercial

Mr. Smith determined that the Project site’s land use change from residential to industrial and commercial will substantially increase net VMT above the net VMT that would have been generated by residential development consistent with the current general plan designations.<sup>216</sup> Based on Mr. Smith’s calculations, “the currently proposed project at predicted VMT generation rates would generate 4.5 to 5.5 times as much daily VMT as a residential project under the existing General Plan and zoning.”<sup>217</sup> In Mr. Smith’s expert opinion, “the land use change from residential to industrial and commercial would create many new significant impacts, including a significant VMT impact,...”<sup>218</sup>

O3-114

d. The DEIR’s Recommended Improvements to Bring Intersections to an Acceptable LOS are Inconsistent with the City’s General Plan and are Uncertain Since None of the Improvements are Required as Formal Mitigation Measures

The DEIR explains that the Project’s traffic impact analysis in Appendix K studied Level of Service (“LOS”) at nineteen intersections/driveways under seven scenarios.<sup>219</sup> The analysis concluded that “various study intersections would operate at an unacceptable LOS and therefore not be compliant with Policy

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<sup>213</sup> DEIR at 4.15-16.

<sup>214</sup> Smith Comments at 2.

<sup>215</sup> *Id.*

<sup>216</sup> Smith Comments at 3.

<sup>217</sup> *Id.* at 4.

<sup>218</sup> *Id.*

<sup>219</sup> DEIR at 4.15-17.

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4.1.2.”<sup>220</sup> Policy 4.1.2 in the City’s General Plan requires LOS D to be maintained “on all auto-priority streets in Beaumont. LOS E is considered acceptable on non-auto-priority streets.”<sup>221</sup> The DEIR identifies numerous “recommended improvements...to bring the intersections to an acceptable LOS.”<sup>222</sup> These improvements include, but are not limited to, adding right and left turn lanes, installing new traffic signals, adding new through lanes, and more.<sup>223</sup>

O3-115

However, the City’s General Plan states that “the Mobility Element promotes **reuse** of the existing roadway width or the **minor** expansion of the existing right-of-way (ROW) to accommodate a more complete street.”<sup>224</sup> To the contrary, the Project is proposing numerous substantial “improvements” at fifteen different intersections that would otherwise operate as unacceptable LOS.<sup>225</sup> These improvements would include new lanes and traffic signals that would result in the major expansions of the existing roadways. As such, the improvements are inconsistent with the stated goals in the General Plan’s Mobility Element.

O3-116

Moreover, as supported by Mr. Smith’s comments, none of these “improvements” are identified as fully enforceable mitigation measures in the DEIR, but are mere recommendations.<sup>226</sup> Accordingly, there is no guarantee that the measures will actually be implemented, when, or even how since the DEIR states that the “[r]ecommended improvements may include a combination of fee payments to established programs, construction of specific improvements, payment of a fair share contribution toward future improvements, or a combination of these approaches.”<sup>227</sup> According to Mr. Smith, “[i]f mitigation measures are required to reduce the Project’s significant impacts, they must also be clearly identified in the DEIR.”<sup>228</sup>

O3-117

For the foregoing reasons, the DEIR’s recommended improvements to bring intersections to an acceptable LOS are inconsistent with the General Plan and are

<sup>220</sup> *Id.*

<sup>221</sup> *Id.* at 4.15-10.

<sup>222</sup> *Id.* at 4.15-17.

<sup>223</sup> *Id.* at 4.15-17—4.15-18.

<sup>224</sup> City of Beaumont, *Beaumont General Plan* at 95 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521) (emphasis added).

<sup>225</sup> DEIR at 4.15-17—4.15-18.

<sup>226</sup> Smith Comments at 6.

<sup>227</sup> DEIR at 4.15-18.

<sup>228</sup> Smith Comments at 6.

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uncertain since none of the improvements are required as formal mitigation measures.

e. The DEIR Fails to Consider All Feasible Mitigation Measures to Reduce the Project's Significant Transportation Impacts to Less Than Significant Levels

Mr. Smith's expert comments concluded that "the DEIR's analysis has not exhausted all potential mitigation possibilities," and Mr. Smith proposed the following additional mitigation measure that must be evaluated in the DEIR:<sup>229</sup>

Consider the fact the nearest transit stop to the Project site is the PASS Transit Bus Route 3, located near the Intersection of Cherry Valley Boulevard and Beaumont Avenue approximately 2 miles away from the project site. Bus Route 3 ends at the Walmart Supercenter, at Highland Springs Avenue and the I-10 Freeway. This shopping center is a transfer point for the PASS Banning lines, as well as the Riverside Transit Authority (RTA) and the Sunline Transit Agency lines. The 2-mile separation between the Project site and the nearest transit stop makes it highly unlikely that there will be meaningful reliance on transit by Project employees and renders other potential measures to reduce VMT such as providing free or subsidized transit or transit passes for project employees; installing signage that encouraged transit use; and implementing marketing and information campaigns regarding transit options ineffective. However, operating alone or in concert with other nearby developments, if the Project subsidized extending the 3 Route to the immediate Project vicinity or provided shift-change shuttles to the existing transit stop, that action alone would enable some transit use and would allow the other incentives identified above to become effective. So the Project has not exhausted all feasible mitigation.<sup>230</sup>

O3-118

To satisfy CEQA's findings requirements, all feasible mitigation measures must be adopted, and this finding must be supported by substantial evidence. As supported by Mr. Smith's comments, the DEIR fails to do so here and must be revised and recirculated with additional mitigation measures, as proposed by Mr. Smith, to mitigate the Project's significant impacts on transportation.

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<sup>229</sup> *Id.* at 2-3.

<sup>230</sup> *Id.* at 3.

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#### F. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project's Impacts on Population and Housing

According to the DEIR, the “[p]opulation in the City is forecasted to increase to 80,200 persons by 2045, an approximately 55.2 percent difference from 2016. Households within the City are forecasted to increase to 25,100 households by 2045, an approximately 55.4 percent difference from 2016.”<sup>231</sup> “State law mandates that each jurisdiction ensure availability of an adequate number of sites that have appropriate zoning, development standards, and infrastructure capacity to meet its fair share of regional housing need (i.e., RHNA) at all income levels.”<sup>232</sup>

The RHNA for the City has a total allocation of 4,210 units for the October 2021 to October 2029 planning period.<sup>233</sup> The City is “responsible for creating a regulatory environment in which the private market could build unit types included in their State housing allocation.,” which “includes the creation, adoption, and implementation of General Plan policies, zoning standards, and/or economic incentives to encourage the construction of various types of units.”<sup>234</sup>

O3-119

Table II-2: 6<sup>th</sup> Cycle RHNA

Area/Income	Beaumont		Riverside County		SCAG	
	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>	<b>4,210</b>	<b>100%</b>	<b>167,351</b>	<b>100%</b>	<b>1,341,827</b>	<b>100%</b>
<b>Very Low<sup>1</sup></b>	1,229	29.2%	41,995	25.1%	351,796	26.2%
<b>Low</b>	721	17.1%	26,473	15.8%	206,807	15.4%
<b>Moderate</b>	723	17.2%	29,167	17.4%	223,957	16.7%
<b>Above Moderate</b>	1,537	36.5%	69,716	41.7%	559,267	41.7%

<sup>1</sup> The City estimates 50% of the Very Low RHNA households would qualify as extremely low income (i.e., 614 extremely low-income units).

Source: SCAG, City of Beaumont, LWC

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<sup>231</sup> DEIR at 4.12-1.

<sup>232</sup> City of Beaumont, *Draft Housing Element; 6<sup>th</sup> Cycle 2021-2029* at 12 (April 2022), available at: <https://www.beaumontca.gov/DocumentCenter/View/37595/Draft-Housing-Element-6th-Cycle-2021-2029>.

<sup>233</sup> *Id.*

<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

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The Project site location is identified in the General Plan as “North Neighborhoods” and is described as follows:

“The northern portion of Beaumont [around where the Project is located] is largely planned with numerous suburban residential developments. ... Sunny-Cal was approved in 2018 and annexed into the City. ... While there are parcels within this subarea that are undeveloped, new residential projects are under construction or are planned. The street pattern in this subarea is predominantly suburban with curvilinear, dead-end streets that provide limited pedestrian connectivity. Many of the residential developments are gated, further limiting pedestrian connectivity. ... The location and extent of permitted development within the North Neighborhoods generally mirror the existing development and entitlements for future development. Much of this subarea is designated as Single-Family Neighborhoods with limited areas reserved for Neighborhood Commercial and High Density Residential. **This subarea is not expected to undergo significant land use change in the future.**”<sup>236</sup>

03-120

The General Plan also identifies a host of strategies for the northern areas of the City where the Project is located including, but not limited to:

- Seek opportunities to connect streets and pedestrian paths to surrounding subareas.
- Prioritize pedestrian and bicycle connections to parks, schools and neighborhood shopping.
- Ensure that new shopping centers serve surrounding neighborhoods and are physically accessible via bicycle routes and connected sidewalks. ...
- Use specific plan(s) for the large development sites within the neighborhood, requiring coordination and consistency with adjacent specific plans and project master plans, in order to promote an integrated development pattern.

...

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<sup>236</sup> City of Beaumont, *Beaumont General Plan* at 55 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521) (emphasis added).

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- Prioritize development of a neighborhood center that provides goods and services to community residents on the northwest corner of Beaumont Avenue and Oak Valley Parkway.<sup>237</sup>

Despite the City's significant population growth projections and the General Plan's description of the land use in the area as single-family residential, the Project nevertheless proposes to amend the General Plan designation from Single-Family Residential to Industrial for Parcels 1, 2, and 3 and to General Commercial for Parcel 4, thereby eliminating approximately 158.65 acres from residential uses and removing around 560 units from the City's planned housing stock.<sup>238</sup> The DEIR fails to adequately analyze the significant impacts resulting from this loss of needed housing stock during a housing crisis in the state. This is a glaring omission in the DEIR. The DEIR must be revised and recirculated to include a thorough analysis of the significant impacts from a decision to remove residentially designated land in the City, resulting in an unmitigated loss of residential capacity.

O3-121

a. The Project's Conflicts with California Housing Laws is an Undisclosed and Unmitigated Significant Impact in the DEIR

The California Legislature has declared that “[d]esignating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals....”<sup>239</sup> Senate Bill (“SB”) 330, known as the Housing Accountability Act, became effective on January 1, 2020.<sup>240</sup> In relevant part, SB 330 prohibits “[c]hanging the general plan land use designation, ... to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, ... below what was allowed under the land use designation...of the [ ] affected city....”<sup>241</sup> Lower density can result from another use, such as commercial being approved on a site identified for housing. Section 66300 of the Housing Crisis Act of 2019, however, “does not prohibit an [ ] affected city, [ ] from changing a land use designation [ ] to a less intensive use, or reducing the intensity of land use, if the city [ ] concurrently changes the

O3-122

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* at 3-8—3-9.

<sup>239</sup> Govt' Code § 65580(f).

<sup>240</sup> *Id.* at § 65589.5, *et seq.*

<sup>241</sup> *Id.* at § 66300(b)(1)(A). In accordance with SB 330, the HCD has prepared a list of affected cities and has determined that Beaumont is an “affected city.” DEIR at 4.12-6.

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development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.”<sup>242</sup>

California’s SB 166, known as the No Net Loss Law, was enacted in 2019.<sup>243</sup> The purpose of the law “is to ensure development opportunities remain available throughout the planning period to accommodate a jurisdiction’s regional housing need allocation (RHNA), especially for lower- and moderate- income households.”<sup>244</sup> SB 166 prohibits a jurisdiction from reducing residential density for a parcel or allowing development at a lower residential density, as defined in section 65863, subsection (g)(1)-(2), unless the jurisdiction makes written findings supported by substantial evidence of both of the following: “(A) The reduction is consistent with the adopted general plan, including the housing element. (B) The remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction’s share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.”<sup>245</sup>

Here, the Project site encompasses approximately 158.65 acres of Low-Density Residential lands that were previously approved in the 2007 Sunny-Cal Specific Plan.<sup>246</sup> The 560 residential units proposed in the Sunny-Cal Specific Plan are accounted for in the City 2021-2029 Housing Element’s list of “projects that can be credited toward the 6th Cycle RHNA.”<sup>247</sup> The City’s General Plan also includes the planned buildout of 560 homes in the Sunny-Cal Specific Plan.<sup>248</sup> Nevertheless, the Project proposes to amend the previously approved specific plan and also amend

O3-123

<sup>242</sup> *Id.* at § 66300(i)(1). “[C]oncurrently” means the action is approved at the same meeting of the legislative body.” *Id.* at § 66300(i)(2).

<sup>243</sup> *Id.* at § 65863, *et seq.*

<sup>244</sup> Memorandum from Zachary Olmstead, Deputy Director for the Division of Housing Policy Development, to Planning Directors and Interested Parties (October 2, 2019), available at: <https://www.hed.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>.

<sup>245</sup> Govt’ Code § 65863(b)(1).

<sup>246</sup> DEIR at 4.12-12.

<sup>247</sup> City of Beaumont, *Draft Housing Element; 6<sup>th</sup> Cycle 2021-2029* at 12 (April 2022), available at: <https://www.beaumontca.gov/DocumentCenter/View/37595/Draft-Housing-Element-6th-Cycle-2021-2029>.

<sup>248</sup> City of Beaumont, *Beaumont General Plan* at 40 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521-6128-006acp](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521-6128-006acp).

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the General Plan “to change the current ‘Single Family Residential’ land use to ‘Industrial, General Commercial, and Open Space’ land use....”<sup>249</sup> The Project thus proposes a reduction in density that would trigger the need for the City to make certain findings under both SB 330 and SB 166’s requirements. Moreover, the Housing Crisis Act of 2019 prohibits the City from changing the land use designation unless the City “concurrently change[s] [] the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.”<sup>250</sup> The DEIR fails to provide any analysis regarding consistency with the requirements of SB 330 and SB 166 and is therefore deficient. The DEIR must be revised and recirculated to include this analysis supported by substantial evidence.

b. The DEIR’s Finding that the Project will Not Displace a Substantial Amount of Housing is Unsupported by Substantial Evidence

The DEIR’s significance threshold is whether the Project would displace substantial numbers of housing, necessitating the construction of replacement housing elsewhere.<sup>251</sup> The DEIR reasons that since no housing or development has occurred on the Project, “no displacement of homes would occur,” and “[a] less than significant impact would occur.”<sup>252</sup> The DEIR’s significance determination is not supported by substantial evidence. Approximately 560 residential units were approved at the site and this housing stock is accounted for in both the City’s 2021-2029 Housing Element’s and the City’s General Plan.<sup>253</sup> The Project would thus remove 560 approved housing units from the City’s planning documents and RHNA goals, impairing the City’s ability to comply with housing production requirements—the impacts of which are not evaluated in the DEIR. Moreover, the Housing Crisis Act of 2019 prohibits the City from changing the land use designation unless the City “concurrently change[s] [] the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss

O3-124

<sup>249</sup> DEIR at 4.12-12—4.12-13.

<sup>250</sup> Gov’t Code at § 66300(i)(1).

<sup>251</sup> DEIR at 4.12-12.

<sup>252</sup> DEIR at 4.12-13.

<sup>253</sup> City of Beaumont, *Draft Housing Element; 6<sup>th</sup> Cycle 2021-2029* at 12 (April 2022), available at: <https://www.beaumontca.gov/DocumentCenter/View/37595/Draft-Housing-Element-6th-Cycle-2021-2029>; City of Beaumont, *Beaumont General Plan* at 40 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521.6128-006aep](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521.6128-006aep)

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in residential capacity.”<sup>254</sup> No analysis is provided in the DEIR regarding whether the Project would result in a net loss in residential capacity and if so, where replacement housing will be constructed elsewhere in the City. The DEIR must be revised and recirculated to include this analysis.

#### **G. The DEIR Fails to Disclose the Full Scope of the Project’s Impacts on Water Supply Given the Project Site’s Lack of Recycled Water Infrastructure to Offset Potable Water Use**

The Project site is within the Beaumont-Cherry Valley Water District (“BCVWD”) Sphere of Influence boundaries, but outside of the water service area boundaries.<sup>255</sup> “As part of the proposed Project, the Project site require[s] annexation into the BCVWD water service area and a water main would be extended onto the Project site.”<sup>256</sup> Moreover, at this time, “BCVWD does not produce or distribute recycled water.”<sup>257</sup> The Project Water Supply Assessment states that “BCVWD anticipates increasing its total water supply by pursuing: … 2) distribution of recycled water from City of Beaumont’s Wastewater Treatment Plant within the next few years;....”<sup>258</sup> No timeline for recycled water distribution is provided in the Project’s Water Supply Assessment. Even so, non-potable water lines do not exist near the Project boundary to serve recycled water to the Project.<sup>259</sup> The Project Description in the DEIR references a new recycled water main but fails to offer any details and states that the layout for the water line would depend on BCVWD’s future well location.<sup>260</sup> No assurance or guarantee is provided that the recycled water line will actually be constructed.

The General Plan’s Community Facilities and Infrastructure Element, Policy 7.3.6 “[e]ncourage[s] innovative water recycling techniques, such as rainwater capture, use of cisterns, and installation of greywater systems,” and Policy 7.3.8 “[r]equire[s] the use of recycled water for irrigation of parks and golf courses in Beaumont.”<sup>261</sup> Despite the City’s policies encouraging the use of recycled water and

O3-125

<sup>254</sup> Gov’t Code at § 66300(i)(1).

<sup>255</sup> DEIR at 3-13.

<sup>256</sup> *Id.*

<sup>257</sup> DEIR, Appendix I at 3-12.

<sup>258</sup> *Id.* at 3-8.

<sup>259</sup> DEIR at 3-13.

<sup>260</sup> *Id.*

<sup>261</sup> City of Beaumont, *Beaumont General Plan* at 95 (2020), available at: [http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU\\_Final-rev-22521.6128-006aep](http://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521.6128-006aep)

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the Water Supply Assessment's reliance on recycled water to ensure adequate water supply for the Project, the DEIR fails to analyze the feasibility of installing non-potable water lines at or around the Project site to serve recycled water to the Project. Additionally, the DEIR does not disclose whether the open space area will be watered and if so, how the Project will irrigate the open space areas with recycled water, as required by Policy 7.3.8, if there are no recycled water distribution options on the Project site. Accordingly, the DEIR's analysis must be revised and recirculated.

#### **H. The DEIR Fails to Disclose and Mitigate the Full Scope of the Project's Impacts on Biological Resources**

An EIR must be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.<sup>262</sup> "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."<sup>263</sup> An EIR must also describe feasible measures which could minimize significant adverse impact.<sup>264</sup>

O3-126

The DEIR's determination that many of the Project's impacts on biological resources will be less than significant with mitigation measures incorporated is not supported by substantial evidence.

##### **a. Significant Impacts to Least Bell's vireo will Not be Mitigated to Less than Significant Levels**

The DEIR reports that an individual male Least Bell's vireo was detected within the mule fat scrub in the western portion of the Project site during early protocol-level surveys.<sup>265</sup> The DEIR finds that "[t]his species [] has moderate to high potential to occur within the Project site due to the presence of suitable [mule fat scrub] habitat."<sup>266</sup> The California Department of Fish and Wildlife does not consider mule fat scrub to be a sensitive vegetation community, but the DEIR

O3-127

<sup>262</sup> 14 C.C.R. § 15151.

<sup>263</sup> *Laurel Heights I*, 47 Cal.3d at 404-05.

<sup>264</sup> 14 C.C.R. § 15126.4(a)(1).

<sup>265</sup> DEIR at 4.3-19.

<sup>266</sup> *Id.*

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acknowledges that "this habitat is part of jurisdictional resources on-site and is therefore protected."<sup>267</sup>

Despite the confirmed presence of this species and its habitat on the Project site, the DEIR states that the "Project would result in the removal of suitable mule fat scrub habitat (1.14 acres) which could result in significant impacts to least Bell's vireo."<sup>268</sup> Nevertheless, the DEIR concludes that this impact would be less than significant with the implementation of MM BIO-1.<sup>269</sup> However, the DEIR lacks substantial evidence to demonstrate that MM BIO-1 will mitigate the Project's impacts on Least Bell's vireo and its habitat to less than significant levels. MM BIO-1 proposes to avoid Project activities during the species' breeding season unless a negative USFWS protocol survey has been conducted within one year of construction kickoff and the findings are negative.<sup>270</sup> MM BIO-1 therefore does not avoid or minimize the Project's proposed destruction of 1.14 acres of the species' mule fat scrub habitat. Even with the implementation of MM BIO-1, the species' habitat will be destroyed, thereby likely forcing the species out of the area. The DEIR fails to explain how these impacts to the species and its habitat are nevertheless less than significant with MM BIO-1. The DEIR must be revised and recirculated to support its significance determination with substantial evidence.

O3-128

b. The Payment of Local Development Mitigation Fees is Not Adequate Mitigation for the Project's Significant Impacts on Biological Resources

Mitigation fees are not adequate mitigation unless the lead agency can show that the fees will fund a specific mitigation plan that will actually be implemented in its entirety and will actually mitigate the project's impacts to below significance.<sup>271</sup> Additionally, the mitigation fee must either be adopted or

O3-129

<sup>267</sup> *Id.* at 4.3-22.

<sup>268</sup> *Id.* at 4.3-19.

<sup>269</sup> *Id.*

<sup>270</sup> *Id.* at 4.3-21.

<sup>271</sup> *Anderson First Coal. v. City of Anderson* (2005) 130 Ca.App.4th 1173 (traffic mitigation fee was inadequate because it did not ensure that mitigation measure would actually be implemented); *Kings Co. Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692 (a commitment to pay fees without any evidence that mitigation will actually occur is inadequate); *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099 (the assessment of an equitable share of costs of construction of future improvements and of a maintenance fee was deferred to the future and the mitigation measures relating to traffic impacts were inadequate).

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reasonably likely to be adopted by the time the project subject to the fee is implemented.

Here, the DEIR finds that the Project would result in habitat loss for certain non-listed special status wildlife species, like the coastal whiptail, California horned lark, cooper's hawk, yellow warbler, and San Diego black-tailed jackrabbit.<sup>272</sup> The DEIR states that with the payment of Multiple Species Habitat Conservation Plan ("MSHCP") Local Development Mitigation Fees, impacts on the species would be less than significant.<sup>273</sup> The DEIR does not calculate the amount of fees required to offset the impacts or specify the timing for the fees, which is critical information that must be analyzed in the DEIR. Most importantly, however, the DEIR does not incorporate the payment of mitigation fees as binding mitigation measures even though the DEIR concludes that the payment of mitigation fees would be necessary to reduce the impacts to these species to less than significant levels.<sup>274</sup> In failing to include the mitigation fees as formal mitigation in the DEIR, the reduction of the significant impacts on the species is illusory, uncertain, and speculative.

Likewise, the DEIR explains that the Southern California legless lizard is a California Species of Special concern that has moderate potential to occur within the Project site due to the presence of suitable habitat and is not covered under the MSHCP.<sup>275</sup> The Project proposes to remove suitable habitat for the Southern California legless lizard in the northeast portion of the site, which the DEIR concludes "would be adverse."<sup>276</sup> Even though this species is not covered under the MSHCP, the DEIR finds that "[t]hese species are considered adequately covered under the MSHCP;" and with payment of MSHCP Local Development Mitigation Fees, impacts on the Southern California legless lizard would be considered less than significant.<sup>277</sup> The DEIR's conclusion that the Southern California legless lizard is "adequately covered under the MSHCP" is unsupported by substantial evidence given that the DEIR admits that the species is not covered under the MSHCP. Additionally, the DEIR again relies on a payment of a mitigation fee to mitigate the Project's significant impacts on the Southern California legless lizard to less than significant levels without incorporating this measure as a binding

O3-130

<sup>272</sup> DEIR at 4.3-20.

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

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mitigation measure. As such, any reduction in the Project's significant impacts on the species is illusory, speculative, and uncertain.

### **I. The DEIR's Wildfire Environmental Setting is Deficient to Inform the Project's Wildfire Hazards Impacts Analysis**

The DEIR's environmental setting for the wildfire hazards impacts analysis fails to disclose that the westerly portion of the City within the SR 60/I 10 corridor is deficient in fire protection services, according to a Riverside Local Agency Formation Commission- ("LAFCO") Municipal Service Review for the City.<sup>278</sup> The LAFCO report explains that "[t]he western portion of the City is outside of the standard five-minute response times for fire protection services. [] [T]he City secured a site for the future construction of a fire station in the Interstate 10, 60 State Highway Corridor along Potrero Blvd. Financing the construction of a new fire station and dedicating funds for the estimated annual operation and maintenance of \$1.1 million will be the determining factor on whether this fire station will be built."<sup>279</sup> The Initial Study and Mitigated Negative Declaration for the West Side Fire Station Project was released in January of 2022.<sup>280</sup> The document recognizes that "[r]apid expansion of the City has increased pressure on local services, including fire services," and explains that "[c]urrent fire service response times in the City are approximately 8 to 12 minutes. The City's goal is a five-minute response time (City 2020)."<sup>281</sup>

The DEIR does not discuss the site's deficient response times for fire protection services, which is a serious omission in the environmental setting and may affect the corresponding impacts analysis. Disclosure of this information in the DEIR is especially important given that the entire Project site is designated as a Local Responsibility Area ("LRA"), meaning *local* fire protection agencies, such as

O3-131

<sup>278</sup> Riverside Local Agency Formation Commission ("LAFCO"), *LAFCO 2014-14-5-Municipal Service Review-City of Beaumont* at 5 (June 22, 2017), available at: <https://lafco.org/wp-content/uploads/documents/june-22-2017-lafco-meeting/4.a.%20LAFCO%202014-14-5%20MSR%20-%20City%20of%20Beaumont.pdf>.

<sup>279</sup> Riverside LAFCO, *City of Beaumont Municipal Service Review* at 33-34 (June 22, 2017), available at: <https://lafco.org/wp-content/uploads/documents/june-22-2017-lafco-meeting/4.a.%20LAFCO%202014-14-5%20MSR%20-%20City%20of%20Beaumont.pdf>.

<sup>280</sup> City of Beaumont, *Initial Study and Mitigated Negative Declaration for the West Side Fire Station Project* (January 2022), available at: <https://files.ceqanet opr.ca.gov/275540-1/attachment/Nmra97nVEVrFYCcBEN1e4cQSFBWkQYw05BVQ-pfmlZJ1LZz3XE6OJD4-RmzGaxHCLExm5o8qqRkqiMo0>.

<sup>281</sup> *Id.* at 5.  
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the Riverside County Fire Department, are responsible for wildfire protection.<sup>282</sup>  
The DEIR must be revised and recirculated to include this information.

## VI. CONCLUSION

For the foregoing reasons, the City must fulfill its responsibilities under CEQA by preparing a legally adequate EIR to address the significant omissions and deficiencies described in this comment letter and the attached expert comments. The DEIR must be revised and recirculated to adequately inform the decision-makers and public of the Project's significant environmental impacts and feasible mitigation measures.

03-132

Thank you for your attention to these comments.

Sincerely,  
*Tara C. Rengifo*  
Tara C. Rengifo  
Associate Attorney

Attachments

TCR:acp

<sup>282</sup> DEIR at 4.18-1—4.18-2.  
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**Responses to Comment Letter O3 – Adams Broadwell Joseph & Cardozo, Attorneys at Law**

**Tara C. Rengifo, Alisha C. Pember**

**O3-1** Commentor is providing background for their request to extend the public review period. Comment noted.

**O3-2** Comment noted. The City made available all documents relied upon in the DEIR.

**O3-3** Commented noted. The commentor is reciting the public resources code and does not raise any substantive issues related to the DEIR.

**O3-4** See response to comment O3-20 below.

**O3-5** See response to comment O3-20 below.

**O3-6** See response to comment O3-20 below.

**O3-7** See response to comment O3-20 below.

**O3-8** See response to comment O3-20 below.

**O3-9** Comment noted.

**O3-10** Comment noted. All documents referenced or relied upon for the DEIR analysis were included in **Section 9.0, References**, and as appendices. In addition, refer to response to comment O3-20 below for more information.

**O3-11** Comment noted. The comment does not raise any issues with the DEIR as detailed in response to comment O3-20 below.

**O3-12** Refer to response to comment O3-10 above.

**O3-13** Refer to response to comment O3-10 above.

**O3-14** Refer to response to comment O3-10 above. Additionally, the DEIR comment period complied with CEQA requirements.

**O3-15** Refer to response to comment O3-10 above. The DEIR included all documents relied upon for the Project's environmental impact analysis.

**O3-16** See response to comment O3-20 below.

**O3-17** Comment noted.

**O3-18** All documents relied upon in the DEIR analysis were included in **Section 9.0, References**, of the DEIR and as appendices to the DEIR. Refer to response to comment O3-20.

**O3-19** Comment noted.

**O3-20** Comment noted. Refer to the following responses.

- Development agreement is currently being drafted. The Development Agreement is a contract between the City and Developer related to the Project that is analyzed in the DEIR.
- As noted in page 28 of **Appendix A**, footnote eight and nine states “Conservatively assumes nine yard trucks each operating 8 hours per day (i.e., less than the nine trucks each operating 12 hours per day assumed for the emissions analysis). Note that this calculation is preliminary and provided for informational purposes. The WAIRE Points Compliance Obligation is determined by the actual number of truck trips to the facility based on logs of truck trips submitted on January 1 after the first year of operation. The trip rates that SCAQMD uses in the WAIRE User Calculator would be slightly different than what is used in the Project’s Traffic Study.”
- This comment requests the City provide the original native files for AERMOD used in the health risk assessment. However, all the requested information is included in the DEIR as **Appendix B, Health Risk Assessment**. Starting on page 51 and concluding on page 2,314, Appendix B includes all the AERMOD input data for each mitigated and unmitigated scenario analyzed in the DEIR. In addition, **Appendix B** also includes the AERMOD results and output files.
- The City sent the commentor the requested Phase II Environmental Site Assessment (ESA)document on June 6, 2022. Also note that the Phase II ESA was prepared for the previous EIR and the proposed Project is not tiering of the previous EIR. Therefore, the Phase II ESA document referenced in **Appendix G, Phase I ESA** for the Project does not affect the adequacy of the DEIR concerning hazards and hazardous materials.

**O3-21** The requested information can be found in the County of Riverside’s Transportation Analysis Guidelines for Level and Service and Vehicle Miles Traveled – 2020, as noted in the Traffic Impact Analysis (**Appendix K**). That document can be found at the following link: <https://rctlma.org/Portals/7/2020-12-15%20-%20Transportation%20Analysis%20Guidelines.pdf>

**O3-22** The commenter is requesting that the City extend the public review and comment period for the proposed project for at least 45 days minimum because the City didn’t make all documents referenced in the DEIR available to the public for the duration of the public comment period. The City respectfully declines this request since all documents referenced in the EIR were made available to the public and were provided for in **Section 9.0, References** via URL links. Refer to response to comment O3-20 for additional information.

**O3-23** Comment noted.

**O3-24** Refer to response to comment O3-20.

**O3-25** Refer to response to comment O3-22.

**O3-26** Comment noted.

**O3-27** Refer to response to comment O3-22.

**O3-28** Refer to responses to comments to O3-1 through O3-18.

**O3-29** Comment noted.

**O3-30** The City responded to this email on June 3<sup>rd</sup> letting the commenter know that the public review period closes on June 6, 2022 and expressed that the public review period of the DEIR would not be extended.

**O3-31** Refer to response to comment O3-20 above.

**O3-32** Refer to response to comment O3-30 above.

**O3-33** Comment noted.

**O3-34** The comment is referring to the Project's proposed development, open space component, proposed entitlements, associated on-site and off-site improvements, and assessor parcel numbers associated with the Project site.

**O3-35** The commentor states that the DEIR fails in significant aspects to perform its function as an informational document because 1) the DEIR's project objectives are impermissibly narrow and improperly constrain the alternatives analysis; 2) the DEIR dismisses the environmentally superior alternative without adequate analysis; 3) the DEIR must analyze a 55% reduced Project size, which would substantially reduce significant impacts, as supported by the attached expert comments; and 4) the Development Agreement may improperly constrain the Project's Alternative Analysis. Refer to responses to comments O3-43 through O3-57 for more information.

**O3-36** The comment states that the DEIR omits an analysis of air quality impacts from transport refrigeration units (TRUs) and states that use of TRUs are reasonably foreseeable. However, as noted in the DEIR Project Description (page 3-4) and PDF AQ-1, the Project does not include cold storage. Additionally, cold storage is not an allowed use for the site in the Specific Plan, which establishes the uses and development standards for the Project. As cold storage/refrigerated warehouse space are not an allowed use, the Project could not include cold storage and would not include trucks with TRUs.

**O3-37** The comment includes a general statement that there are additional feasible mitigation measures and omissions in the VMT analysis and summarizes later more specific comments. This comment is introductory, and no specific comments are made. Responses to specific comments are provided below. No further response is required.

**O3-38** The commented states that the DEIR also fails to meaningfully analyze the Project's impacts on water supply and that Project's impacts on biological resources are not adequately disclosed and mitigated in the DEIR.

**O3-39** The commentor states that based on their previous statements, the DEIR omits critical information necessary to inform the impact analysis, and therefore, the DEIR must be revised and recirculated. Comment noted and will be taken into consideration by decision-makers.

**O3-40** The commentor listed the references used to support their statements. Comment has been noted.

**O3-41** CARECA's statement of interest of the proposed Project has been noted.

**O3-42** Comment noted. Commentor is reciting the purpose of CEQA and does not raise any substantive issues with the DEIR.

**O3-43** The Project description in the DEIR has not changed and is stable throughout the documents and exhibits. While the buildings are spec buildings, the use of the building as a warehouse will not change once the building is occupied.

**O3-44** See response to comment O3-47 below.

**O3-45** See response to comment O3-47 below.

**O3-46** See response to comment O3-47 below.

**O3-47** The Development Agreement is not required to be included in the DEIR, as the commentor states the Development Agreement is a contract between the City and Developer. The terms of a Development Agreement are routinely negotiated during the EIR process for the Project that is analyzed in the DEIR.

**O3-48** **Section 3.0, Project Description**, of the DEIR (page 3-7) includes detailed Project objectives as required by CEQA.

**O3-49** Project objectives can be tailored to the site and also take into consideration the site details for the efficient use of the property. The DEIR included a number of very detailed project objectives under which the Project and project alternatives are considered. Here the environmentally superior project alternative was rejected.

**O3-50** **Section 6.0, Alternatives**, of the DEIR includes a detailed analysis of the Project alternatives as required by CEQA. The analysis concludes that the reduced intensity alternative would reduce some of the potentially significant impacts, but it does not reduce any significant impacts to below a level of significant. Since the reduced intensity alternative will not reduce any of the significant impacts, and does not meet the Project objectives, the alternative was dismissed.

**O3-51** See response to comment O3-50 above.

**O3-52** See response to comment O3-50 above.

**O3-53** CEQA does not specify the number or details for project alternatives included in an EIR.

**O3-54** CEQA does not require a project alternative be created and evaluated so that it reduces a significant impact to below the significance threshold as suggested by the commentor. The project alternatives included in the DEIR comply with CEQA and no further alternatives are required.

**O3-55** See response to comment O3-54 above.

**O3-56** See response to comment O3-47 above.

**O3-57** See response to comment O3-47 above.

**O3-58** Commentor recites general CEQA requirements that the DEIR complies with. No specific comments are raised specific to the DEIR analysis or mitigation.

**O3-59** Commentor does not raise any specific comments on the DEIR but reiterates a generalized statement regarding the details and information required to be included in an EIR. The DEIR was prepared in accordance with CEQA and includes all of the commentors requested information and analysis.

**O3-60** The comment summarizes the commenters view of regional air quality in the area including data from the SCAQMD 2022 Draft AQMP and the DEIR. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O3-61** The comment summarizes the commenters view of regional air quality in the area including data from the SCAQMD 2022 Draft AQMP and the DEIR. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O3-62** The comment summarizes the commenters view of statewide NO<sub>x</sub> emissions, CARB data, and also states that the Project's unmitigated NO<sub>x</sub> emissions are significant. The comment does not raise a specific issue with the DEIR. Responses to specific comments are provided below.

**O3-63** Refer to response to comment O3-36 regarding TRU emissions. The Project would not include TRUs because cold storage is not an allowed use in the Specific Plan and the DEIR Project Description specifically states that the Project does not include cold storage.

Regarding PDF AQ-4 and PDF AQ-10, the DEIR states that emissions benefits from implementation of PDFAQ-3 through PDFAQ-18 are conservatively not quantified (DEIR pages 3-4, 4.2-22, 4.5-20, and 4.7-29). No credit is taken for these measures. These measures are intended to facilitate the implementation of state regulations and goals that would encourage fleet turnover and improve emissions.

The City disagrees with the comment about the effectiveness of **MM AQ-3** (requiring a Transportation Demand Management [TDM] program for Phase 1 and Phase 2). As discussed in the DEIR, **MM AQ-3** requires a transportation information center, an on-site TDM coordinator to inform employees of surrounding transportation options, promoting bicycling and walking with showers and bicycle repair areas, providing secure bicycle storage, providing shower and changing facilities, provide on-site car share amenities, promote carpool/vanpool/rideshare use through parking incentives and ride-matching services, provide incentives for alternative travel modes, provide meal options onsite or shuttles to nearby meal destinations, and preferential parking for electric low-emitting, and fuel-efficient vehicles. In this case, the performance standard is to provide the above-mentioned amenities and services to encourage trip reduction. Information sharing and marketing are important components to successful commute trip reduction strategies. Furthermore, the measures in **MM AQ-3** include specific performance standards, such as requirements for installing two showers/changing facilities within 200 yards of a building entrance for each building and providing preferential parking equivalent to at least eight percent of the required number of parking spaces. **MM AQ-3** notes that the TDM program shall be developed and verified by the City prior to the issuance of occupancy permits. Also refer to response to comment O3-76.

The City disagrees that **MM AQ-1** (requiring Tier 4 construction equipment) needs to be strengthened. The comment does not suggest modifications to **MM AQ-1** and does not provide substantial evidence demonstrating it is deficient. It should be noted that construction emissions from both Phase 1 and Phase 2 would be below SCAQMD's construction thresholds for all criteria pollutants (see DEIR **Table 4.2-8** and **Table 4.2-9**). Construction and operational health risk impacts would also be less than significant (see DEIR pages 4.2-50 to 4.2-55). There is no nexus to require modifications to **MM AQ-1** as Phase 1 or Phase 2 construction impacts are already reduced to a less than significant level with the implementation of **MM AQ-1**. Also refer to response to comment O3-78.

**O3-64** The comment cites a provision in **MM AQ-4** that allows for sufficiently sized electrical rooms that could accommodate power for TRUs. The intent of this measure is to identify all feasible mitigation and to provide flexibility to accommodate future technologies and electrification. **MM AQ-4** does not permit any TRUs to access the site and does not permit any cold storage building area. As noted in response to comment O3-6, the Project would not include TRUs because cold storage is not an allowed use in the Specific Plan and the DEIR Project Description specifically states that the Project does not include cold storage.

**O3-65** Standard Condition AQ-1 requires the implementation of fugitive dust control measures in accordance with SCAQMD rules and regulations. Watering disturbed areas is a primary method for reducing fugitive dust. However, as noted in Standard Condition AQ-1 and reiterated in the comment, the listed measures include, but are not limited to those listed.

Furthermore, Beaumont-Cherry Valley Water District Resolution 2022-12 restricts the use of potable water for street cleaning or construction site preparation purposes unless no other method can be used to protect public health and safety. Additionally, the resolution notes that the use of water during construction can be conditionally approved. It should be noted that

recycled (i.e., non-potable) water is commonly used for construction in addition to chemical stabilizers and the use of tarps and wind breaks. Standard Condition AQ-1 requires compliance with SCAQMD Rule 402 (Nuisance) and Rule 403 (Fugitive Dust) and does not require the use of potable water during construction. Therefore, Beaumont-Cherry Valley Water District Resolution 2022-12 would not result in additional fugitive dust emissions during Project construction.

**O3-66** Refer to response to comment O3-65 regarding Beaumont-Cherry Valley Water District Resolution 2022-12 and construction related fugitive dust.

**O3-67** Refer to response to comment O3-65 regarding Beaumont-Cherry Valley Water District Resolution 2022-12 and construction related fugitive dust.

**O3-68** Refer to response to comment O3-65 regarding Beaumont-Cherry Valley Water District Resolution 2022-12 and construction related fugitive dust.

**O3-69** Refer to response to comment O3-65 regarding Beaumont-Cherry Valley Water District Resolution 2022-12 and construction related fugitive dust.

**O3-70** The comment summarizes the commenters view of the CEQA guidelines. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O3-71** The comment summarizes the commenters view of the DEIR. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O3-72** PDFAQ-4 is included as a Project Design Feature to facilitate implementation of the CARB Truck and Bus Regulation and to encourage other efficiency measures could incentivize near zero emission (NZE) or zero emission (ZE) truck visits, which would also facilitate compliance with SCAQMD Rule 2305 (Warehouse Indirect Source Rule). Therefore, it is not appropriate or necessary to include PDFAQ-4 as a mitigation measure. It should be noted that the DEIR states that emissions benefits from implementation of PDF AQ-3 through PDF AQ-18 are conservatively not quantified (DEIR pages 3-4, 4.2-22, 4.5-20, and 4.7-29). No credit is taken for these measures. As noted above, these measures are intended to facilitate the implementation of state regulations and goals that would encourage fleet turnover and improve emissions.

**O3-73** The comment suggests mitigation requiring all heavy-duty vehicles entering or operating on the Phase 1 Project site to be model year 2018 or later. However, CARB is addressing emissions from heavy duty vehicles through various regulatory programs including lower emission standards, restrictions on idling, the use of post-combustion filter and catalyst equipment, and retrofits for diesel truck fleets. These programs are expected to result in significant reductions in NO<sub>x</sub>, ROG, PM<sub>10</sub>, PM<sub>2.5</sub>, and CO emissions as they are fully implemented by 2023. Federal and State agencies regulate and enforce vehicle emission standards. It is not feasible for the

City of Beaumont to effectively enforce a prohibition on trucks from entering the property that are otherwise permitted to operate in California and access other properties in the City, region, and State. Even if the City were to apply such a restriction, it would cause warehouse operators using older truck fleets to travel to other facilities in the South Coast Air Basin where the restriction does not apply, thereby resulting in no improvement to regional air quality.

Based on data from CARB, most heavy-duty trucks entering the Project site will meet or exceed 2010 model year emission standards when Phase 1 becomes fully operational in 2024. Specifically, according to CARB EMFAC inventories, approximately 50 percent of all instate heavy-heavy duty trucks met the 2010 engine standard in 2019, 59 percent in 2020, 62 percent in 2021. Additionally, 65 percent and 90 percent of trucks were projected to meet the 2010 engine standard in 2022 and 2023 respectively.<sup>1</sup>

Requiring model year 2018 trucks or later to operate on the Phase 1 of the Project site would not be consistent with CARB and SCAQMD programs to transition to zero emission (ZE) or near zero emission (NZE) trucks. For example, CARB's Advanced Clean Truck Regulation requires truck manufacturers to transition from diesel trucks and vans to electric zero-emission trucks beginning in 2024. By 2045, every new truck sold in California is required to be zero-emission. The Advanced Clean Truck Regulation accelerates the transition of zero-emission medium-and heavy-duty vehicles from Class 2b to Class 8. CARB's Mobile Source Strategy facilitates the adoption of ZE buses and trucks. Additionally, CARB's Sustainable Freight Action Plan utilizes near-zero emissions technology and facilitates the deployment of ZE trucks. Furthermore, the SCAQMD Warehouse Indirect Source Rule (ISR) (Rule 2305) requires the acquisition of ZE or NZE trucks, requires ZE/NZE truck visits, requires ZE yard trucks, and the installation on-site ZE charging/fueling infrastructure, or pay a mitigation fee to incentivize the purchase of ZE/NZE trucks and charging/fueling infrastructure in communities nearby.

The DEIR includes design features and mitigation that would facilitate the use of ZE and NZE trucks consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.). For example, the Project design features require all cargo handling equipment (forklifts, yard trucks, etc.) to be electrically powered to reduce on-site criteria pollutant emissions. In order to promote the use of alternative fuels and clean fleets and facilitate future installation of electric vehicle supply equipment, the Project would install 30 electric light-duty vehicle charging stations, install conduit for 59 electric light-duty vehicle charging stations, and designate 119 parking spaces for clean air/electric vehicle/vanpool parking (refer to the Project design feature on DEIR pages 4.2-22 through 4.2-24). Additionally, the Project design features would require future tenants to attend CARB training for record keeping and ensuring vehicles comply with CARB regulations and are in good condition, enroll in the EPA's SmartWay program, provide information on CARB's Carl Moyer Voucher Incentive Program to upgrade fleets, include signage for truck routes and locate check-in points to ensure truck queues do not occur outside of the facility. **MM AQ-6** requires Project compliance with SCAQMD Rule 2305 to facilitate the use of ZE and NZE trucks. Additionally, **MM AQ-6** requires the Project Applicant to provide

<sup>1</sup> CARB. (2017). EMFAC2017, An Update to California On-Road Mobile Source Emissions Inventory. Available at: [https://ww3.arb.ca.gov/msei/downloads/emfac2017\\_workshop\\_11\\_09\\_2017\\_final.pdf](https://ww3.arb.ca.gov/msei/downloads/emfac2017_workshop_11_09_2017_final.pdf) (accessed June 2022).

\$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of **MM AQ-6**.

Operational emissions would be reduced through implementation of mitigation measures that require reduced vehicle idling, use of non-diesel on-site equipment, meeting or exceeding 2010 engine emission standards for all diesel trucks entering the site, electric vehicle charging stations, and prohibition of refrigerated warehouses. As noted above, mitigation and Project design features would facilitate the use of ZE and NZE technology.

The City disagrees with the assertion that the DEIR has not identified all feasible mitigation. The existing regulatory environment already requires various mobile source emissions reduction measures and transition to ZE and NZE vehicles (as noted above, CARB already regulates truck emissions with the Advanced Clean Truck Regulation, the Mobile Source Strategy [including the low-NO<sub>x</sub> engine emissions standard], the Sustainable Freight Action Plan, and the Emissions Reduction Plan for Ports and Goods Movement, among others). Despite these strategies, CARB acknowledges that it will take time for ZE and NZE vehicles to become commercially available and to penetrate the market. For example, CARB's EMission FACTor (EMFAC) 2021 model provides detailed vehicle registration information and estimates the official emissions inventories of on-road mobile sources, vehicle population, and vehicle miles traveled (VMT) in California. The EMFAC2021 data for South Coast portion of Riverside County shows that in 2024 (the Project's opening year), approximately 95 percent of heavy trucks would still be powered by diesel and 97 percent of the VMT would occur from diesel trucks. Electric vehicles would make up approximately 0.31 percent of the heavy-duty fleet and 0.26 percent of the heavy truck VMT. For 2030, the EMFAC data shows that 95 percent of heavy trucks would be diesel-powered and that 96 percent of the heavy truck VMT would be from diesel trucks. Therefore, as CARB data anticipates that the vast majority of trucks to be diesel-powered in the Project opening year and in 2030, it would not be feasible to require all heavy-duty vehicles entering or operating on the Project site to be zero-emission beginning in 2030.

ZE and NZE truck technologies include battery-electric trucks, fuel cell trucks, dual-mode (hybrid) electric trucks with all-electric range and, potentially, other technologies. While heavy duty ZE vehicles are available, they are not commercially available yet in great numbers in the classifications needed to serve the future users of this site. The majority of ZE and NZE emissions trucks are limited in range of less than 100 miles per charge and require hours to charge.<sup>2</sup> These trucks are better suited to operate in urban areas for stop-and-go driving for fleets that operate locally and have predictable daily use and return to base to be charged.<sup>3</sup> Longer range, heavy duty ZE vehicles currently are limited in availability.<sup>4</sup> To require a project to use ZE heavy duty trucks when the nature of the trips is unknown these types of

<sup>2</sup> CARB. (2021) *Advanced Clean Trucks, Acceleration Zero-Emission Truck Markets*. Available at: [https://ww2.arb.ca.gov/sites/default/files/2020-06/200625factsheet\\_ADA.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-06/200625factsheet_ADA.pdf) (accessed June 2022).

<sup>3</sup> Ibid.

<sup>4</sup> John G. Smith (2020). *Zero-emission truck models surge, orders hold steady during Covid-1*. Available at: <https://www.trucknews.com/sustainability/zero-emission-truck-models-surge-orders-hold-steady-during-covid-19/1003141253/> (accessed June 2022).

technologies is not feasible because they are not widely available, and it is unknown when or if they will become widely available in the future. As such, it is not feasible to require ZE and NZE trucks because future tenants/operators are currently unknown. As the timeline for ZE and NZE incorporation into the fleet is not known and the end users and truck fleets are not known, the additional mitigation is not feasible, and assumptions on the available of ZE and NZE vehicles would be speculative at best. CEQA Guidelines Section 15041 specifically requires all mitigation to be feasible and fully enforceable, and all feasible mitigation must be imposed by lead agencies.

Furthermore, it should be noted that the DEIR determined that the Project's Localized Significance Thresholds (LSTs) would be less than significant (refer to DEIR pages 4.2-42 through 4.2-46) and health risk impacts would be less than significant (refer to DEIR pages 4.2-50 through 4.2-55), which indicates that the regional increases shown in DEIR **Tables 4.2-10 through 4.2-14** are over counting truck emissions since not all these trips are in reality new to the air basin.

Although as noted above, ZE and NZE trucks are not commercially available at this time, current state regulations would accelerate availability of this technology in future years. CARB's Advanced Clean Truck Regulation requires truck manufacturers to transition from diesel trucks and vans to electric zero-emission trucks beginning in 2024 and by 2045, every new truck sold in California is required to be zero-emission. CARB's Mobile Source Strategy takes an integrated planning approach to identify the level of transition to cleaner mobile source technologies needed to achieve all of California's targets by increasing the adoption of ZEV buses and trucks. A key measure in the Mobile Source Strategy is the low NO<sub>x</sub> emission standards that reduces NO<sub>x</sub> emissions by 90 percent.<sup>5</sup> The Sustainable Freight Action Plan which improves freight system efficiency, utilizes near-zero emissions technology, and deployment of ZEV trucks. The Sustainable Freight Action Plan applies to all trucks accessing the Project site and may include existing trucks or new trucks that are part of the Statewide goods movement sector. CARB's Emissions Reduction Plan for Ports and Goods Movement identifies measures to improve goods movement efficiencies such as advanced combustion strategies, friction reduction, waste heat recovery, and electrification of accessories.

The Project is being built to specification and the future tenant(s) of the Project are unknown at the time of this writing. Accordingly, it is unknown if the ultimate tenant will operate its own fleet. Moreover, most warehouse operators have no control over the trucks entering and exiting their facilities. Consequently, it is infeasible to require trucks with particular emission profiles (e.g., ZE, NZE, or 2010+ model year trucks) to visit the Project.

Subsequent environmental review may require that specific technology that will work with future users be required as condition of approval, but a broad requirement that unknown future users use a specific technology is not currently feasible since current zero-emission technology is very limited in medium-duty and heavy-duty trucks.

**03-74** PDF AQ-10 facilitates implementation of PDF AQ-16, where the Project would provide funding for 30 grants for the employee purchase of electric/zero emission passenger vehicles. The

<sup>5</sup> CARB. (2022). *Heavy Duty Low NO<sub>x</sub>*. Available at: <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox>. (accessed June 2022).

30 charging stations required in PDF AQ-10 are intended to primarily serve the electric vehicles provided to employees for the purpose of commuting. As noted in response to comment O3-73, the design features are designed to facilitate the use of ZE and NZE trucks consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.). **MM AQ-6** requires Project compliance with SCAQMD Rule 2305 to facilitate the use of ZE and NZE trucks. Additionally, **MM AQ-6** requires the Project Applicant to provide \$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of **MM AQ-6**.

The comment also suggests additional measures for incorporation into the DEIR. The discussion below provides a response to each of the suggested measures. As shown below, the suggested are already addressed in the DEIR or are CARB regulations that the Project must already comply with. Therefore, additional mitigation is not required.

Suggested Measure	Response
Contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.	<p>As noted above, the Project includes Project design features and mitigation that would facilitate the use of ZE and NZE vehicles consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.).</p> <p><b>MM AQ-6</b> requires Project compliance with SCAQMD Rule 2305 to facilitate the use of ZE and NZE trucks. Additionally, <b>MM AQ-6</b> requires the Project Applicant to provide \$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of <b>MM AQ-6</b>.</p> <p>Additionally, PDF AQ-2 requires all Phase 1 outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) shall be powered by electricity (i.e., zero emission).</p>
Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2018 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2023. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP). Additional incentive funds are available from the Carl Moyer Program and Voucher Incentive Program.	Refer to response to comment O3-73 regarding 2018 model year trucks. Additionally, PDF AQ-13 requires the Phase 1 facility operator to provide tenants with information about the Carl Moyer Air Program and the On-Road Heavy-Duty Vehicles Voucher Incentive Program, which provides funding to purchase newer vehicles.

Suggested Measure	Response
<p>Include contractual language in tenant lease agreements that requires the tenant to be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Advanced Clean Trucks Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.</p>	<p>This is required under PDF AQ-9 on DEIR page 4.2-23. Operators and manufacturers are required to comply with these regulations. CARB's Tractor-Trailer Greenhouse Gas Regulation reduces greenhouse gas emissions by improving the aerodynamic performance and reducing the rolling resistance of tractor-trailers. CARB's Advanced Clean Trucks regulation is a manufacturer's ZEV sales requirement and a one-time reporting requirement for large entities and fleets. The Periodic Smoke Inspection Program (PSIP) is CARB's heavy-duty vehicle inspection program for in-use trucks and buses that includes roadside testing by CARB. The Statewide Truck and Bus Regulation requires fleets to upgrade to 2010 or newer model year engines by January 1, 2023. The suggested additional mitigation measures are already State regulation (i.e., mandatory). As such these measures are essentially part of the Project; and therefore, are not mitigation under CEQA.</p>
<p>Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than two minutes while on site."</p>	<p>The Project would comply with the 5-minute limit per CARB regulation/state law. Implementation of this measure is not quantifiable because CalEEMod does not allow for the adjustment of idle times. The Project includes <b>MM AQ-5</b> requires signage stating that drivers turn off engines when not in use, identifying the State's 5-minute idling limit (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2485 [Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling]), and including telephone numbers of the building facilities manager and CARB to report violations.</p> <p>Additionally, the Project includes design features to minimize idling. For example, PDF AQ-5 requires Phase 1 facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks. PDF AQ-8 requires the facility operator for Phase 1 to ensure that site enforcement staff in charge of keeping the daily log and monitoring for excess idling will be trained/certified in diesel health effects and technologies, for example, by requiring attendance at California Air Resources Board-approved courses (such as the free, one-day Course #512).</p>

**O3-75** The City disagrees with the assertion that the DEIR defers mitigation as it relates to **MM AQ-3** (TDM Program). **MM AQ-3** would be properly implemented as required by the City and as part of the Mitigation Monitoring and Reporting Program, as enforced by the Planning Manager.

Therefore, there are assurances that reductions in commute VMT through feasible TDM measures would be provided by the Project and would be implemented as part of future Certificates of Occupancy for future tenants as described in **MM AQ-3**. Therefore, the City did not defer mitigation and has stated within **MM AQ-3** in the DEIR the mitigation measures required to mitigate potentially significant impacts.

**O3-76** As discussed on DEIR pages 4.2-21 and 4.7-28, TDM measures were incorporated and quantified in CalEEMod's mitigation module. The DEIR specifies that measures TRT-1 (Implement Trip Reduction Program), TRT-7 (Market Commute Trip Reduction Option), and TRT-11 (Employee Vanpool/Shuttle) were applied. According to the California Air Pollution Control Officers Association (CAPCOA) guidance Quantifying Greenhouse Gas Mitigation Measures (2011), TRT-1 is a voluntary measure where monitoring and reporting is not required. The performance standards include carpooling encouragement, ride-matching assistance, preferential carpool parking, flexible work schedules for carpools, half time transportation coordinator, vanpool assistance, and bicycle end-trip facilities (parking, showers and lockers). The TRT-7 performance standard is providing information of trip reduction and alternative mode options in the area. TRT-11 requires an employer-sponsored vanpool or shuttle. As discussed in the DEIR, **MM AQ-3** requires a transportation information center, an on-site TDM coordinator to inform employees of surrounding transportation options, promoting bicycling and walking with showers and bicycle repair areas, providing secure bicycle storage, providing shower and changing facilities, provide on-site car share amenities, promote carpool/vanpool/rideshare use through parking incentives and ride-matching services, provide incentives for alternative travel modes, provide meal options onsite or shuttles to nearby meal destinations, and preferential parking for electric low-emitting, and fuel-efficient vehicles.

In this case, the performance standard is to provide the above-mentioned amenities and services to encourage trip reduction. Information sharing and marketing are important components to successful commute trip reduction strategies. Furthermore, the measures in **MM AQ-3** include specific performance standards, such as requirements for installing two showers/changing facilities within 200 yards of a building entrance for each building and providing preferential parking equivalent to at least eight percent of the required number of parking spaces. **MM AQ-3** notes that the TDM program shall be developed and verified by the City prior to the issuance of occupancy permits.

**O3-77** Comment indicates additional feasible mitigation should be included in **MM AQ-1**. However, specific additional feasible mitigation is not provided in this particular comment. Responses to specific comments are provided below.

**O3-78** The City disagrees that revising **MM AQ-1** to include Tier 4 requirements for equipment less than 50 horsepower would represent a meaningful emissions reduction. It should be noted that **MM AQ-1** is consistent with SCAQMD recommended language for off-road construction equipment and consistent with CARB off road regulations. Additionally, during construction, welders are the only piece of modeled equipment that is less than 50 horsepower. The analysis in the DEIR only includes one welder during Phase 1 and one welder during Phase 2 (refer to

DEIR Appendix A). All other pieces of equipment (a total of 36 for each phase) are greater than 50 horsepower.

Furthermore, construction emissions from both Phase 1 and Phase 2 would be below SCAQMD's construction thresholds for all criteria pollutants (see DEIR **Table 4.2-8** and **Table 4.2-9**). Construction and operational health risk impacts would also be less than significant (see DEIR pages 4.2-50 to 4.2-55). It is not necessary to require equipment less than 50 horsepower to meet Tier 4 standards as Phase 1 or Phase 2 construction impacts are already reduced to a less than significant level with the implementation of **MM AQ-1**. There is no nexus between the proposed modification to **MM AQ-1** and a CEQA impact.

### **O3-79 Public Health**

The DEIR includes a discussion of public health impacts from air pollutants on pages 4.2-46 to 4.6-50. Additionally, health impacts from Toxic Air Contaminants are discussed on pages 4.2-50 to 4.2-55. The discussion of public health impacts was prepared to directly address the California Supreme Court's *Sierra Club v. County of Fresno* decision. As outlined in the Court decision, the analysis specifically explains that ozone concentrations are dependent upon a variety of complex factors, including the presence of sunlight and precursor pollutants, natural topography, nearby structures that cause building downwash, atmospheric stability, and wind patterns. Because of the complexities of predicting ground-level ozone concentrations in relation to the NAAQS and CAAQS, none of the health-related information can be directly correlated to the pounds/day or tons/year of emissions estimated from a single, proposed project. It should also be noted that this analysis identifies health concerns related to particulate matter, CO, O<sub>3</sub>, and NO<sub>2</sub> (see DEIR page 4.2-49). The analysis is provided to foster informed decision making and notes that due to the uncertainty in the relationship between project-level mass emissions and regional ozone formation as well as limitations with currently available technical tools, the resulting health effects associated with the Project cannot be identified. Given this is speculative, no meaningful conclusion can be drawn with respect to potential health effects from the criteria pollutant emissions of the proposed Project.

### **Backup Generators**

The City also disagrees with the comment that the DEIR underestimates DPM from the Project's backup generators. The Project proposes the development of industrial speculative warehouse buildings and the end users are not known at this time. It should be noted that the Project is anticipated to be built out over several years (Project development would be determined by the landowner and/or developer based upon real estate market conditions). Phase 2 is only programmatically planned, and no specific development is proposed at this time. As the end users of the Project have not been identified, it is not known if backup generators would be needed for the potential buildings. Backup generators would only be used in the event of a power failure and would not be part of the Project's normal daily operations. If backup generators are required, the end user would be required to obtain a permit from the SCAQMD prior to installation. Emergency backup generators must meet SCAQMD's Best Available Control Technology (BACT) requirements and comply with SCAQMD Rule 1470 (Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression

Ignition Engines), which would minimize emissions. As the end users and future tenants of the proposed Project are unknown, the need for emergency backup generators is speculative. As such, the DEIR assumed a typical size backup generator for each warehouse building for emergency purposes and not necessarily to power the entire facility to continue normal operations. Additionally, it should be noted that **MM GHG-1** requires the Project's energy to be supplied by rooftop solar, which would offset the need for backup generators.

Under CEQA Guidelines Section 15384, argument, speculation, unsubstantiated opinion or narrative, evidence that is not credible, and evidence of social and economic impacts does not constitute substantial evidence.

The comment also requests that all backup generators be analyzed to use non-diesel low NO<sub>x</sub> and zero emissions technology options. As the proposed Project involves speculative warehouse buildings and the end users are unknown, prohibiting specific fuels for backup generators is not feasible, because it is unknown what the specific needs of an end user would be. The DEIR conservatively evaluated the emissions associated with diesel fueled backup generators because that represents the worst-case condition.

### **Construction and Operational Health Risk**

The comment also incorrectly notes that the health risk assessment was segmented between construction and operational phase and relies on an inadequate receptor grid. Pursuant to the California Office of Environmental Health Hazard Assessment (OEHHA) and SCAQMD Risk Assessment Procedures, the Health Risk Assessment calculated carcinogenic risk based on a 30-year exposure duration, which includes age sensitivity factors (with a third trimester start age), and 95<sup>th</sup> percentile breathing rates.

Based on the Project schedule, Phase 1 construction would begin in 2023 and be completed in 2024. Following construction, the three warehouses in Phase 1 are assumed to be fully operational and generating emissions. Phase 2 construction will begin in 2026 and be completed in 2027, during this time Phase 1 operational emissions from the warehouses would overlap with the Phase 2 construction emissions. Following the completion of Phase 2, emissions would only be generated by Phase 1 because Phase 2 operations does not include any TAC sources. The Project HRA analyzed this overlap and continuous pollutant exposure and concluded that with Tier 4 construction equipment mitigation (**MM AQ-1**) and electric cargo handling equipment (PDF AQ-2), health risk impacts would be below SCAQMD thresholds. A maximum health risk for the combined construction and operation of the Project is discussed on DEIR pages 4.2-50 through 4.2-55 and shown in Table 8 of the DEIR **Appendix B**.

### **General Plan Policy 8.4.3**

Finally, the comment incorrectly notes that the Project is sited without adequate buffers from sensitive receptors. Although existing sensitive receptors are adjacent to the proposed Project's property line, the receptors would be approximately 230 feet west of the closest proposed warehouse building. Additionally, intervening terrain/slope and a retaining wall are also located between the warehouse and the receptors to the east. Due to the proximity to sensitive receptors, a health risk assessment was conducted for the proposed Project. As noted

above, health risk impacts were mitigated to less than significant levels (i.e., below SCAQMD thresholds) (see DEIR pages 4.2-50 through 4.2-55 and Table 8 of the DEIR **Appendix B**).

It should also be noted that General Plan Policy 8.4.3 recommends this buffer for the siting of new projects and land uses that would produce localized air pollution and specifically identifies Interstate 10, SR-60, high traffic roads, and certain industrial facilities as sources of pollution sources. General Plan Policy 8.4.3 indicates certain industrial facilities could be sources of pollution, but does not necessarily identify warehouses. The majority of the proposed Project's emissions would occur from mobile sources that would occur off-site and not in the proximity to the adjacent sensitive receptors. Additionally, as noted above, the results of the health risk assessment (see DEIR pages 4.2-50 through 4.2-55 and Table 8 of the DEIR **Appendix B**) and the localized impact analysis (see DEIR pages 4.2-44 through 4.2-50) demonstrate warehouse component of the Project would not have significant localized impacts. Therefore, the Project would not be a significant source of localized air pollution noted in General Plan Policy 8.4.3.

**O3-80** The comment summarizes the SCAQMD 2022 Draft AQMP. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O3-81** Refer to response to comment O3-79 regarding the backup generator horsepower. Additionally, as noted in the comment, the backup generators are limited to 50 hours per year for testing pursuant to SCAQMD Rule 1470. Backup generators are required to be tested periodically to ensure that they will operate as expected. The comment notes that the backup generators will likely operate for 200 hours per year. However, no substantial evidence is provided to support this claim. The SCAQMD limits the operation of backup generators for no more than 200 hours per year of operation. Modeling 200 hours for generator emissions would be representative of an emergency condition and not representative of typical Project operations.

**O3-82** Refer to responses to comments O3-79 and O3-81 regarding backup generator assumptions.

**O3-83** Refer to responses to comments O3-79 and O3-81 regarding backup generator assumptions.

**O3-84** Refer to response to comment O3-79 regarding backup generator assumptions and non-diesel low NO<sub>x</sub> zero emissions technology.

**O3-85** Refer to response to Comment O3-79 regarding construction and operational health risks.

**O3-86** The City disagrees that a receptor grid with spacing smaller than 50 meters should be used. A receptor grid of 50 meters is consistent with the SCAQMD's Modeling Guidance for AERMOD<sup>6</sup>.

**O3-87** The City disagrees that the dispersion modeling must include building downwash. The modeled sources in the AERMOD dispersion model are line-volume sources that represent on- and off-site truck movements and idling. The purpose of building downwash is to determine if stack

<sup>6</sup> <http://www.agmd.gov/home/air-quality/meteorological-data/modeling-guidance>

discharge might become caught in the turbulent wakes of structures within close proximity. The building downwash modeling option is only applicable to point and flare emission source types and is not applicable to the line-volume sources that were modeled for the proposed Project.

**O3-88** Refer to response to comment O3-87 regarding building downwash.

**O3-89** Refer to response to comment O3-79 regarding General Plan Policy 8.4.3.

**O3-90** General Plan Policy 8.4.4 requires mitigation for sources within 500 feet of sensitive receptors. However, as noted in response to comment O3-79, the Project would not have localized air quality impacts and health risk impacts would be less than significant with PDF AQ-2 (electric cargo handling equipment) and **MM AQ-1** (Tier 4 construction equipment). Therefore, additional mitigation is not required.

**O3-91** Given the location of the proposed Project and the adjacency to sensitive receptors, a Health Risk Assessment (HRA) was prepared for the proposed Project to assess potential health risks to the surrounding community; refer to DEIR pages 4.2-50 through 4.2-55 and **Appendix B**. The HRA was prepared for the Project using air dispersion modeling (EPA AERMOD). Health risks are determined by examining the types and levels of air toxics generated and the associated impacts to air quality. As described above, impacts related to cancer risk would be less than significant with implementation of **MM AQ-1**. Additionally, non-carcinogenic hazards are calculated to be within acceptable limits. It should be noted that the impacts assess the Project's incremental contribution to health risk impacts, consistent with the SCAQMD guidance and methodology. The SCAQMD has not established separate cumulative thresholds and does not require combining impacts from cumulative projects. The SCAQMD considers projects that do not exceed the Project-specific thresholds to generally not be cumulatively significant. Therefore, impacts related to health risk from the Project would be less than significant. Refer to **Appendix B** of the DEIR for additional information.

While cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time, an EIR or MND can determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable, and thus is not significant (see Section 15130 of the State CEQA Guidelines). In the case of the proposed Project, implementation of **MM AQ-1** would render its contribution to impacts to less than cumulatively considerable. As such, Projects that do not exceed the SCAQMD's 10 in one million incremental threshold would not exacerbate existing conditions.

Furthermore, it should be noted that the DEIR determined that the Project's Localized Significance Thresholds (LSTs) would be less than significant (refer to DEIR pages 4.2-42 through 4.2-45), which indicates that the regional increases shown in DEIR Tables 4.2-10 through 4.2-14 are over counting truck emissions since not all these trips are in reality new to the air basin.

**O3-92** Refer to response to comment O3-91, above. As noted above the SCAQMD has not established separate cumulative thresholds and does not require combining impacts from cumulative

projects. The SCAQMD considers projects that do not exceed the Project-specific thresholds to generally not be cumulatively significant. Localized air quality and health risk impacts were evaluated in DEIR pages 4.2-43 through 4.2-45 and pages 4.2-50 through 4.2-55 and determined to be less than significant.

The comment provides data from OEHHA's CalEnviroScreen 4.0. CalEnviroScreen is a mapping tool that helps identify California communities that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects. CalEnviroScreen uses environmental, health, and socioeconomic information to produce scores for every census tract in the State. The scores are mapped so that different communities can be compared. An area with a high score is one that experiences a much higher pollution burden than areas with low scores. The CalEnviroScreen score measures the relative pollution burdens and vulnerabilities in one census tract compared to others and is not a measure of health risk.

The City disagrees with the assertion that the Project would exacerbate existing conditions. The comment notes that the census tract that the Project is located is within the 65<sup>th</sup> percentile for traffic, which is consistent with the data presented within CalEnviroScreen 4.0. However, CalEnviroScreen 4.0 also shows that the Project area's Pollution Burden Percentile is 23 and the Overall Percentile is 29 (also noted on page 12 of DEIR **Appendix B** (Health Risk Assessment). As noted above, the HRA prepared for the Project and incorporated into DEIR pages 4.2-50 through 4.2-55 show that the Project impacts would be below SCAQMD thresholds. The SCAQMD cancer risk threshold is expressed as "incremental cancer risk."<sup>7</sup> Individual cancer and incremental cancer risk are the likelihood that a person continuously exposed to concentrations of TACs over a lifetime will contract cancer based on the use of standard risk assessment methodology.

As noted above, the Project's localized emissions would be less than significant (refer to DEIR pages 4.2-43 through 4.2-45), which indicates that the regional increases shown in DEIR **Tables 4.2-11, 4.2-13, and 4.2-14** are over counting truck emissions since not all these trips are in reality new to the air basin.

**O3-93** Refer to responses to comments O3-91 and O3-92, above. The emissions associated with the Project's vehicle miles traveled were quantified and analyzed in the DEIR (refer to **Tables 4.2-10 through 4.2-14**). It should be noted that these emissions would occur regionally, as emissions associated with mobile sources would occur on roadways throughout the County and region and the majority of mobile sources would not be near the Project's sensitive receptors. As noted in response to comment O3-91, the Project's localized emissions would be less than significant (refer to DEIR pages 4.2-43 through 4.2-45) and the Project's health risks would be less than significant (refer to DEIR pages 4.2-50 through 4.2-55), which indicates that the regional increases shown in DEIR **Tables 4.2-11, 4.2-13, and 4.2-14** are over counting truck emissions since not all these trips are in reality new to the air basin.

<sup>7</sup> SCAQMD, South Coast AQMD Air Quality Significance Thresholds, April 2019.

**O3-94** The comment summarizes the commenters view of the DEIR. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-95** The comment summarizes the commenters view of the DEIR and a general statement that additional feasible mitigation measures are available. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-96** The comment summarizes the commenters view of the DEIR and a general statement about consistency with plans and policies. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-97** Goal 7 of the Sustainable Beaumont Plan includes various measures to reduce vehicle miles traveled, including: Measure 7.1: Encourage non-motorized transportation options; Measure 7.2: Encourage, promote, incentivize, or expand use of the pass transit system or other transit services; Measure 7.3: Create bicycle master plan to expand bike routes around the City; Measure 7.4: Promote Ride sharing programs within businesses; and Measure 7.5: Electrify the fleet. Measures 7.3 and 7.5 are the City's responsibility to implement and would not be the Project's responsibility. However, the Project would implement a TDM program (DEIR **MM AQ-3**) that would encourage non-motorized transportation; encourage, promote, and incentivize the use of transit; and promote ride sharing programs. For example, **MM AQ-3** requires a transportation information center and TDM coordinator to provide information on surrounding transportation options, promote bicycling and walking by including on-site amenities, providing bicycle storage, providing shower and changing facilities, providing on-site car share amenities, promoting carpool/vanpool/rideshare, provide incentives for alternative travel modes, provide onsite meal options, and providing preferred preferential parking for electric, and low-emitting vehicles. Therefore, the Project implements feasible TDM measures to be consistent with Goal 7.

**O3-98** Refer to response to comment O3-97. The Project would implement various TDM measures and would be consistent with Goal 7 of the Sustainable Beaumont Plan. The fact that the Project's GHG emissions were determined to exceed thresholds due to mobile sources does not make it inconsistent with the Sustainable Beaumont Plan.

**O3-99** The Riverside County Climate Action Plan consistency analysis was provided in the DEIR for informational purposes. Regardless of the type of the source, **MM GHG-1** would require that 100 percent of the Project's energy is renewable clean energy, which is the intent of the Riverside County Climate Action Plan measure. It should be noted that the measure is under the overall category "Clean Energy" and also includes wind turbines, which would also achieve 34 points, as long as 100 percent of the Project's power needs are provided. As noted above, the consistency analysis with the Riverside County Climate Action Plan Screening Table is provided for informational purpose to demonstrate that Phase 1 is implementing all feasible measure to minimize GHG emissions. The DEIR's impact determination is based on consistency

with the Sustainable Beaumont Plan and the CARB Scoping Plan, as applicable, and is not based on consistency with the Riverside County Climate Action Plan.

**O3-100** The comment notes that RTP/SCS Goal 5 is to reduce GHG emissions and improve air quality. The proposed Project includes numerous mitigation measures and design features that would reduce emissions; refer to DEIR pages 4.2-22 through 4.2-24, pages 4.2-38 through 4.2-41, pages 4.7-29 through 4.7-31, and pages 4.7-39 through 4.7-40. These include implementation of a TDM program to reduce vehicle trips, charging stations and infrastructure to support future electric vehicle demand to reduce mobile emissions, prohibiting idling when engines are not in use, including signage to report violations, incentives for using cleaner operating trucks, facilitate compliance with SCAQMD Rule 2035, requiring renewable energy, achieving CalGreen Tier 2 energy efficiency standards, diverting solid waste, and using electric landscape equipment. The Project's exceedance of thresholds are primarily due to the size of the Project and not the lack of reduction measures. The implementation of the various mitigation measures noted above and design features would ensure emissions are reduced consistent with RTP/SCS Goal 5.

**O3-101** The CARB Refrigerant Management Program is a state requirement and is codified in Title 17 of the California Code of Regulations (Section 9 5380). Therefore, the Project would be required to use refrigerants that comply with State law. Additionally, the SCAQMD issued the related Rule 1415 in 1991 covering stationary air conditioning systems, and subsequently adopted Rule 1415.1 in 2010 covering stationary refrigeration systems (a precursor to California's Refrigerant Management Program Rule, which took effect in 2011). Also, in 2010 Rule 1415 was extended to cover high-GWP HFC refrigerants. The RMP is designed to complement the federal and SCAQMD regulations and provide better control of emissions of both ozone depleting substances (ODS) and ODS substitute refrigerants such as HFCs and HFC blends. Therefore, this CARB Scoping Plan measure is implemented at the State and regional level and not at the project level.

**O3-102** This comment summarizes the commenter's view about the CEQA statutes and feasible mitigation. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-103** This comment summarizes the commenter's view about the DEIR and feasible mitigation. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-104** This comment summarizes the commenter's view about additional feasible mitigation. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary. Responses to specific comments are provided below.

**O3-105** Refer to response to comment O3-74. The comment suggests additional measures for incorporation into the DEIR. The discussion below provides a response to each of the suggested measures. As shown below, the suggested are already addressed in the DEIR or are CARB regulations that the Project must already comply with. Therefore, additional mitigation is not required.

Suggested Measure	Response
1. "Include contractual language in tenant lease agreements that requires 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."	<p>As noted above, the Project includes Project design features and mitigation that would facilitate the use of ZE and NZE vehicles consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.).</p> <p><b>MM AQ-6</b> requires Project compliance with SCAQMD Rule 2305 to facilitate the use of ZE and NZE trucks. Additionally, <b>MM AQ-6</b> requires the Project Applicant to provide \$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of <b>MM AQ-6</b>.</p> <p>Additionally, PDF AQ-2 requires all Phase 1 outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) to be powered by electricity (i.e., zero emission).</p>
2. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.	Refer to the response above.
3. Include contractual language in tenant lease agreements requiring all trucks, and cars entering the Project site be zero-emission.	Refer to the response above.
4. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2018 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.	Refer to response to comment O3-73 regarding 2018 model year trucks. Additionally, PDF AQ-13 requires the Phase 1 facility operator to provide tenants with information about the Carl Moyer Air Program and the On-Road Heavy-Duty Vehicles Voucher Incentive Program, which provides funding to purchase newer vehicles.
5. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program	Operators and manufacturers are required to comply with these regulations. CARB's Tractor-Trailer Greenhouse Gas Regulation reduces greenhouse gas emissions by improving the aerodynamic performance and reducing the rolling resistance of tractor-trailers. CARB's

Suggested Measure	Response
(PSIP), and the Statewide Truck and Bus Regulation.	Advanced Clean Trucks regulation is a manufacturer's ZEV sales requirement and a one-time reporting requirement for large entities and fleets. The Periodic Smoke Inspection Program (PSIP) is CARB's heavy-duty vehicle inspection program for in-use trucks and buses that includes roadside testing by CARB. The Statewide Truck and Bus Regulation requires fleets to upgrade to 2010 or newer model year engines by January 1, 2023. The suggested additional mitigation measures are already State regulation (i.e., mandatory). As such these measures are essentially part of the Project; and therefore, are not mitigation under CEQA.
6. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the CEQA document. If higher daily truck volumes are anticipated to visit the site, the City as the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this land use or higher activity level."	The DEIR forecast the number of Project generated vehicle trips using Institute of Transportation Engineers (ITE) 11 <sup>th</sup> Edition Trip Generation Manual trip generation rates, with the breakdown by vehicle type (passenger car, 2-axle trucks, 3-axle trucks, and 4+axle trucks) consistent with SCAQMD recommendations. Accordingly, the Project's average daily truck traffic has been modelled appropriately. However, setting a daily limit on truck trips would be infeasible due to expected day-to-day variations. The EIR is based on a set of realistic, but conservative, set of assumptions regarding the magnitude of potential activities resulting from the proposed Project, including truck trip estimates. Therefore, the City does not anticipate truck trips to exceed those, and future re-evaluation is not necessary.

**O3-106** This comment provides concluding remarks and does not raise a specific issue with the adequacy of the DEIR or raise any other specific CEQA issue. Therefore, no further response is necessary. Refer above for detailed responses.

**O3-107** A 1994 Phase I ESA conducted for the site is referenced in this VERTEX Phase I for the proposed Project. Based on the findings of a 1994 Phase I ESA, a Phase II subsurface investigation was also conducted which did not find methane in subsurface soil gas. The Phase II ESA findings included the following:

1. No gasoline range hydrocarbons or volatile organic compounds (VOCs) were detected in any of the samples that were analyzed. Only one of the six samples analyzed had detectable levels of diesel range hydrocarbons with a value of 130 mg/kg. The concentration of the various metals detected in the samples are consistent with typical background levels and do not exceed any State or Federal action level.
2. VOCs were not detected in the soil sample that was collected from the "processing area."

3. Pesticides were not detected in any of the 18 soil samples that were collected from the retention pond/manure spreading areas.
4. Pesticides and herbicides were not detected in any of the 17 soil samples that were collected from the pesticide/chemical storage and chicken coop areas.

The Phase I ESA found that the current 2019 Regional Water Quality Control Board (RWQCB) Residential Environmental Screening Level (ESL) for petroleum hydrocarbons as diesel is 260 mg/kg and 1,200 mg/kg for Commercial/ Industrial use. Based on this information, the detection of diesel at 130 mg/kg represents a de minimis condition and not a REC.

Also, based on review of readily available historical information, the site is located in a rural and residential area. No HRECs were identified with respect to the historical surrounding property uses.

Several facilities were identified within the American Society for Testing and Materials (ASTM) search distances of the site. Based on distance, apparent gradient relationship, regulatory status, and/or other facility-specific characteristics, no RECs to the site were identified with respect to these facilities. Based on the reported contamination and the conditions indicated in the no further action letter, the former USTs represent a CREC in connection with the site. However, **MM HAZ-1** is included in the DEIR which requires the preparation of a Soils Management Plan for the Project.

**O3-108** The DEIR and VMT analysis disclose the Projects VMT impacts, and feasible mitigation measures have been identified.

As shown on page 6 of the VMT memo (Dated February 1, 2022), the Project would provide transportation demand management (TDM)/VMT Mitigation Measures as noted below:

- Provide a transportation information center and on-site TDM coordinator to educate residents, employers, employees, and visitors of surrounding transportation options.
- Promote bicycling and walking through design features such as showers for employees, self-service bicycle repair area, etc. around the Project site.
- Each building shall provide secure bicycle storage space equivalent to two percent of the automobile parking spaces provided.
- Each building shall provide a minimum of two shower and changing facilities within 200 yards of a building entrance.
- Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
- Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service.
- Incorporate incentives for using alternative travel modes, such as preferential load/unload areas or convenient designated parking spaces for carpool/vanpool users.

- Provide meal options onsite or shuttles between the facility and nearby meal destinations.
- Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

**O3-109** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O3-110** Comment noted. The suggested updates to the VMT analysis and/or DEIR document would not change the findings or conclusions of the transportation/VMT impact as significant and unavoidable.

**O3-111** As reported in the VMT analysis memo, there is no existing transit within  $\frac{1}{2}$ -mile of the Project. As such, the Project would not have an impact on existing transit ridership.

**O3-112** The thresholds used are consistent with the City's TIA guidelines. SB 743 provides discretion to lead agencies to set their VMT impact thresholds.

**O3-113** The thresholds used are consistent with the City's TIA guidelines. SB 743 provides discretion to lead agencies to set their VMT impact thresholds.

**O3-114** The suggested updates to the VMT analysis and/or DEIR document would not change the findings or conclusions of the transportation/VMT impact as significant and unavoidable.

**O3-115** Per CEQA Guidelines, Level of Service is not considered as a CEQA impact. Therefore, the analysis was done for General Plan consistency, and the Projects fair share toward these improvements will be conditions of approval and not mitigation measures.

**O3-116** Per CEQA Guidelines, Level of Service is not considered as a CEQA impact. Therefore, the analysis was done for General Plan consistency, and the Projects fair share toward these improvements will be conditions of approval and not mitigation measures.

**O3-117** Per CEQA Guidelines, Level of Service is not considered as a CEQA impact. Therefore, the analysis was done for General Plan consistency, and the Projects fair share toward these improvements will be conditions of approval and not mitigation measures.

**O3-118** The DEIR and VMT analysis discloses the proposed Projects VMT impacts, and feasible mitigation have been identified. As shown on page 6 of the VMT memo (Dated February 1, 2022), the Project would provide transportation demand management (TDM)/VMT Mitigation Measures as noted below:

- Provide a transportation information center and on-site TDM coordinator to educate residents, employers, employees, and visitors of surrounding transportation options.
- Promote bicycling and walking through design features such as showers for employees, self-service bicycle repair area, etc. around the Project site.

- Each building shall provide secure bicycle storage space equivalent to two percent of the automobile parking spaces provided.
- Each building shall provide a minimum of two shower and changing facilities within 200 yards of a building entrance.
- Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
- Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service.
- Incorporate incentives for using alternative travel modes, such as preferential load/unload areas or convenient designated parking spaces for carpool/vanpool users.
- Provide meal options onsite or shuttles between the facility and nearby meal destinations.
- Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

**O3-119** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O3-120** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O3-121** DEIR **Sections 4.10 and 4.12** include detailed analysis related the Project's compliance with the City's General Plan and housing. The commentor makes a blanket statement but does not raise any specific issues related to the actual analysis in the DEIR.

**O3-122** Chapter 17.20 of the Beaumont Municipal Code establishes a No Net Loss Program, whereby concurrent with the approval of any change in zone from a residential use to a less intensive use, a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City.

**O3-123** See response to comment O3-122 above.

**O3-124** **Section 4.12, Population and Housing**, of the DEIR includes a detailed analysis on the Project impacts to housing and City's housing needs. In addition, the City has adopted a No Net Loss Program to replace housing units lost as a result of down zoning. See response to comment O3-122 above.

**O3-125** The WSA states the Project has been annexed into the City and into the water service area of BCVWD. The WSA does not make findings of sufficient water supply based on when recycled water will become available. The WSA makes findings of sufficient water supply for the proposed project based on the ample overlying water rights assigned to the Project parcels by

the Beaumont Basin Judgment that exceed the anticipated water demand (both potable and non-potable demand combined) of the proposed project. The WSA also finds that a future water demand for the Project site that exceeds the projected water demand of the proposed project was accounted for in BCVWD's 2020 UWMP 20-year water demand projections for which the district expects to have sufficient water supply. The future locations of utility extensions to be constructed by the applicant including recycled water lines are not a required element of the WSA (Senate Bill 610) and are therefore not included. The WSA assumes the permanent open space area will not be irrigated based on discussion between Webb and the fire marshal (there is a citation to this effect in the WSA).

**O3-126** Refer to **Section 3.0, Errata**, of this FEIR concerning the updates to the Project's biological resources mitigation measures.

**O3-127** Refer to **Section 3.0, Errata**, of this FEIR concerning the updates to the Project's biological resources mitigation measures.

**O3-128** Refer to **Section 3.0, Errata**, of this FEIR concerning the updates to the Project's biological resources mitigation measures.

**O3-129** Refer to **Section 3.0, Errata**, of this FEIR concerning the updates to the Project's biological resources mitigation measures.

**O3-130** The calculation of MSHCP fees is currently being developed with the appropriate resource agencies. There is no requirement to include the exact fees in the DEIR, as these are developed in conjunction with the appropriate agencies. The Project is required to pay all fees proportionate to their impact, as stated in the DEIR.

Southern California legless lizard is a California Species of Special concern that has moderate potential to occur within the Project due to the presence of suitable habitat and is not covered under the MSHCP. A majority of the moderately suitable habitat for southern California legless lizard within the Project site occurs within the drainage south of the grading footprint, which would be avoided during construction of the Project. However, the Project would result in removal of some suitable habitat within the smaller drainages in the northeast portion of the site, which would be adverse. Payment of MSHCP Local Development Mitigation Fees provides habitat-based mitigation within the plan area for all wildlife and plant species, including MSHCP-covered species and Species of Special Concern, impacted due to the loss of suitable habitat from covered projects. As such, loss of habitat for Species of Special Concern would be offset through this habitat-based mitigation under the MSHCP such that the loss of habitat resulting from the Project would not constitute significant impacts. These species are considered adequately covered under the MSHCP; habitat-based impacts on non-listed special-status wildlife species would be less than significant, conditional upon satisfaction of previous mitigation requirements.

**O3-131** As stated in page 4.13-10 of **Section 4.13, Public Services**, the Riverside County Fire Department (RCFD) reviewed the Project's design to ensure conformance to RCFD requirements and would thereby reduce demands on fire protection services. Additionally,

payment of the Fire Protection impact fees, property taxes, and other revenues generated by development within the Project area would be available to the City to offset any increased costs for fire protection services with little or no net effect on the City's budget.

Implementation of the Project would be required to be consistent with the City's General Plan for e-commerce, commercial, and open space uses as well as permitted floor area ratios (FAR). Lastly, Project development would be subject to compliance with RCFD requirements for emergency access, fire-flow, fire protection standards, fire lanes, and other site design/building standards.

**03-132** Comment noted.

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**Comment Letter O4 – Cherry Valley Acres and Neighbors**  
**Pat Doherty, Treasurer**

**Christina Taylor**

**From:** composerx <composerx@verizon.net>  
**Sent:** Monday, May 30, 2022 8:47 AM  
**To:** Christina Taylor  
**Subject:** summit station

My name is Pat - the treasurer of cherry valley acres and neighbors . Im writing for

the over 500 resident addresses that are members of our organization. Im sure you will hear from many of them seperately but Im speaking for all of them as we all are on the side of absolutely opposing any additional warehouse destruction in our community which has completely changed our area in every aspect by the disgusting gateway warehouse . Just because a warehouse was put at our doorstep certainly does not mean that its now just fine to put in more

The previous beaumont city council objected to the gateway warehouse and wrote out their opposition along with the water district , the aqmd , and the hiway patrol also did not want the gateway warehouse built . There were thousands of petition signatures turned in , over 700 letters from residents , and the largest opposition attendance from the public ever at the supervisor board meeting .. With all these agencies and the 98% of residents from cherry valley , beaumont , and calimesa objecting to the county who were going to break their own county plan rules regarding zone changes

O4-1

. Building this monsiter also helped destroy property values but most of us thought elected officials would certainly listen to the people they represent . In the end ALL of us were told our desires for where we live mean absolutely nothing . Supervisor jeffries stated earlier that " This is not the place for a warehouse . " He was absolutely correct yet in the end , he oddly ( not really ) changed his mind and these five overturned everyone they are supposed to be representing .. This has completely damaged anybody's feeling that elected officials are here to do good for the people they represent .. obviously they could care less . The highly stupid reason they give for building the monstrosity was " it will create jobs. " If anyone has any clue about warehouses , they should know and im sure they did , warehouses are becoming more and more automated where there are NO jobs . They expect us to believe nonsense

Now we come to the same situation where the same people are again distraught about another warehouse being put in the middle of 4 senior communities where it certainly does not belong . Add to that the huge addition of truck traffic and worst of all the addition of huge amounts of truck pollution that is without question making residents breathe pollution every hour of every day . The beaumont council absolutely knows the solera residents have contributed greatly to the beaumont balance sheet . It would be a major blow to everyone in solera who have done their part to help the coffers of the beaumont budget . We are expecting with great hope that the beaumont city council is NOT equal to the banning council or the self serving board of supervisors . Its no secret that the land owner gave \$\$ to the supervisors which everyone knows are basically just unethical bribes making respect and integrity missing from the county and the banning council for who they serve . Warehouses do

O4-2

O4-3

not belong anywhere near housing communities . They belong So. of the freeway . The banning city council will find they will be voted out of service due to their lack of compassion for their residents .. We sincerely have hope that the beaumont city council will do the proper course . They know exactly what the residents are hoping for . Do NOT let us down and rid the negativity that everyone is now feeling about elected officials .

pat doherty – treasure CVAN

***Responses to Comment Letter O4 – Cherry Valley Acres and Neighbors***

***Pat Doherty, Treasurer***

**O4-1** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. Additionally, evaluating whether or not the introduction of warehouses lowers the values of homes is not within the purview of CEQA and therefore is not included in the DEIR. However, your comment will be taken into consideration by decision-makers

**O4-2** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers. In addition, the DEIR fully analyzed and disclosed the proposed Project's impacts related to air quality and transportation. Refer to **Section 4.2, Air Quality** and **Section 4.15, Transportation** of the DEIR for more information.

**O4-3** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

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**Comment Letter O5 – Solera Oak Valley Greens Association, Board of Directors**  
**Christine Rodgers, Vice President of Large Scale Community Management**

**Christina Taylor**

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**From:** Christine Rodgers <crodgers@keystonepacific.com>  
**Sent:** Wednesday, May 18, 2022 11:41 AM  
**To:** Christina Taylor  
**Subject:** Beaumont Summit Station  
**Attachments:** 20220518113402454.pdf

Hello Ms. Taylor,  
Attached please find a resolution in opposition to the Beaumont Summit Station Warehouse, duly adopted on May 9, 2022 by the Solera Oak Valley Greens Board of Directors. The Board requests that the resolution be presented to the Beaumont City Council. Thank you.

O5-1

Kind regards,

Christine Rodgers, AMS® | Vice President, Large Scale Community Management  
Keystone

direct: 949.430.5803 | main: 949.833.2600  
16775 Von Karman Ave, Suite 100 | Irvine, CA 92606  
kppm.com | facebook | linkedin | crodgers@keystonepacific.com

We'd love your feedback! Let us know how we're doing.

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## Resolution of the Board of Directors

### Solera Oak Valley Greens Association

WHEREAS, The proposed 2.5 million sq. ft. Beaumont Summit Station mega warehouse across Brookside Avenue from Solera would cause serious problems for the seniors in our community.

First, senior citizens are the MOST vulnerable of any age group to respiratory disease caused by pollution from diesel 18-wheel trucks.

Second, the hundreds of big-rigs a DAY coming to and from the warehouse would cause significant traffic safety problems for drivers and pedestrians alike

O5-2

Third, many of us in Solera live on fixed, limited incomes. Putting a mega warehouse adjacent to our community would significantly lower the value of our homes.

There are many appropriate places to build industrial warehouses. Putting them in residential areas, especially across the street from senior communities, is NOT appropriate.

NOW THEREFORE BE IT RESOLVED that the Solera Oak Valley Greens Association—on behalf of our 2,500 city residents—urges the Beaumont City Council to vote NO on the Summit Station warehouse proposal.

Adopted on the 9<sup>th</sup> day of May, 2022

Beverly Crowe  
Beverly Crowe, Secretary

***Responses to Comment Letter O5 – Solera Oak Valley Greens Association, Board of Directors***  
***Christine Rodgers, Vice President of Large Scale***  
***Community Management***

**O5-1** The Solera Oak Valley Greens Association: Board of Directors Resolution in opposition to the proposed Project has been noted and will be taken into consideration by decision-makers.

**O5-2** See response to comment O5-1 above.

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**Comment Letter O6 – Center for Biological Diversity, Urban Wildlands Program**  
**Hallie Kutak, Senior Conservation Advocate**

**Christina Taylor**

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**From:** Hallie Kutak <hkutak@biologicaldiversity.org>  
**Sent:** Thursday, May 12, 2022 4:40 PM  
**To:** Christina Taylor  
**Subject:** Beaumont Summit Station

Hi Christina,

Could you put me on the list to receive updates about this project? Thanks.

Best,  
Hallie

Hallie Kutak  
Staff Attorney | Senior Conservation Advocate  
Urban Wildlands Program  
CENTER for BIOLOGICAL DIVERSITY  
Ph: 510-844-7117  
[hkutak@biologicaldiversity.org](mailto:hkutak@biologicaldiversity.org)





June 6, 2022

*Sent via email*

Christina Taylor  
Community Development Director  
City of Beaumont  
550 East 6th Street  
Beaumont, CA 92223

**Re: Comments on the Draft Environmental Impact Report for Beaumont Summit Station,  
SCH # 2021090378**

Dear Ms. Taylor:

These comments are submitted on behalf of the Center for Biological Diversity (the Center) regarding the Draft Environmental Impact Report (DEIR) for the Beaumont Summit Station (Project). The Center previously commented on the Notice of Preparation for the DEIR. The Center has reviewed the DEIR closely and is concerned that the DEIR fails to adequately address the Project's impacts on air quality, greenhouse gas emissions, sensitive receptors, biological resources, noise, and aesthetics. Should the Project go forward, the Center urges the City to commit to clear, enforceable mitigation for these impacts. However, under the Housing Crisis Act, the City cannot proceed with this Project because the City cannot rezone this site from residential to commercial/industrial.

O6-1

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Riverside County.

O6-2

As detailed below, the Center is concerned about the proposed Project's impacts on air quality, greenhouse gas emissions, biological impacts, noise, and aesthetics. To address these concerns and comply with the California Environmental Quality Act (CEQA) and the Housing Crisis Act, the City must first provide additional information showing how the City may lawfully develop this parcel with industrial uses. Should the Project proceed, the City should incorporate enforceable, evidence-backed mitigation measures into the DEIR.

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## **L. THIS PROJECT ADDS ADDITIONAL WAREHOUSE DEVELOPMENT TO A REGION ALREADY SUFFERING FROM HIGH POLLUTION.**

The Project would re-zone and re-designate approximately 140 acres from residential to commercial/industrial to construct a 2.5 million square foot e-commerce warehouse with an attached 150,000 square feet of mixed commercial uses. (DEIR at 3-4.) The DEIR projects that the Project would generate approximately 659 daily truck trips and 11,518 daily vehicle trips, immediately adjacent to existing residential development. (DEIR at 4.7-27.)

The Project is in northern Beaumont in Riverside County. The surrounding area is a mix of residential, schools, and small businesses. Homes border the eastern and southern boundaries of the Project site, with the closest homes located immediately adjacent to and across the street from the Project. (DEIR at 4.2-41.) Small, independent businesses, including a children's art studio, also abut the Project's eastern boundary. (See Exhibit 1.) Interstate 10 runs along the western edge of the project site. (DEIR at 3-22.) An elementary, middle, and high school are all off Brookside Avenue, east of the Project site. (See Exhibit 1.)

O6-3

### **A. Warehouse Projects Have Documented Air Quality Impacts That the DEIR Must Address.**

Air quality is a significant environmental and public health concern in California. Unhealthy, polluted air contributes to and exacerbates many diseases and increases mortality rates. The U.S. government has estimated that between 10-12 percent of total health costs can be attributed to air pollution. (VCAPCD 2003.) Greenhouse gases, such as the air pollutant carbon dioxide, which is released by fossil fuel combustion, contribute directly to human-induced climate change (EPA 2016a), and in a positive feedback loop, poor air quality that contributes to climate change will in turn worsen the impacts of climate change and attendant air pollution. (BAAQMD 2016.)

Air pollution and its impacts are felt most heavily by young children, the elderly, pregnant women and people with existing heart and lung disease. People living in poverty are also more susceptible to air pollution as they are less able to relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports, as these areas are more affordable. (ALA 2022.) Some of the nation's most polluted counties are in Southern California, and Riverside County continually tops the list. (ALA 2022.) According to the American Lung Association's 2022 "State of the Air" report, Riverside County is the second-worst ranked county in the nation for ozone pollution, and the eleventh-worst ranked county for year-round particulate matter (PM2.5) pollution, with a "Fail" grade and an average number of 252 days per year with ozone levels in the unhealthy range. (*Id.*) Even more disturbing, the same report found that Riverside County is one of only fourteen counties in the country that received a "Fail" grade in all air quality metrics. (*Id.*)

O6-4

Although there are many different types of air pollution, Ozone, PM2.5, and Toxic Air Contaminants (TACs) are of greatest concern in Riverside County. These three air pollutants have been linked to an increased incidence and risk of cancer, birth defects, low birth weights

and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke and heart attack. (Laurent 2016; ALA 2020.) Ozone (commonly referred to as smog) is created by the atmospheric mixing of chemicals released from fossil fuel combustion – such as reactive organic gases (ROG) and nitrogen oxides (NOx) – and sunlight. Although it is invisible, ozone poses one of the greatest health risks, prompting the EPA to strengthen its National Ambient Air Quality Standard for Ozone in 2015. (ALA 2022.) PM2.5 is a common component of vehicle exhaust emissions and contributes to visible air pollution. These tiny particles are dangerous because they are small enough to escape our body's natural defenses and enter the blood stream. Fugitive dust is a term used for fine particulate matter that results from disturbance by human activity such as construction and road-building operations. (VCAPCD 2003.) TACs are released from vehicle fuels, especially diesel, which accounts for 70% of the cancer risk from TACs. (CARB 2022.) This is especially relevant for Southern California with its abundance of diesel shipping traffic. (Bailey; Betancourt 2012.)

Warehouse projects in particular are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities. (Betancourt 2012 at 4-5.) Particulate emissions from diesel vehicles that carry freight to and from warehouses contribute to “cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death.” (*Id.* at 5.) With the rapid increase in global trade, the Ports of LA and Long Beach have become a primary entryway for goods, processing over 40 percent of all imports into the United States, and accounting for 20 percent of diesel particulate pollutants in southern California—more than from any other source. (Minkler, et al. 2012.) These goods are often ‘transloaded’ before leaving Southern California, meaning that they spend some time in warehouse storage facilities before they reach their final destination. (Betancourt 2012 at 2.) This has resulted in a massive expansion of warehouse development in Southern California.

06-4

Nowhere has this growth been more drastic than in the Inland Valleys of Riverside and San Bernardino Counties in California. (Betancourt 2012.) The approximately 840 million square feet of new warehouse facilities—and the roads and railyards that serve them – has permanently altered the landscape of the Inland Valley area, creating a logistics hub so massive that it is now visible from space. (Pitzer 2022.)

This Project is one in a long line in which local decisionmakers approve warehouse development close to homes, despite health warnings from state air quality officials about the elevated asthma and cancer risks caused by warehouse distribution centers, primarily due to diesel truck pollution. (Esquivel 2019.) Back in 2005, the California Air Resources Board recommended that decisionmakers keep warehouses at least 1,000 feet away from homes, based on estimates that pollution concentrations drop by 80% at that distance. (CARB 2005.) Yet, almost twenty years later and despite the overwhelming evidence of impacts, the City here proposes a warehouse immediately adjacent to existing residential development, exacerbating poor air quality in a region that is already in non-attainment for ozone by the EIR’s own admission. (DEIR at 4.2-32.)

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June 6, 2022  
Page 3

## II. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT'S SIGNIFICANT ENVIRONMENTAL IMPACTS.

CEQA's fundamental purpose is to ensure that a lead agency fully evaluates, discloses, and mitigates wherever feasible a project's significant environmental effects. (Pub. Resources Code, §§ 21000, et seq.) An EIR serves as an "informational document" that informs the public and decisionmakers of the significant environmental effects of a project and ways in which those effects can be minimized. (CEQA Guidelines, § 15121, subd. (a).) Accordingly, CEQA requires an EIR to include "enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.) Here, the DEIR fails to properly disclose and analyze significant air quality, greenhouse gas (GHG), biological, noise, and aesthetic impacts.

O6-5

### A. The DEIR Underestimates the Project's Already Significant Air Quality and GHG Impacts.

The DEIR's analysis of the proposed Project's air quality and GHG emissions is inadequate to the public and decision-makers. (See DEIR Sec. 4.2 and 4.7.) The DEIR finds that the Project – even with the proposed mitigation – will result in a significant and unavoidable increase in criteria pollutants such as ROG and NOx. (DEIR at 4.2-35.) It also finds that GHG emissions would measure 25,107 MTCO2e, far exceeding the DEIR's threshold of significance of 3,000 MTCO2e. (DEIR at 4.7-38.)

O6-6

The DEIR here grossly underestimates the vehicle trips associated with the Project. Its approach violates CEQA's requirement that an EIR fully analyze and attempt to mitigate all significant direct and indirect impacts of a project. (CEQA Guidelines, § 15126.2; Pub. Resources Code, § 21002.)

O6-7

The DEIR estimates that the Project will generate approximately 659 daily truck trips, which it calculated using the Institute of Transportation Engineers (ITE) Common Trip Generation Rates. The ITE estimates trip generations based on the type of facility and square footage of the facility. (ITE 2017<sup>1</sup>; DEIR at 4.7-27.) The DEIR relies on two facility types: Land Use 154: High-Cube Short-Term Storage and ITE Land Use 150: Warehousing, which have generation rates of .1 and .19 trips per unit respectively (DEIR at 4.2-19, Appendix A at 22.) Other types of warehouse projects identified by ITE, such as High-Cube Fulfillment Center Warehouses and High-Cube Parcel Hub Warehouses, have significantly higher vehicle trip estimates, 1.37 and .64 trips per unit, respectively.

O6-8

The DEIR provides no information or evidence justifying its selection of high-cube short-term storage and warehousing when other types of high cube warehouse centers result in truck trip estimates orders of magnitude higher. The DEIR describes the Project generally as an "e-

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<sup>1</sup> The Center referred to the most recently publicly available edition of the ITE Report (10 Ed.) The DEIR does not specify which edition it relied upon. Please include that information in the Final Environmental Impact Report.

commerce building space,” with the Project objective to build a “state-of-the-art logistics/e-commerce center.” (DEIR at 3-4, 3-73.) The DEIR lacks additional detail about the type of warehouse facility it anticipates constructing. It does not disclose the number of loading docks, trailer stalls, or parking spots associated with the Project – all of which inform the intensity of use. Nor does the DEIR place limits on the type of e-commerce facility that could operate on the site. Absent additional information, it appears that any tenant could operate a high-cube center or parcel hub warehouse on the site, which would generate significantly more truck trips than the DEIR disclosed, analyzed, or mitigated.

O6-9

The City must support its choice to rely upon these lower estimates, or select an estimate that more conservatively and accurately accounts for the Project’s potential to generate truck trips.<sup>2</sup> Should the City ultimately rely on these lower estimates, the City must condition any project approval on a lease provision that guarantees a Project tenant could not operate a high-cube fulfillment center or parcel hub warehouse on the site, absent additional environmental review and mitigation.

O6-10

The DEIR then compounds its error by underestimating the diesel pollution that would be generated by each truck trip. The EIR engages in this misleading minimization of impacts by assuming that, on average, trucks will travel 33.2 miles one way, based on CARB’s estimate of the average truck trip length from the Ports of LA and Long Beach to warehouse facilities in the region. (DEIR at 4.7-27; CARB 2007.) If the City’s estimate is grounded in the assumption that many trucks will travel to and from the Port, then the only evidence-backed metric for trip length is the Project’s distance from the Port – approximately 88 miles one way. Reliance on a basin-wide average masks up to two-thirds of the diesel pollution that the Project could generate.

O6-11

Finally, the DEIR concludes that construction-related air quality impacts would be less than significant with mitigation but appears to omit analysis of emissions from hauling construction materials to the Project site, along with the associated truck trips. (DEIR at 4.2-28, 4.2-29; Appendix A, Appendix A thereto at 66-74.) The City erred by not analyzing these impacts.

O6-12

These same flaws that infect the DEIR’s air quality analysis cause the DEIR to underestimate the Project’s already significant and unavoidable GHG impacts.<sup>3</sup>

O6-13

#### **B. The DEIR’s Analysis of and Mitigation For the Cumulative Air Quality Impacts to Sensitive Receptors is Inadequate.**

The DEIR fails to properly analyze cumulative air quality impacts on sensitive receptors. As courts have explained, “[o]ne of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small

O6-14

<sup>2</sup> A more accurate estimation will likely affect the Project’s Warehouse Actions and Investments to Reduce Emissions (WAIRE) Points calculation, which is based on the number of truck trips to the facility. (DEIR at 4.7-35.)

<sup>3</sup> Again, the City’s underestimation of diesel impacts will likely affect its WAIRE calculation. Once recalculated, the Project may no longer comply with the SCAQMD indirect source rule and may be required to pay additional funds.

sources.” (*Kings Cty. Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720.) Consequently, CEQA requires analysis of cumulative impacts. (CEQA Guidelines, Appendix G, §§ 15130, 15355.)

The DEIR’s health risk assessment purports to evaluate the increased cancer risk caused by the Project. The analysis concludes that the Project’s diesel particulate matter emissions would result in approximately 63 cases of cancer for every million residents and 60.9 cancer cases for every million workers, above the significance threshold of ten cancer cases per million people. (DEIR at 4.2-54, Appendix A at 29.) The DEIR proposes a mere two measures to address this significant cancer risk – one project design feature (PDF AQ-2) and one mitigation measure (MM AQ-1) – then concludes without explanation that these alone will reduce cancer levels from 63 to 98 per one million, resulting in an insignificant impact after mitigation. (DEIR at 4.2-54.)

These measures do not go nearly far enough toward reducing, avoiding, or minimizing the Project’s impacts on sensitive receptors. PDF AQ-2 requires all outdoor on-site cargo handling equipment to be powered by electricity. (DEIR at 4.2-21.) MM AQ-1 requires certain off-road construction to meet CARB Tier 4 Final emissions standards, in order to reduce diesel exhaust construction emissions. (DEIR at 4.2-29.) These requirements focus primarily on on-site and construction equipment. Neither addresses the long-term air quality harms from operation of the warehouse and trips by heavy diesel trucks in and out of the facility. The DEIR must provide evidence to support its conclusion that these solutions at the margins will lead to the dramatic reduction in cancer levels the DEIR purports. More importantly, the EIR must be revised to incorporate evidence-backed solutions to these harms.

Pursuant to a recent settlement with the Attorney General’s Office, the South Coast Air Quality Management District (SCAQMD) has committed to revise its CEQA guidance for analyzing cumulative air quality impacts. (AGO 2022; SCAQMD 2022.) SCAQMD staff have proposed an approach for new guidance that would consider existing burdens associated with nearby pollution sources and quantify cumulative air quality impacts and the effects on human health. The purpose of this new approach is to consider the impacts of concentrating polluting land uses, like warehouse projects, in disadvantaged areas, thereby encouraging local governments to site future projects in areas where they will have the least impact on human health. (AGO 2022.) Accordingly, the City may soon be required to conduct additional analysis for cumulative air quality impacts. Should SCAQMD release its updated rules, the City must update its cumulative air quality analysis.

### **C. The DEIR Does Not Adequately Analyze the Project’s Impacts on Biological Resources.**

The DEIR fails to provide adequate baseline information and description of the environmental setting for species onsite. The Project site is subject to the requirements of the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). While the EIR purports to follow the requirements of the Western Riverside MSHCP, it fails to provide evidence that Narrow Endemic Plant Species Survey were properly executed as required by the MSHCP for the Marvin’s onion (*Allium marvini*) and many-stemmed dudleya (*Dudleya multicaulis*). The two surveys were conducted in a single year after multiple years of drought.

Both species are perennial forbs, which do not consistently show above ground, particularly in drought years. The former and existing land uses have altered the landscape but may not have eliminated these unique geophytes on site. And although the habitat for Marvin's onion is not well known, it is usually found on clay soils, such as those on the Project site. (CNPS 2022.) Therefore, additional spring surveys should be done to assure that these rare plant species are avoided on site. Consequently, because of the deficiencies of the baseline data for the proposed project area, the DEIR fails to adequately describe the environmental baseline for biological conditions on the Project site. The DEIR should be revised to fully describe and disclose these baseline conditions, which must be used to evaluate the impacts of the proposed Project.

Further, since the DEIR documented the federally and state endangered least Bell's vireo during on-site surveys, the project must revegetate mesic and riparian areas in order to provide additional habitat for the vireo. Such action is critical to comply with the City's General Plan Goal 8.5 to "preserve[] and enhance[] its natural resources" through Policy 8.5.5 to "[p]rotect and enhance creeks, lakes, and adjacent wetlands by eradicating non-native vegetation and restoring native vegetation," as well as Policy 8.7.5 to "[p]reserve watercourses and washes necessary for regional flood control, ground water recharge areas, and drainage for open space and recreational purposes."

O8-19

Failure to conduct adequate surveys and adopt proper management plans prior to Project approval and construction effectively eliminates the most important function of surveys: using the information from the surveys to avoid and minimize harm caused by the project and reduce the need for mitigation. Often efforts to mitigate harm are far less effective than avoiding and preventing the harm in the first place. In addition, without understanding the scope of harm before it occurs, it is difficult to quantify an appropriate amount and type of mitigation.

O8-20

#### **D. The DEIR Fails to Adequately Consider the Project's Noise Impacts on Sensitive Receptors.**

The DEIR also fails to adequately analyze traffic and cumulative noise impacts on sensitive receptors. The DEIR considers the Project's noise impacts at four points along Brookside Avenue, one of two thoroughfares that will connect traffic from the I-10 corridor to the Project. (DEIR at 3-1, 4.11-24, Table 4.11-12.) Brookside Avenue has no traffic lights and provides access to residential development. Consequently, baseline noise is low. Nevertheless, the DEIR concludes that additional traffic generated by the Project would not significantly increase noise at the four identified locations. (DEIR at 4.11-30.)

O8-21

The DEIR fails to analyze noise impacts at crucial locations, including at the southernmost sensitive receptor. The DEIR identifies these single-family residences 160 feet south from the Project's property line, along Brookside Avenue, as a sensitive receptor. (DEIR at 4.11-3.) Yet the DEIR does not consider the impact of traffic noise to the residences along this roadway segment, specifically Brookside Avenue from North Deodar Drive to Hannon Road. Trucks visiting the Project from the West will travel past this sensitive receptor on Brookside Avenue, substantially increasing traffic noise. Moreover, because this sensitive receptor will also be close to the Project's stationary noise sources, such as truck loading activities, the DEIR

O8-22

should consider the cumulative impact of the Project's stationary and traffic noise on that sensitive receptor.

Similarly, the Project fails to disclose all the noise impacts of Phase 2 construction and operation on adjacent sensitive receptors. Phase 2 of the Project would include the development of up to 150,000 square feet of commercial, including a hotel, general retail, and restaurant uses. (DEIR at 3-9.) The DEIR addresses the noise impacts of the retail and food uses but noticeably omits discussion of the potential noise generated by the hotel, and the attending environmental impacts on sensitive noise receptors. (DEIR at 4.11-21, 4.11-23.) The DEIR compounds this error by failing to adequately consider the hotel's ambient noise in conjunction with other phase 2 structures. Without considering these impacts, the DEIR misses potentially significant cumulative noise impacts on sensitive receptors.

O6-23

#### E. The DEIR Fails to Analyze the Project's Aesthetic Impacts.

The DEIR fails to adequately consider whether the Project would create a new source of substantial light, which would adversely affect nighttime views in the area. The Project site holds the remnants of the former Sunny-Cal Egg and Poultry Ranch, including cement pads, several structures, and vacant property. (DEIR at 3-3.) The 188-acre site generates little to no light. Thus, the DEIR admits, as it must, that the Project will "increase nighttime lighting in this portion of the City." (DEIR at 4.1-13.)

O6-24

The DEIR concludes that any operational aesthetic impacts would be reduced to less than significant with implementation of Project Design Guidelines and adherence to Beaumont Municipal Code Chapter 8.50. (DEIR at 4.1-13.) To support its conclusion, the Project asserts – without any evidence – that these guidelines and codes would reduce lighting standards. Yet, the DEIR does not specify which specific measurements or standards will be applicable to the Project. To adequately explain the impacts of the Project's light impact on nighttime views in the area, the DEIR should explain in detail – as opposed to conclusory statements – how the implementation of Project Design Guidelines and Municipal Code Chapter 8.50 will reduce nighttime lighting that is sure to occur.

O6-25

The DEIR also concludes, without evidence, that the Project would not cumulatively impact aesthetics of the surrounding area. (DEIR at 4.1-14.) A project's incremental contribution is cumulatively considerable if it is significant when viewed in connection with the effects of other past, current, and probable future projects. (CEQA Guidelines, § 15065, subd. (a)(3).) The DEIR admits the Project objectives – namely, warehouse development – would "specifically have some bearing on the aesthetic design of the development within the Specific Plan." (DEIR at 4.1-14.) But it dismisses any concerns with a one sentence conclusion: "the Project would not adversely affect any protected public viewsheds or destroy any scenic vista, nor would it impede views of the San Jacinto Mountains or the San Bernardino Mountains." (*Id.*) This statement is not sufficient to adequately explain the cumulative aesthetic impact the Project will create in connection with the effects of other past, current, and probable projects. Thus, to adequately explain the Project's cumulative aesthetic impacts, the DEIR should elaborate on how past, current, and probable projects in the vicinity will, when considered in the aggregate, affect the existing aesthetic environment.

O6-26

### III. THE DEIR FAILS TO JUSTIFY ITS REJECTION OF THE REDUCED BUILDING INTENSITY ALTERNATIVE.

CEQA requires an EIR to identify alternatives to the proposed project. (Pub. Resources Code, § 21002.1, subd. (a).) “Evaluation of project alternatives and mitigation measures is the core of an EIR.” (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 937 (alterations omitted).) Discussion of alternatives allow governmental agencies to consider alternatives to proposed actions affecting the environment. (*Laurel Heights Improvement Ass’n v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 400 (en banc) (citing Pub. Resources Code § 21001, subd. (g)).) To that end, the EIR must “describe a range of reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” (CEQA Guidelines, § 15126.6, subd. (a).)

08-27

The DEIR includes an alternative – the reduced building intensity alternative – that would reduce the Project’s environmental impacts while still meeting the Project’s stated objectives. The reduced building intensity alternative is an alternative site design that would involve the development of 2,173,846 square feet of e-commerce space, reducing the development footprint of the project by 15 percent. (DEIR at 6-17.)

The DEIR concludes that vehicular traffic from the Project would be roughly the same because the intensity of use would be similar, resulting in no reduction in air quality or GHG emissions. (DEIR at 6-18, 6-19.) But then, the DEIR concludes that noise impacts would be reduced, specifically due to the reduction in traffic associated with the Project. (DEIR at 6-20.) If, as the DEIR admits, this alternative would result in a reduction in traffic, then the DEIR should consider potential reductions in air quality impacts and GHG emissions.

08-28

The DEIR identifies the reduced intensity alternative as the environmentally superior alternative but then dismisses it because it is “not capable” of meeting the Project’s objectives. (DEIR at 6-22.) This analysis is limited to a single sentence with no explanation: “However, while the Reduced Building Intensity Alternative is the environmentally superior alternative, it is not capable of meeting all of the basic objectives of the Project.” This is insufficient. And given that the intensity of use will be the same, it is even more dubious that this alternative is incapable of meeting the Project objectives. The DEIR should explain which Project objectives the reduced building intensity alternative would not meet (if any), and why. In so doing, the City “may not give a project’s purpose an artificially narrow definition” to limit the scope of acceptable alternatives. (*N. Coast Rivers All. v. Kawamura* (2015) 243 Cal.App.4th 647, 668.) And given the current zoning of the site, the site’s characteristics, the surrounding uses, and the City’s potential violation of the Housing Crisis Act (see Sec. V., *infra*), the City should seriously consider an alternative that constructs high-density, affordable housing.

08-29

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#### IV. THE DEIR FAILS TO CONSIDER ADDITIONAL, FEASIBLE MITIGATION TO REDUCE THE PROJECT'S SIGNIFICANT ENVIRONMENTAL IMPACTS.

Even under the Project's unrealistic assumptions regarding the Project's vehicle traffic and the substantial emissions it would generate, the Project under the DEIR's own terms would have a profound negative impact on air quality in the region and for adjacent residential communities and would generate significant GHG emissions. Despite the Project's significant impacts, the DEIR does not incorporate several basic measures that would reduce the Project's impacts on adjacent residential communities.

O6-30

##### A. The DEIR Makes Faulty Assumptions Regarding the Feasibility of Mitigation Measures.

As discussed above, the Project admits—as it must—that the Project's GHG emissions will well exceed the threshold of significance. Authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving global climate change. As stated by the Third National Climate Assessment: “observations unequivocally show that climate is changing and that the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases.” (Mellilo 2014.) The Assessment makes clear that “reduc[ing] the risks of some of the worst impacts of climate change” will require “aggressive and sustained greenhouse gas emission reductions” over the course of this century. (*Id.*) The IPCC Sixth Assessment Report and other expert assessments have established global carbon budgets, or the total amount of carbon that can be burned while maintaining some probability of staying below a given temperature target. (IPCC 2021.)

O6-31

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, (9th Cir. 2008) 538 F.3d 1172, 1217 [“the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis” that agencies must conduct].) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California’s climate as a whole. Therefore, project-specific GHG emission disclosure, analysis and mitigation is vital to California meeting its climate goals and maintaining our climate.

O6-32

Although the Project will result in significant and unavoidable GHG impacts, the DEIR concludes that additional mitigation is not feasible due to the limited ability of the City of Beaumont to address emissions resulting from trucks, cars, and/or emissions generated by these trucks outside of the City’s limits. (DEIR at 4.7-32, 4.7-33.) Such an assertion lacks basis in the science and in common sense. Whether CO<sub>2</sub> emissions result from vehicles or from construction is irrelevant because the effect of that emission is the same – a small but significant contribution to global climate change. The City cannot hide behind its limited regulatory authority to escape its obligation to reduce greenhouse gas emissions, wherever it can, to the extent feasible.

O6-33

The Project further concludes that, since no local offset programs are available, any other offsets are not real or verifiable and thus infeasible under *Golden Door Properties, LLC v.*

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*County of San Diego* (2020) 50 Cal.App.5th 467. (DEIR at 4.7-37) *Golden Door* did not decide that such offsets are invalid as a matter of law. To the contrary, the court indicated support for one of the County's mitigation measures under which the County would make "direct investments in local projects to offset carbon emissions." (*Golden Door Properties, LLC, supra*, 50 Cal.App.5th at 492.) A direct investment project was defined as an action that reduces, avoids or sequesters GHG emissions, such as weatherization and tree planting projects. (*Ibid.*) The Court considered direct investment projects are valid as long as they (1) comply with protocols approved by the California Air Resources Board, the California Air Pollution Control Officers Association or the local air pollution control district which received public review prior to adoption; and (2) yield GHG reductions that are additional to reductions that would not otherwise occur. (*Id.* at 492-493.)

O6-34

Again, the City seeks to avoid its clear obligations under CEQA. The DEIR provides no evidence to support its conclusion that available offsets are infeasible. The City must explain whether it made any effort to create offset programs within City limits, work with the Riverside County Transportation Commission to identify offsets, or demonstrate the infeasibility of the available offset programs. Of course, the City should prioritize onsite mitigation before offsets. But once the City considers and incorporates all feasible onsite mitigation measures, outlined below, if it finds that the Project still has significant and unavoidable impacts, then the City must consider offsets. The City should first consider local offsets, but if – as the DEIR claims – no local offsets are available, the City should consider regional, then statewide offsets. Nevertheless, the City should prioritize local offsets to benefit the nearby community with an emphasis on developing community climate resiliency and adaptation.

O6-35

## B. The DEIR Fails to Consider Proven, Feasible Mitigation Measures.

The DEIR fails to meet the City's obligation to adopt all feasible mitigation to reduce the Project's air quality impacts. By proposing inadequate mitigation and then concluding that the Project's air quality impacts are significant and unavoidable, the City has fallen short of CEQA's requirement that lead agencies consider all feasible mitigation to reduce or avoid the Project's significant impacts. (See Pub. Resources Code, § 21002 [It is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects."], CEQA Guidelines, §§ 15092(b), 15043, 15126.4, subd. (a)(1).) Here, the EIR overlooks, or simply ignores, numerous feasible mitigation measures.

O6-36

For example, the South Coast Air Quality Management District ("SCAQMD") recently adopted Rule 2305 - Warehouse Indirect Source Rule—Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program, which contains a host of mitigation measures that warehouse facilities can adopt. (SCAQMD 2021.) The rule applies to individual warehouses and distribution facility projects like the Project and is intended to reduce air quality emissions from mobile sources associated with the projects. (*Ibid.*) The mitigation measures include, but are not limited to:

- Requiring that a certain percentage of trucks in warehouse operators' fleet(s) be Zero Emissions or Near Zero Emissions.

O6-37

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- Installing high-efficiency air filters or filtering systems in residences, schools, daycares, hospitals, or community centers.

The California Office of the Attorney General also has published a document entitled “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act” to help lead agencies comply with these requirements. (AGO 2021.) Nearly all of the example mitigation measures in this document have been adopted in a warehouse project in California, demonstrating their feasibility. (*Ibid.*) At minimum, the City should consider the following mitigation measures:

- Requiring all off-road construction equipment—not just cargo equipment-- to be zero-emission, where available, and all diesel-fueled off-road construction equipment, to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Providing electrical hook ups to the power grid, rather than use of diesel-fueled generators, for electric construction tools, such as saws, drills, and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than one hundred for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than two minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.

06-38

- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all eight dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Plant trees and vegetation near structures to shade buildings and reduce energy requirements for heating/cooling.
- Preserve or replace onsite trees (that are removed due to development) as a means of providing carbon storage.
- Replace traffic lights, streetlights, and other electrical uses to energy efficient bulbs and appliances.
- Retrofit municipal water and wastewater systems with energy efficient motors, pumps, and other equipment, and recover wastewater treatment methane for energy production.

06-38

Additionally, the California Air Resources Board ("CARB") has compiled a list of "Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers." (CARB 2019). These include:

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### Recommended Construction Measures

- In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In lieu of Tier 4 engines, equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.
- In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers, etc.) used during project construction be battery powered.
- In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during either the grading or building construction phases be model year 2014 or later. Starting in the year 2022, all heavy-duty haul trucks should also meet CARB's lowest optional low-NOx standard.

### Recommended Operation Measures

- Include contractual language in tenant lease agreements that 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 onsite.
- Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units (APU). This will eliminate the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate from within the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.
- Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.
- Since no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted, and the health impacts mitigated.<sup>4</sup>
- And while the Project has committed to covering one-quarter of its rooftop with solar to cover the Project's needs, the Project should also consider additional rooftop solar panels, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

O6-39

In addition, to avoid and minimize impacts to documented on-site Species of Special Concern, and to comply with General Plan Policies 8.5.2 and 8.5.3, the DEIR should:

<sup>4</sup> The Center is heartened to see that the DEIR commits to no cold storage at the facility. (DEIR at 4.7-29.) The City should also impose, as a condition of approval, that no cold storage can happen on site, less additional environmental review is required.

- Adopt night lighting that is shielded from the sky and Planning Area 3 – Open Space throughout the year (not just during breeding season).
- Use native drought tolerant plantings in all developed areas.
- Minimize impervious surfaces to allow for ground water recharge.

Because the DEIR improperly fails to consider these and other feasible mitigation measures, the City cannot make the requisite CEQA findings prior to approving the Project. The DEIR should be revised to include these and other measures to reduce, avoid, or minimize the Project's admittedly significant impacts to air quality and be recirculated for public review and comment. As a reminder, should the City decide that one of the suggested mitigation measures is not feasible, it must explain in the record why it concluded that specific mitigation measure was not feasible, supported by substantial evidence. (*Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029.)

O6-40

## V. APPROVAL OF THIS PROJECT WOULD VIOLATE THE HOUSING CRISIS ACT.

The City of Beaumont, like many cities in Southern California, is suffering from an affordable housing crisis. Cities like Beaumont already struggle to identify suitable infill parcels for housing development. When cities do not prioritize quality, infill affordable housing, developers turn to sprawl development, which results in multi-hour commutes, damaged ecosystems, and dirty air.

Beaumont has built less than one-third of the affordable units its very low-, low-, and moderate-income households sorely need. (Beaumont 2022.) Because the City has failed to meet its affordable housing targets, the California Department of Housing and Community Development has identified Beaumont as an “affected city,” which subjects it to the requirements of the Housing Crisis Act. (HCD 2019.)

O6-41

The Housing Crisis Act prohibits an affected city such as Beaumont from enacting a development policy or standard – including an amendment to a general or specific plan – that reduces the site’s residential development capacity. (Gov. Code, § 66300, subd. (b)(1)(A).) The General Plan presently designates the Project site as “Single Family Residential,” and the Sunny-Cal Specific Plan allows for the development of approximately 560 residential units on the Project site. (ES 1-6, DEIR 3-2.)

The Project would amend the City’s General Plan to change the property’s land use designation from Single Family Residential to Industrial, General Commercial, and Open Space. (DEIR at 3-17.) It would similarly replace the existing Sunny-Cal Specific Plan designation for the property to allow for the development of approximately 2,707,465 square feet of mixed commercial, e-commerce, hotel, and office uses. (DEIR at 3-9.) These amendments eliminate the site’s residential capacity entirely, which is prohibited by the Housing Crisis Act. (Gov. Code, § 66300, subd. (b)(1)(A).)

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The City is in desperate need of new affordable housing close to existing public services. The Project site is surrounded by residential neighborhoods, parks, an elementary, middle, and high school, and local businesses that serve the community. (See Exhibit 1.) The City should prioritize the well-being of its residents and explore options for equitable affordable housing on this site.

## VI. CONCLUSION

Thank you for the opportunity to submit comments on the Draft Environmental Impact Report for the Beaumont Summit Station Project.

Given the possibility that the Center will be required to pursue legal remedies to ensure that the County complies with its legal obligations including those arising under CEQA, we would like to remind the County of its statutory duty to maintain and preserve all documents and communications that may constitute part of the “administrative record” of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the County with respect to the Project, and includes “pretty much everything that ever came near a proposed [project] or [] the agency’s compliance with CEQA . . . .” (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the County’s representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the County’s representatives or employees and the Applicant’s representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

O6-42

The Center appreciates the opportunity to raise these concerns with the City. Please add the Center to your notice list for all future updates. If you have any questions about the Center’s concerns, please contact Hallie Kutak at the phone number or email listed below.

Sincerely,



Hallie Kutak

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**Responses to Comment Letter O6 – Center for Biological Diversity, Urban Wildlands Program**  
**Hallie Kutak, Senior Conservation Advocate**

**O6-1** This comment is introductory and states that the DEIR fails to adequately address the Project's impacts on air quality, greenhouse gas emissions, sensitive receptors, biological resources, noise, and aesthetics. Refer to the following responses.

**O6-2** Refer to response to comment O6-1 above.

**O6-3** This comment brief summarizes the commentor's understanding of the proposed Project and Project location.

**O6-4** This comment summarizes general air quality impacts and how they affect health. The comment states that ozone, PM<sub>2.5</sub>, and toxic air contaminants (TACs) are the greatest concern for Riverside County and relates these pollutants to health conditions. The comment states that the warehouses are a well-documented source of air quality degradation and can cause health impacts for surrounding communities. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O6-5** This comment is introductory to briefly describe the purpose of CEQA and how the DEIR fails to properly disclose and analyze significant air quality, GHG, biological, noise, and aesthetic impacts.

**O6-6** This comment states that the DEIR analysis is inadequate, but it does not identify any deficiencies in the analysis. In fact, the comment agrees with the conclusions of the air quality and greenhouse gas analysis, noting that the Project would result in significant and unavoidable impacts.

**O6-7** This comment states that the DEIR underestimates the vehicle trips associated with the Project and does not attempt to mitigate all significant impacts. Vehicle trip generation estimates are based on trip rates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual (10<sup>th</sup> Edition) based on Project land uses. Air quality mitigation measures are discussed on DEIR pages 4.2-38 through 4.2-41. Greenhouse Gas mitigation measures are discussed on DEIR pages 4.7-39 and 4.7-40.

**O6-8** The proposed project is consistent with the ITE description for ITE High-Cube Short-Term Storage Warehouse for Buildings 1 and 2, and ITE Warehouse for Building 3. High-Cube Fulfillment Center Warehouse and High-Cube Parcel Hub Warehouse uses are not proposed.

**O6-9** The proposed project is consistent with the ITE description for ITE High-Cube Short-Term Storage Warehouse for Buildings 1 and 2, and ITE Warehouse for Building 3. High-Cube Fulfillment Center Warehouse and High-Cube Parcel Hub Warehouse uses are not proposed.

**O6-10** The proposed project is consistent with the ITE description for ITE High-Cube Short-Term Storage Warehouse for Buildings 1 and 2, and ITE Warehouse for Building 3. High-Cube Fulfillment Center Warehouse and High-Cube Parcel Hub Warehouse uses are not proposed.

**O6-11** This comment suggests that the DEIR is underestimating diesel pollution by underestimating the distance trucks will travel and suggests that truck trip length should be 88 miles one way. The average truck trip length used in the DEIR was taken from a CARB study, *Emissions Estimation Methodology for On-Road Diesel-Fueled Heavy-Duty Drayage Trucks at California Ports and Intermodal Rail Yards*. This CARB study estimated travel distances from distribution centers based on weighted trip average distances between ports and rail yards. For warehouses located within the South Coast Air Basin, the average distance was estimated to be 33.2 miles per trip. The commenter does not provide a source for the suggested 88-mile trip length. Furthermore, it should be noted that the DEIR determined that the Project's Localized Significance Thresholds (LSTs) would be less than significant (refer to DEIR pages 4.2-42 through 4.2-46) and health risk impacts would be less than significant (refer to DEIR pages 4.2-50 through 4.2-55), which indicates that the regional increases shown in DEIR **Tables 4.2-10 through 4.2-14** are over counting truck emissions since not all these trips are in reality new to the air basin.

**O6-12** This comment incorrectly states that emissions from trucks hauling materials to the Project site during construction were omitted and cites pages 4.2-28, 4.2-29, **Appendix A**, thereto at 66-74 as evidence. However, the commenter misunderstood the data presented in the CalEEMod output files. Hauling in CalEEMod refers to the import and export of soil. The pages referenced in the Appendix are for building construction, paving, and architectural coating phases, therefore they do not include soil transport. However, vendors in CalEEMod refers to transport of building materials to the Project, the emissions from these trips are included in the data tables. Therefore, construction emissions for Phase 1 and Phase 2 of the Project identified in **Table 4.2-8** of page 4.2-28 and **Table 4.2-9** of page 4.2-29 include emissions from both hauling soil and transporting construction materials to the site.

**O6-13** This comment states that errors in the air quality analysis methodology will also underestimate greenhouse gas emissions. However, as discussed in previous responses, criticisms of the air quality methodology and calculations are unfounded or incorrect.

**O6-14** This comment states that the DEIR does not analyze cumulative air quality impacts on receptors. However cumulative impacts from construction and operations are analyzed on DEIR pages 4.2-56 and 4.2-57.

**O6-15** This comment questions the accuracy of the Health Risk Assessment prepared for the DEIR. The comment notes that the unmitigated Project would result in 63 cases of cancer for every million residents and 60.9 cases for every worker which exceeds the significance threshold. The comment then notes that a project design feature and a mitigation measure would reduce cancer impacts to a less than significant level. The commenter questions how such a reduction is possible.

As discussed in the HRA, all unmitigated emissions are based on diesel-powered construction equipment and diesel-powered cargo handling equipment (including yard trucks, pallet jacks, and forklifts). Mitigated emissions include project design features and mitigation, these require diesel construction equipment to meet CARB Tier 4 Final off-road emission standards, be properly maintained, shut-off when not in use, connecting electric tools to a power grid instead of a diesel generator, and requires all cargo handling equipment to be electric. Based on these changes, the cancer risk for emissions modeled in AERMOD were determined to be less than significant. Modeling input values and outputs are included in the HRA appendix.

**06-16** This comment states that the mitigation measures in the DEIR are not sufficient to reduce impacts. The comment summarizes these measures and notes that these measures focus on on-site impacts and do not address mobile emissions. As stated in the DEIR, the Project does not have the authority to regulate vehicle emissions, mitigation measures only include things that Project has the authority to control. However, as shown in the HRA, these measures will reduce cancer cases below South Coast AQMD thresholds.

**06-17** This comment states that South Coast AQMD is considering updating their guidance for cumulative air quality impacts. If South Coast AQMD updates their guidance, future projects would be required to comply with these new guidelines.

**06-18** The City agrees that low rainfall can be adverse for rare plants and rare plant surveys; however, based on existing site conditions, the Rocks Biological Consulting principal biologist determined that the proposed Project site is not likely to support Marvin's onion or many-stemmed dudleya based on the highly disturbed nature of the site and lack of suitable habitat. These species typically occur within the San Gorgonio mountains and foothills and are significantly less likely on topographically lower areas like the Project site. Further, while low rainfall can reduce plant population size, there are some plants such as perennials that germinate from a bulb (Marvin's onion) or caudex/corm (many-stemmed dudleya) that can produce above ground leaves/stems/flowers even during low rainfall years. As such we believe these species would have been observed if present.

**06-19** The comment states that DEIR must revegetate mesic and riparian areas in order to provide additional habitat for the vireo. As stated in page 4.3-19 of DEIR **Section 4.3, Biological Resources**, the Project would implement **MM BIO-1** which contains the strategy to avoid vegetation removal during the birds breeding season. Therefore, impacts to the least Bell's vireo would be less than significant and the Project would comply with General Plan Policies 8.5.5 and 8.7.5.

**06-20** Commented noted. As noted in **MM BIO-1** and **MM BIO-2**, pre-construction/absence/protocol surveys would be conducted by a qualified biologist. Furthermore, the qualified biologist will always be present when during construction activity to ensure that impacts to sensitive biological species are minimized.

**06-21** This comment states that the DEIR does not adequately analyze traffic and cumulative noise impacts and disagrees with the traffic noise results along Brookside Avenue. The DEIR analyzed

traffic noise along 18 roadway segments. The cumulative noise analysis looks at three different criteria to determine noise impacts; would the Project result in a noticeable increase in noise over existing conditions (an increase of 3.0 dBA or more), would a significant portion of future traffic noise be due to the Project (an increase of 1.0 dBA or more), and would the resulting traffic noise exceed the acceptable standards for an adjacent land use.

As shown in **Table 4.11-16** and explained on pages 4.11-31 and 4.11-32, traffic noise along Brookside Ave. would not result in significant impacts. Traffic noise on Brookside Ave. between Hannon Rd. and Union St. would not exceed the normally acceptable standard and would result in a less than significant impact. Brookside traffic noise between Union St. and Nancy Ave. would exceed the normally acceptable standard, combined threshold, and incremental threshold at 100 feet, however these houses are above roadway grade and surrounded by a solid block wall which would attenuate traffic noise to less than significant levels. Brookside traffic noise between Nancy Ave. and Oak View Dr. would also exceed the normally acceptable standard, combined threshold, and incremental threshold at 100 feet. However, there is only one residence along this segment of the road, and it is 150 feet from the centerline. At this distance, traffic noise would be attenuated to less than significant levels. Brookside traffic noise between Oak View Dr. and Beaumont Ave. would not exceed the combined threshold; therefore, as noted in the DEIR impacts would be less than significant. However, the City agrees to include a discussion on noise levels concerning Brookside Avenue from Oak View Drive to Beaumont Avenue. See **Section 3.0, Errata**, of this FEIR for those changes.

**06-22** This comment states that the DEIR did not analyze noise impacts at crucial locations, specifically at residences south of the Project's property line. Sensitive receptors identified in **Table 4.11-3** are sensitive receptors located nearest the Project boundary. These sensitive receptors were considered when analyzing construction noise however when analyzing traffic noise, the receptors studied depend on traffic patterns. The traffic study did not identify Project traffic traveling along Brookside Avenue from North Deodar Drive to Hannon Road, therefore traffic noise was not analyzed at this roadway segment.

**06-23** This comment states that the DEIR fails to disclose all Phase 2 construction noise and operational noise from the hotel. However, the DEIR discusses onsite and off-site construction noise for Phase 1 and Phase 2 on pages 4.11-20 and 4.11-21. Operational noise from the hotel is discussed on pages 4.11-21 through 4.11-23. This would include mechanical equipment noise such as HVAC units and parking lot noise. Other than these sources, the hotel would not be a significant source of noise generation. The comment does not identify any additional hotel related noise sources that were not analyzed.

**06-24** The commentator is incorrect in their statement that the DEIR fails to adequately consider whether the Project would create a new source of light, which would affect nighttime views in the area. The DEIR fully analyzes and discloses the proposed Project's light and glare impacts associated with construction and operation activity. Refer to pages 4.1-12 through 4.1-13 of DEIR **Section 4.1, Aesthetics**. As stated in **Section 4.1**, the Project's construction source of light and glare would be limited to daylight hours. Additionally, nighttime security lighting could be utilized for security purposes of the site and equipment. Additionally, it is a common practice

to provide night-time lighting when a guardhouse/shack is provided on-site for security personnel. No short-term, construction-related impacts associated with light and glare are expected to occur.

Concerning operation of the proposed Project, the Project would incorporate design elements to reduce sources of lighting as approved by the City. In addition, all future development within the City limits would be subject to the provisions of Chapter 8.50, Outdoor Lighting of the Beaumont MC. Chapter 8.50 sets forth restrictive lighting standards that act to prevent or minimize overall illumination levels, and effectively reduce or preclude potential light/glare overspill impacts. In this regard, the City's Outdoor Lighting Ordinance establishes specific design, construction, and performance standards applicable to lighting and light fixtures within the City.

Although the proposed Project would result in new light and glare, it would be less than significant.

- 06-25** The City agrees to provide more information. Refer to **Section 3.0, Errata**, of this FEIR for those changes.
- 06-26** The City agrees to provide more information. Refer to **Section 3.0, Errata**, of this FEIR for those changes.
- 06-27** This comment is introductory and contains references from CEQA Guidelines and Statutes.
- 06-28** The comment states that that vehicular traffic from the Project would be roughly the same because the intensity of use would be similar, resulting in no reduction in air quality or GHG emissions. This statement is incorrect. The DEIR does not state that “no reduction” between alternatives would occur. The DEIR states that vehicular traffic generated from the Project is not anticipated to be significantly reduced, not that no reduction would occur.
- 06-29** **Section 6.0** of the DEIR includes a details analysis of the alternatives and applicability of the Project objectives to the alternatives. The Commentor is citing to the single sentence conclusion in the summary table and negates the substantial evidence in the DEIR.
- 06-30** This comment is introductory and states that the DEIR does not incorporate several basic measures that impacts on adjacent residential communities. No further response is warranted.
- 06-31** This comment notes that the Project will exceed the GHG threshold. The comment goes on to discuss GHG emissions and its impact on climate change. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.
- 06-32** This comment discusses GHG emissions and the impact on California’s climate. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O6-33** This comment notes that the Project will result in a significant and unavoidable GHG impacts but disagrees with the conclusion that additional mitigation is not feasible. The Project has incorporated mitigation measures that reduce onsite GHG emissions by 79 percent, however due to the nature of the Project, the majority of GHG emissions will come from mobile sources. Neither the Project nor the City has the authority to regulate emissions from vehicles, therefore any proposed mitigation to control vehicle emissions would not be enforceable and therefore is not considered feasible.

**O6-34** This comment notes that the decision under *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467 that determined the purchase of carbon offset credits did not meet CEQA's criteria for a valid mitigation measure, but did not invalidate carbon offsets as a matter of law. However, as discussed in the DEIR, to reduce emissions and to be valid mitigation under CEQA, purchased offset credits must be genuine, quantifiable, additional, and verifiable. Even offset credits purchased from CARB-approved offset project registries have been determined to not adequately assure that purchased offset credits accurately and reliably represent actual emissions reductions or cannot guarantee that such reductions are additional to any reduction that would occur under business-as-usual operations and reductions required by law. CARB does not have enforcement authority over such reductions, let alone the City of Beaumont. The City of Beaumont, the lead agency for the Project and the entity responsible for enforcing any mitigation measures incorporated into the Project and relied upon to reduce impacts to a less than significant level, has no enforcement authority over offset credits that fund carbon reduction projects outside of the City. Many offset credits "sell" reductions in emissions generated outside of California, which may not be genuine or verifiable. International offsets are even more difficult to verify, guarantee and enforce. Thus, the purchase of offset credits is not a feasible CEQA mitigation measure to reduce the emissions impact of the proposed Project.

**O6-35** As discussed in response to comment O6-34, project offset registries have been determined to not adequately assure that purchased offset credits accurately and reliably represent actual emissions reductions. Therefore, investing in mitigation credits may not result in a reduction in GHG emissions and thus would not be valid CEQA mitigation.

**O6-36** This comment is introductory and quotes text from CEQA Guidelines. No further response is warranted.

**O6-37** This comment summarizes South Coast AQMD Rule 2305. The comment does not raise a specific issue with the adequacy of the DEIR or raise any other CEQA issue. Therefore, no further response is necessary.

**O6-38** This comment summarizes the California Attorney General document entitled *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, which provides example mitigation measures. These mitigation measures were considered during Project design and have been included as design features or mitigation measures if feasible for the Project.

Proposed Mitigation Measures	Method of Project Incorporation
Requiring all off-road construction equipment—not just cargo equipment-- to be zero-emission, where available, and all diesel fueled off-road construction equipment, to be equipped with CARB Tier IV compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.	<b>MM AQ-1</b> (DEIR page 4.2-38) requires construction equipment to meet CARB Tier 4 standards. Additionally, PDF AQ-2 requires electric cargo handling equipment during operations.
Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.	DEIR <b>MM AQ-1</b> requires all construction equipment and delivery vehicles shall be turned off when not in use, or limit on-site idling for no more than 5 minutes in any 1 hour to achieve this measure.
Providing electrical hook ups to the power grid, rather than use of diesel-fueled generators, for electric construction tools, such as saws, drills, and compressors, and using electric tools whenever feasible.	DEIR <b>MM AQ-1</b> requires on-site electrical hook ups to a power grid shall be provided for electric construction tools including saws, drills, and compressors, where feasible, to reduce the need for diesel powered electric generators.
Limiting the amount of daily grading disturbance area.	The project would be required to comply with SCAQMD Rule 403, which limits daily grading disturbance area to minimize fugitive dust (see SCAQ-1 on DEIR page 4.2-37).
Prohibiting grading on days with an Air Quality Index forecast of greater than one hundred for particulates or ozone for the project area.	The emissions analysis for the Project determined that regional and localized construction emissions would not exceed SCAQMD thresholds (see DEIR pages 4.2-27 through 4.2-29 and pages 4.2-42 through 4.2-44). Therefore, the Project would not have the potential to influence localized pollutant concentrations and implementation of this measure is not necessary.
Forbidding idling of heavy equipment for more than two minutes.	The Project would comply with the 5-minute limit per CARB regulation/state law. Implementation of this measure is not quantifiable because CalEEMod does not allow for the adjustment of idle times. The Project includes <b>MM AQ-5</b> requires signage stating that drivers turn off engines when not in use, identifying the State’s 5-minute idling limit (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2485 [Airborne Toxic Control Measure to Limit

Proposed Mitigation Measures	Method of Project Incorporation
	<p>Diesel-Fueled Commercial Motor Vehicle Idling]), and including telephone numbers of the building facilities manager and CARB to report violations.</p> <p>Additionally, the Project includes design features to minimize idling. For example, PDF AQ-5 requires Phase 1 facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks. PDF AQ-8 requires the facility operator for Phase 1 to ensure that site enforcement staff in charge of keeping the daily log and monitoring for excess idling will be trained/certified in diesel health effects and technologies, for example, by requiring attendance at California Air Resources Board-approved courses (such as the free, one-day Course #512).</p>
<p>Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.</p>	<p><b>MM AQ-1</b> (DEIR page 4.2-38) requires a copy of each unit's Best Available Control Technology (BACT) documentation (certified tier specification or model year specification), and CARB or SCAQMD operating permit (if applicable) to be provided to the City at the time of mobilization of each applicable unit of equipment.</p> <p>PDF AQ-6 (DEIR page 4.2-22) requires tenants train staff to keep vehicle records in diesel technologies and comply with CARB regulations.</p> <p>PDF AQ-7 (DEIR page 4.2-23) requires Phase 1 tenants to maintain records on its fleet equipment and vehicle engine maintenance to ensure that equipment and vehicles serving the warehouses within the Project are in good condition, and in proper tune pursuant to manufacturer's specifications.</p>
<p>Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.</p>	<p>See PDF AQ-4 and PDF AQ-6,</p> <p>As noted above, compliance with SCAQMD rules are required as standard condition and would be enforced by SCAQMD inspection.</p> <p>Additionally, the emissions analysis for the Project determined that regional and localized</p>

Proposed Mitigation Measures	Method of Project Incorporation
	construction emissions would not exceed SCAQMD thresholds (see DEIR pages 4.2-27 through 4.2-29 and pages 4.2-42 through 4.2-44). CARB's In-Use Off-Road Diesel Vehicle Regulation ensures equipment meets standards.
Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.	MM AQ-2 (DEIR pages 4.2-38 to 4.2-39) requires the Project to use "Super-Compliant" low volatile organic compound (VOC) paints (i.e., a VOC content of 10 g/L or less).
Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.	Refer to PDF AQ-4 on DEIR Page 4.2-22.
Requiring all heavy-duty vehicles entering or operated on the Project site to be zero-emission beginning in 2030.	<p>Refer to response to comment O3-73. The existing regulatory environment already requires various mobile source emissions reduction measures and transition to ZE and NZE vehicles (CARB already regulates truck emissions with the Advanced Clean Truck Regulation, the Mobile Source Strategy [including the low-NO<sub>x</sub> engine emissions standard], the Sustainable Freight Action Plan, and the Emissions Reduction Plan for Ports and Goods Movement, among others).</p> <p>The DEIR includes design features and mitigation that would facilitate the use of ZE and NZE trucks consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.). For example, the Project design features require all cargo handling equipment (forklifts, yard trucks, etc.) to be electrically powered to reduce on-site criteria pollutant emissions. In order to promote the use of alternative fuels and clean fleets and facilitate future installation of</p>

Proposed Mitigation Measures	Method of Project Incorporation
	<p>electric vehicle supply equipment, the Project would install 30 electric light-duty vehicle charging stations, install conduit for 59 electric light-duty vehicle charging stations, and designate 119 parking spaces for clean air/electric vehicle/vanpool parking (refer to the Project design feature on DEIR pages 4.2-22 through 4.2-24).</p> <p>PDF AQ-13 requires the Phase 1 facility operator to provide tenants with information about the Carl Moyer Air Program and the On-Road Heavy-Duty Vehicles Voucher Incentive Program, which provides funding to purchase newer vehicles. Additionally, <b>MM AQ-6</b> requires the Project Applicant to provide \$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of <b>MM AQ-6</b>.</p>
<p>Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.</p>	<p>Refer to the response above. The Project includes Project design features and mitigation that would facilitate the use of ZE and NZE vehicles consistent with CARB and SCAQMD programs (e.g., Advanced Clean Truck Regulation, Sustainable Freight Action Plan, SCAQMD Rule 2305, etc.).</p> <p><b>MM AQ-6</b> requires Project compliance with SCAQMD Rule 2305 to facilitate the use of ZE and NZE trucks. Additionally, <b>MM AQ-6</b> requires the Project Applicant to provide \$1.00 per square foot in funding for fleet upgrade financing to incentivize the use of cleaner operating trucks to reduce future emissions and includes a goal of achieving ZE trucks beginning in 2030. It should be noted that the DEIR conservatively does not take credit for implementation of <b>MM AQ-6</b>.</p> <p>Additionally, PDF AQ-2 requires all Phase 1 outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) to be powered by electricity (i.e., zero emission).</p>

Proposed Mitigation Measures	Method of Project Incorporation
Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use.	<p>The Project would comply with the 5-minute limit per CARB regulation/state law. Implementation of this measure is not quantifiable because CalEEMod does not allow for the adjustment of idle times. The Project includes <b>MM AQ-5</b> requires signage stating that drivers turn off engines when not in use, identifying the State's 5-minute idling limit (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2485 [Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling]), and including telephone numbers of the building facilities manager and CARB to report violations.</p> <p>Additionally, the Project includes design features to minimize idling. For example, PDF AQ-5 requires Phase 1 facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks. PDF AQ-8 requires the facility operator for Phase 1 to ensure that site enforcement staff in charge of keeping the daily log and monitoring for excess idling will be trained/certified in diesel health effects and technologies, for example, by requiring attendance at California Air Resources Board-approved courses (such as the free, one-day Course #512).</p>
Posting both interior- and exterior-facing signs, including signs directed at all eight dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.	See <b>MM AQ-5</b> on DEIR pages 4.2-40 to 4.2-41.
Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the Project.	A Project specific Health Risk Assessment was prepared for the Project and determined that with the implementation of PDF AQ-2 and <b>MM AQ-1</b> , health risks would be reduced to less than significant levels. Therefore, mitigation requiring air filtration systems such as MERV 13 filters would not be required.
Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the Project	CARB currently operates the Banning Airport Monitoring Station located approximately 9.6 miles southeast of the Project site. As the Project emissions modeling did not exceed

Proposed Mitigation Measures	Method of Project Incorporation
and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.	SCAQMD's Localized Sensitive Thresholds, the Project would not affect the ambient air quality in the area. This measure is not required per CEQA and would not reduce project emissions.
Constructing electric truck charging stations proportional to the number of dock doors at the Project.	<b>MM AQ-4</b> (DEIR page 4.2-40) accommodates the future installation of EV truck charging stations for when this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines.
Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the Project.	PDF AQ-10 (DEIR page 4.2-22) requires at least 30 electric light-duty vehicle charging stations and conduit for 59 future electric light-duty charging stations. SC AQ-10 (DEIR page 4.2-38) requires electric vehicle supply equipment at six percent of the total parking spaces.
Requiring all stand-by emergency generators to be powered by a non-diesel fuel.	Natural gas generators typically require a dedicated 3" gas line and are limited to 400 kW or 600 amps of 480-volt power. Buildings in a project of this scale would require more power than could be provided by a non-diesel generator. In addition, these generators are not considered a reliable source of power in an event such as an earthquake.
Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.	See <b>MM AQ-3</b> on DEIR page 4.2-39.
Providing meal options onsite or shuttles between the facility and nearby meal destinations.	See <b>MM AQ-3</b> on DEIR page 4.2-39.
Plant trees and vegetation near structures to shade buildings and reduce energy requirements for heating/cooling.	See PDF AQ-18 on DEIR page 4.2-24. Additionally, the Project would include landscaping consistent with City design requirements.
Preserve or replace onsite trees (that are removed due to development) as a means of providing carbon storage.	See PDF AQ-18. The project would include landscaping consistent with City design requirements.

Proposed Mitigation Measures	Method of Project Incorporation
Replace traffic lights, streetlights, and other electrical uses to energy efficient bulbs and appliances.	This is a municipal measure and not applicable at the project level.
Retrofit municipal water and wastewater systems with energy efficient motors, pumps, and other equipment, and recover wastewater treatment methane for energy production.	This is a municipal measure and not applicable at the project level.

**06-39** This comment lists general mitigation measures identified by CARB to reduce construction and operational emissions. These mitigation measures were considered during Project design and have been included as design features or mitigation measures if feasible for the Project.

In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In lieu of Tier 4 engines, equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.	<b>MM AQ-1</b> (DEIR page 4.2-38) requires construction equipment to meet CARB Tier 4 standards.
In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers, etc.) used during project construction be battery powered.	Construction emissions are mitigated to below SCAQMD thresholds. Therefore, mitigation requiring battery powered construction equipment is not required.
In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during either the grading or building construction phases be model year 2014 or later. Starting in the year 2022, all heavy-duty haul trucks should also meet CARB's lowest optional low-NOx standard.	Construction emissions are mitigated to below SCAQMD thresholds. Therefore, mitigation requiring heavy-duty construction trucks to be model year 2014 is not required.
Include contractual language in tenant lease agreements that 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 onsite.	See PDF AQ-2, PDF AQ-4, PDF AQ-6, PDF AQ-7, PDF AQ-8, PDF AQ-9, and PDF AQ-10 on DEIR pages 4.2-22 through 4.2-23, as well as <b>MM AQ-4</b> , and <b>MMAQ-6</b> on DEIR pages 4.2-40 through 4.2-41.
Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units	As noted in the DEIR Project Description (page 3-4) and PDF AQ-1, the Project does not include cold storage. Additionally, cold storage is not an allowed use for the site in the Specific Plan, which establishes the uses and

<p>(APU). This will eliminate the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate from within the Project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.</p>	<p>development standards for the Project. As the Project would not include cold storage, it would not include TRUs.</p>
<p>Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.</p>	<p>See PDF AQ-9 on DEIR page 4.2-23. Operators and manufacturers are required to comply with these regulations. CARB's Tractor-Trailer Greenhouse Gas Regulation reduces greenhouse gas emissions by improving the aerodynamic performance and reducing the rolling resistance of tractor-trailers. CARB's Advanced Clean Trucks regulation is a manufacturer's ZEV sales requirement and a one-time reporting requirement for large entities and fleets. The Periodic Smoke Inspection Program (PSIP) is CARB's heavy-duty vehicle inspection program for in-use trucks and buses that includes roadside testing by CARB. The Statewide Truck and Bus Regulation requires fleets to upgrade to 2010 or newer model year engines by January 1, 2023. The suggested additional mitigation measures are already State regulation (i.e., mandatory). As such these measures are essentially part of the Project; and therefore, are not mitigation under CEQA.</p>
<p>Since no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted, and the health impacts mitigated.</p>	<p>cold storage is not an allowed use for the site in the Specific Plan, which establishes the uses and development standards for the Project. Therefore, cold storage cannot be added without additional environmental review and approvals.</p>
<p>And while the Project has committed to covering one-quarter of its rooftop with solar to cover the Project's needs, the Project should also consider additional rooftop solar panels, with a capacity that matches the maximum allowed for distributed solar connections to the grid</p>	<p>See SC AQ-4 (DEIR page 4.2-37) and <b>MM GHG-1</b> (DEIR page 4.2-39). <b>MM GHG-1</b> requires the Project to provide 100 percent of the building load and the plug-load with on-site renewable energy (i.e., photovoltaic panels). The mitigation measure inaccurately notes that the Project has committed to covering one-quarter of its rooftop with solar.</p>

**06-40** Commented noted and will be taken into consideration by decision-makers.

**O6-41** Chapter 17.20 of the Beaumont Municipal Code establishes a No Net Loss Program, whereby concurrent with the approval of any change in zone from a residential use to a less intensive use, a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City.

**O6-42** Commented noted and will be taken into consideration by decision-makers.

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**Comment Letter O7 – Blum Collins & Ho, LLP., Attorneys at Law**  
**Gary Ho**

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June 6, 2022

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223

*VIA EMAIL TO:*  
[ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

*Subject: Comments On Beaumont Summit Station Specific Plan EIR (SCH NO. 2021090378)*

Dear Ms. Taylor,

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Beaumont Summit Station Specific Plan. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance (GSEJA). Also, GSEJA 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.

O7-1

## 1.0 Summary

The project proposes to replace the existing Sunny-Cal Specific Plan for the property with the proposed Beaumont Summit Station Specific Plan to allow for the development of approximately 2,707,465 square feet of mixed commercial, e-commerce, hotel, and office uses, as well as approximately 31 acres of passive open space. Planning Area 1 (Parcels 1, 2, and 3) is proposed to be developed with three separate e-commerce/warehouse buildings with supporting office, as follows:

- Building 1: 985,860 square feet
- Building 2: 1,213,235 square feet
- Building 3: 358,370 square feet

Total: 2,557,465 square feet of industrial space

O7-2

Christina Taylor

June 6, 2022

Page 2

The Project proposes to amend the existing General Plan designation from Single-Family Residential to Industrial for Parcels 1, 2, and 3 to allow for the proposed e-commerce/warehouse uses.

Planning Area 2 (Parcel 4) would include the development of up to 150,000 square feet of commercial uses and would be developed as part of Phase 2, as follows:

- Hotel: 100,000 square feet
- General Retail: 25,000 square feet
- Food Uses: 25,000 square feet

The Project proposes to amend the existing General Plan designation from Single-Family Residential to General Commercial for Parcel 4 to allow for commercial uses. Planning Area 3 (Parcel 5) would remain as open space. The existing General Plan designation of Single Family Residential would be amended to Open Space.

The following discretionary actions are required for project approval:

1. General Plan Amendment No. PLAN2021-0656: The Project site is presently designated as "Single Family Residential" by the General Plan. A General Plan Amendment would change the property's land use designation from Single Family Residential to Industrial, General Commercial, and Open Space.
2. Tentative Parcel Map No. PM2021-0009: The Specific Plan area is comprised of several parcels. The Project includes a Tentative Parcel Map (TPM) to create five legal development parcels and would dedicate the rights-of-way for utility easements, if required by the City.
3. Plot Plan/Site Plan (Plot Plan) No. PP2021-0388: Three separate Plot Plans for the Project, consisting of an e-commerce project with three proposed structures, parking, landscaping, drainage facilities, and new and driveways is proposed. A separate Plot Plan/Site Plan will be required for each building area within the Specific Plan.
4. Statutory Development Agreement: A statutory development agreement, authorized pursuant to California Government Code § 65864 et seq., may be processed concurrently with the approval of this Specific Plan. The development agreement would include, among other items, the term of entitlements and any provisions for off-site improvements if applicable. Ministerial actions that follow the initial approvals include the following: Grading Plans/Permits, Improvement Plans, Final Map review and approval (City), recordation (County). Jurisdictional Permits (if required by agencies).
5. Specific Plan Adoption SP2021-0005: Adoption of the proposed Specific Plan is a discretionary action subject to City Council approval. Adopted by Ordinance, the Specific Plan document will serve both planning and regulatory functions. This document contains the development standards and procedures necessary to fulfill these purposes, and would replace the existing Sunny-Cal Specific Plan. The proposed Specific Plan would implement the City's General Plan as amended.

O7-2

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## 2.0 Project Description

The EIR does not include a floor plan, detailed grading plan, building elevations, or detailed site plan for the warehouse development site. The basic components of a Planning Application include a detailed site plan, floor plan, grading plan, and elevations. The site plan provided in Exhibit 3.0-6: Conceptual Site Plan does not provide any detailed information such as the earthwork quantity notes, parking requirements, building heights, site coverage, or floor area ratio calculation. Additionally, Exhibit 3.0-12: Conceptual Grading Plan has been edited for public review. The exhibit does not include any meaningful information, such as the earthwork quantity notes. The exhibit features red lines on several areas but a legend that would describe the purpose of the red lines has been removed for public review. The edited version of the grading plan inserted for public review is meaningless and provides no useful information. The EIR has excluded the proposed floor plan, detailed grading plan, and detailed site plan from public review, which does not comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)). Incorporation by reference (CEQA § 15150 (f)) is not appropriate as the floor plan, detailed grading plan, building elevations, and detailed site plan contribute directly to analysis of the problem at hand. The EIR must be revised to include all application items for review, analysis, and comment by the public and decision makers.

O7-3

The EIR does not include the proposed Beaumont Summit Station Specific Plan (BSS SP) document as an attachment for public review. The BSS SP would include permitted uses and development standards such as maximum height, floor area ratio, parking requirements, and other items that contribute directly to the analysis of environmental impacts. Incorporation by reference (CEQA § 15150 (f)) is not appropriate as the BSS SP contributes directly to analysis of the problem at hand. The EIR must be revised and recirculated to include the BSS SP document for public review in order to comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)).

O7-4

Additionally, Table 4-1, Cumulative Projects is not useful to the public and decision makers. There is no map depicting the location of the cumulative projects listed. The table also excludes Portrero Logistics Center from its analysis. The EIR must be revised to include Portrero Logistics Center in its cumulative analysis. The table does not provide any meaningful identifying information regarding several of the projects listed. For example, approximately 16 of the projects are identified solely by their TAZ ID, which is useless for the public. The EIR must be revised to include pertinent identifying information about each project, including the entitlement number, address, and project name.

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

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

O7-6

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0<sup>1</sup>, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability. The proposed project's census tract (6065043811) and surrounding community, including residences immediately adjacent to the eastern property line of the project site, bears the impact of multiple sources of pollution and is more polluted than average on several pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 99th percentile for ozone burden, the 65th percentile for traffic impacts, and the 44th percentile for PM 2.5 burden. All of these environmental factors are typically attributed to heavy truck activity in the area. The census tract also ranks in the 53rd percentile for solid waste facility impacts, which 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 populations<sup>2</sup>.

O7-7

Further, the census tract is a diverse community including 21% Hispanic, 4% African-American, and 2% Asian-American residents, which are especially vulnerable to the impacts of pollution. The community is also economically disadvantaged. The community experiences high rates of unemployment (69th percentile), and poverty (46th percentile), which is an indication that they may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 76th percentile for incidence of cardiovascular disease and 45th percentile for incidence of asthma.

O7-8

The State of California lists three approved energy compliance modeling softwares<sup>3</sup> for non-residential buildings: CBECC-Com, EnergyPro, and IES VE. CalEEMod is not listed as an approved software. The spreadsheet-based modeling energy calculations in Appendix F do not comply with the 2019 Building Energy Efficiency Standards and under reports the project's potentially significant GHG and Energy impacts to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding

O7-9

<sup>1</sup> CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

<sup>2</sup> OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

<sup>3</sup> 2019 Building Energy Efficiency Standards Approved Computer Compliance Programs, California Energy Commission. <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency-2>

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of significance must be made. A revised EIR with modeling in one of the approved software types must be circulated for public review in order to adequately analyze the project's potentially significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not one of the approved softwares.

Table 4.7-8: Regional Transportation Plan/Sustainable Communities Strategy Consistency finds that the project is consistent with all goals of Connect SoCal, resulting in less than significant impacts. However, the consistency analysis in the EIR is misleading to the public and decision makers. The project results in several significant and unavoidable cumulatively considerable impacts, including Air Quality (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable), Noise (cumulatively considerable), and Transportation/VMT (cumulatively considerable). The EIR finds the project is consistent with Goal 2: "Improve mobility, accessibility, reliability, and travel safety for people and goods," because "the Project is located near existing transit routes on I-10." However, as noted in this comment letter and in the EIR itself, the project will impede the SCAG region's ability to improve mobility, accessibility, reliability, and travel safety for people and goods because it will result in significant and unavoidable cumulatively considerable impacts to Transportation/VMT.

O7-10

The EIR finds that Goal 3: "Enhance the preservation, security, and resilience of the regional transportation system," is not applicable to the proposed project because it "is not a transportation improvement project." However, as noted in this comment letter and in the EIR itself, the project will impede the SCAG region's ability to enhance the preservation, security, and resilience of the regional transportation system because it will result in significant and unavoidable cumulatively considerable impacts to Transportation/VMT.

O7-11

The EIR finds that Goal 7: "Adapt to a changing climate and support an integrated regional development pattern and transportation network," is not applicable to the proposed project because it "is not a project-specific policy." However, the Goals of Connect SoCal are applicable to all projects proposed throughout the SCAG region. Due to errors in modeling and modeling without supporting evidence, as noted throughout this comment letter, and the EIR's determination that the project will have significant and unavoidable cumulatively considerable impacts to Air Quality, Greenhouse Gas Emissions, and Transportation/VMT, the proposed project is directly inconsistent with Goal 7 to adapt to a changing climate.

O7-12

The EIR finds that Goal 10: "Promote conservation of natural and agricultural lands and restoration of habitats," are not applicable to the proposed project," is not applicable to the proposed project because "This Project is located on previously disturbed land and is not located on agricultural lands." However, Section 7 of the EIR states that the project is located on land that is identified as Farmland of Local Importance. Omitting this information in the RTP/SCS Connect SoCal analysis renders the EIR internally inconsistent. The EIR must be revised to include this

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information for analysis in order to be internally consistent and an adequate informational document.

The EIR finds the project is consistent with Goal 5: “Reduce greenhouse gas emissions and improve air quality,” because “the Project is located within an urban area in proximity to existing truck routes and freeways. Location of the project within a developed area would reduce trip lengths, which would reduce GHG and air quality emissions.” However, as noted in this comment letter and in the EIR itself, the project will impede the ability of the SCAG region to reduce greenhouse gas emissions and improve air quality because it results in significant and unavoidable cumulatively considerable impacts to both Air Quality and Greenhouse Gas Emissions. Omitting this information from the RTP/SCS consistency analysis is intentionally erroneous and misleading to the public and decision makers. The project’s location in a generally urbanized area and proximity to the freeway have not proven to be effective in reducing the project’s Air Quality and Greenhouse Gas Emissions. The EIR must be revised to include this information for analysis and include a finding of significance due to these inconsistencies.

O7-14

The EIR finds the project is consistent with Goal 6: “Support healthy and equitable communities” because “the Project does not exceed localized thresholds.” However, the project results in several significant and unavoidable cumulatively considerable impacts, including Air Quality (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable), Noise (cumulatively considerable), and Transportation/VMT (cumulatively considerable). This information must be included for analysis and a finding of significance must be made.

O7-15

#### 4.10 Land Use and Planning

The EIR does not provide any meaningful analysis of the proposed project’s conflicts with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. There is no consistency analysis with the goals and policies of the City’s General Plan. Despite a complete lack of consistency analysis, the EIR concludes that the project is consistent with the City’s General Plan because:

“As such, the Project would be consistent with the City’s Zoning Ordinance and Zoning Map; therefore, it would be consistent with all goals, policies, within the Beaumont GP. As such, inconsistency with City land use plans and regulations and the creation of environmental effects from Project implementation would be less than significant.”

O7-16

The EIR’s conclusion is nonsensical and unsupported by meaningful evidence. The EIR relies upon consistency with the Zoning Ordinance and Zoning Map to determine consistency with all goals and policies of the General Plan. The project as proposed is not consistent with the Zoning Ordinance or Zoning Map and requires adoption of a new Specific Plan as the Zoning designation

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and a General Plan Amendment to proceed. Relying upon approval of the requested GPA/SPA to determine there will be no environmental impacts circumvents the required process of CEQA analysis. Significant and unavoidable impacts to Air Quality (cumulatively considerable), Noise (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable, and Transportation/VMT (cumulatively considerable) will occur as a result of the GPA/SPA, and this is not presented for discussion or analysis in this section. The EIR is inadequate as an informational document and must be revised, including a finding of significance due to these inconsistencies.

The EIR has not completed a consistency analysis of the proposed project and General Plan goals and policies. The EIR provides no discussion of the project's required General Plan Amendment and change in Zoning designation from Sunny-Cal SP to Beaumont Summit Station SP. This does not comply with CEQA's requirements for meaningful disclosure and does not present an adequate environmental analysis. A revised EIR must be prepared with a consistency analysis with all General Plan policies goals and policies, including the following items that the project has significant potential for direct inconsistency:

1. Goal 3.3: A City that preserves its existing residential neighborhoods and promotes development of new housing choices.
2. Policy 3.3.1 Support the development of new housing opportunities, as defined by the Land Use Plan contained in this Element.
3. Policy 3.3.9 Ensure new development projects and infill construction are of a compatible scale in existing neighborhoods and provide adequate transitions to adjacent residential properties.
4. Policy 3.4.5 Focus economic development efforts on attracting high paying jobs to the City.
5. Policy 3.4.8 Where industrial uses are near existing and planned residential development, require that industrial projects be designed to limit the impact of truck traffic, air and noise pollution on sensitive receptors, especially in El Barrio.
6. Policy 3.8.4 Prioritize access to health-promoting uses in new development, including neighborhood markets, grocery stores, medical centers, pharmacies, parks, gyms, community space and gardens.
7. Goal 3.10: A City designed to improve the quality of the built and natural environments to reduce disparate health and environmental impacts.
8. Policy 3.10.2 Reduce particulate emissions from paved and unpaved roads, construction activities, and agricultural operations.
9. Policy 4.1.1 Reduce vehicular congestion on auto-priority streets to the greatest extent possible. Policy 4.1.2 Maintain LOS D on all auto-priority streets in Beaumont. LOS E is considered acceptable on non-auto-priority streets.
10. Policy 4.2.2 Maintain standards that align with SB 743 and multi-modal level of service (MMLOS) methodologies. Incorporate these into impact assessments when appropriate.
11. Goal 4.6: An efficient goods movement system that ensures timely deliveries without compromising quality of life, safety, or smooth traffic flow for Beaumont residents.
12. Policy 4.6.2 Minimize or restrict heavy vehicle traffic near sensitive areas such as schools, parks, and neighborhoods.

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13. Policy 5.1.4 Encourage growth and expansion of businesses and employment centers near public transit to increase transportation options for employees and limit traffic congestion.
14. Goal 6.1: A City that improves the overall health and welfare of its residents.
15. Policy 6.4.1 Ensure convenient access to affordable, fresh produce and healthy foods in all neighborhoods, including grocery stores, farmers 'markets, and community gardens, particularly in communities with low incomes and low access.
16. Policy 6.4.3 Limit fast food and liquor stores in neighborhoods with a significant concentration of stores (e.g., multiple stores on the same block or intersection) and child-sensitive areas, such as schools, parks, and childcare facilities.
17. Policy 6.5.5 Promote development of a variety of housing types that meet the needs of residents of all income levels. This policy is implemented through the Land Use and Community Design Element.
18. Policy 6.5.8 Encourage health-promoting uses in new development, including neighborhood markets, grocery stores, pharmacies, parks, gyms, and community gardens.
19. Goal 6.7: A City that safely and systematically addresses toxics, legacy pollutants, and hazardous materials.
20. Policy 6.7.5 Reduce particulate emissions from paved and unpaved roads, construction activities, and agricultural operations.

O7-17

Further, the EIR omits discussion and analysis regarding the project's inconsistency with other land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. For example, the project will have a significant and unavoidable cumulatively considerable impact to Air Quality because it will conflict with or obstruct implementation of the applicable air quality plan (AQMP). The project will also have a significant and unavoidable cumulatively considerable impact to Greenhouse Gas Emissions because it will conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing GHG emissions. The Land Use and Planning analysis omits any discussion regarding inconsistencies with the AQMP and California's statewide GHG reduction goals for 2030 and 2050. The EIR must be revised to include these significant and unavoidable cumulatively considerable impacts for analysis and include a finding of significance.

O7-18

Table 4.10-2: Project Compatibility with SCAG 2020-2024 RTP/SCS erroneously finds complete consistency with SCAG's Connect SoCal RTP/SCS document. The project requires a change in General Plan land use designation to proceed, which indicates that it is not consistent with the analysis provided in Connect SoCal. Due to errors in modeling as noted throughout this comment letter and the EIR's determination that the project will significant and unavoidable cumulatively considerable impacts to Air Quality, Noise, Transportation/VMT, and Greenhouse Gas Emissions, the proposed project is directly inconsistent with Goal 5 to reduce greenhouse gas emissions and improve air quality, Goal 6 to support healthy and equitable communities, and Goal 7 to adapt to a changing climate. The EIR must be revised to update the finding of significance to include inconsistency with SCAG's Connect SoCal RTP/SCS.

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#### 4.12 Population and Housing

SCAG adopted 2045 growth projections as part of the 2020 RTP/SCS (Connect SoCal) on September 3, 2020. SCAG's Connect SoCal Demographics and Growth Forecast<sup>4</sup> notes that Beaumont will add 6,600 jobs between 2016 - 2045. Utilizing the EIR's calculation of 4,010 employees, the project represents 60% of Beaumont's employment growth from 2016 - 2045. SCAG's Growth Forecast notes that Beaumont's population will increase by 34,700 residents between 2016 - 2045. Utilizing the EIR's calculation of 4,010 employees, the project represents 11.5% of Beaumont's population growth from 2016 - 2045. A single project accounting for 60% of the projected employment growth and 11.5% of the projected population growth within Beaumont over 29 years represents a significant amount of growth.

07-20

The EIR must be revised to include this analysis, and also provide a cumulative analysis discussion of projects approved since 2016 and projects "in the pipeline" to determine if the project will exceed SCAG's employment and/or population growth forecast. For example, the Portrero Logistics Center is estimated to generate approximately 771 employees. The proposed project and Potrero Logistics Center will cumulatively generate 4,780 employees, which is 72% of the projected employment growth and 13.7% of the projected population. This is a significant amount of growth and is generated by only two projects that are currently under review. A revised EIR must be prepared to quantify all employees generated by all other non-residential projects approved since 2016 and projects "in the pipeline" in order to present an accurate and adequate analysis of the proposed project's impacts to population and housing.

07-21

The EIR states that "although the Project would generate approximately half of SCAG's forecasted employment for the City, the forecasted increase in Project employment is well within the City's total future employment of 19,910 by 2045 and well within the County's forecasted employment of 1,103,000 by 2045." The EIR creates the "City's total future employment of 19,910 by 2045" in Table 4.12-7: Projected Jobs-Housing Balance (with Project) by adding together SCAG's forecasted employment growth with the 4,010 jobs generated by the proposed project. This is misleading to the public and decision makers. The EIR must be revised to delete this table and analysis. The EIR has attempted to justify the exorbitant growth (that exceeds all growth forecasts) generated by the project by "building in" the project's jobs into a new horizon year scenario. A finding of significance must be made, both at the project-level and cumulatively.

07-22

Further, the EIR states that "all growth is planned according to the Beaumont GP 2040 and SCAG Connect SoCal." This is erroneous and misleading to the public and decision makers because the

<sup>4</sup> SCAG Connect SoCal Demographics and Growth Forecast adopted September 3, 2020  
[https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectocal\\_demographics-and-growth-forecast.pdf?1606001579](https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectocal_demographics-and-growth-forecast.pdf?1606001579)

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project requires approval of a General Plan Amendment and new Specific Plan in order to proceed. This statement must be removed in the revised EIR and a include finding of significance due to inconsistency with the General Plan growth forecast and Connect SoCal growth forecast.

O7-23

The EIR utilizes uncertain language by stating that, “*most* of the City’s residents commute to other cities for work. Thus, the Project’s related employment growth impacts are not *anticipated* to be significant since the City is housing-rich and would be adequately served by the *regional* and local workforce.” The EIR does not provide specific information regarding the percentage of residents that commute to other cities for work. Additionally, relying upon the regional workforce of the greater SCAG region will increase VMT and air quality/greenhouse gas emissions, and a revised EIR must be prepared to reflect this. The revised EIR must also include information and analysis regarding the number of construction jobs generated by the project and their potential to relocate to the City.

O7-24

Further, the EIR does not address the Housing Crisis Act (HCA) of 2019/Senate Bill (SB) 330<sup>5</sup>. The HCA of 2019 and SB 330 require replacement housing sites when land designated for housing development is changed to a non-housing use to ensure no net loss of housing capacity. Government Code Section 66300(b)(1)(A) requires that agencies shall not “change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use below what was allowed under the land use designation and zoning ordinances in effect on January 1, 2018.” Under Government Code Section 66300(b)(1)(A), a “less intensive use” includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. Pursuant to SB 330, replacement capacity for any displaced residential units must be provided at the time of project approval.

O7-25

This is applicable because the proposed project would change the site’s General Plan land use designation from Single Family Residential to non-residential designations: Industrial, General Commercial, and Open Space. Additionally, the proposed project would change the site’s existing Zoning designation of Sunny-Cal Specific Plan to Beaumont Summit Station Specific Plan. The Sunny-Cal Specific Plan permits the development of up to 560 residential dwelling units. The proposed project permits the development of 0 dwelling units. Due to these this land use changes, the site would not be used for the development of residential dwelling units and replacement sites must be proposed and analyzed as part of the project. The EIR does not act in conformance with these laws and has not identified replacement sites for housing. Approval of the EIR and the proposed project will result in a net loss of housing capacity. Specifically, the Sunny-Cal Specific

O7-26

<sup>5</sup> Housing Crisis Act of 2019/SB 330

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB330](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330)

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Plan permits the development of up to 560 residential dwelling units. The lost capacity of 560 dwelling units is a significant environmental impact in violation of the HCA and SB 330; a finding of significance must be made. The EIR must be revised to include replacement sites for housing which accommodate at minimum 560 residential dwelling units and all related technical analysis.

#### 4.15 Transportation and Traffic

The EIR chooses to model the project as a high-cube transload short-term warehouse (ITE land use code 154) because the ITE defines this type of warehouse as the lowest trip generation per 1,000 sf of all industrial land uses (0.10 trips per 1,000 sf)<sup>6</sup>. Modeling the proposed project as high-cube transload short-term warehouse serves to skew analysis downward and present unduly low emissions estimates and VMT. The Project Description and Site plan includes operational and characteristic information about the project that indicate it is likely to be used as a fulfillment center based on SCAQMD's High-Cube Warehouse Vehicle Trip Generation Analysis<sup>7</sup>. The proposed project encompasses more characteristics of a fulfillment center which generate higher emissions and VMT due to increased quantity of trips. This includes a very high ratio of loading dock doors to trailer parking spaces (425 dock doors and 918 trailer stalls exceeds a 2:1 ratio across all 3 buildings) and high ratio of employee parking (1,482 passenger car stalls serving 2,557,465 square feet of warehousing = 1 stall per 1,725 square feet of building area). The EIR must be revised to model the project accurately as ITE Land Use 155 High-cube Fulfillment Center Warehouse in accordance with the building characteristics as shown in order for the EIR to be a reliable informational document.

O7-27

The VMT appendix reference the Governor's Office of Planning and Research (OPR) 2018 Technical Advisory<sup>8</sup> document in order to remove medium and heavy-duty truck trips from VMT analysis. However, the EIR does not provide a statutory source of exemption for medium/heavy trucks and/or freight. OPR's 2018 Technical Advisory document states that "here, the term "automobile" refers to on-road passenger vehicles, specifically cars and light trucks." However, the purpose of the OPR Technical Advisory document is purely advisory, stating in its introduction:

O7-28

"The purpose of this document is to provide advice and recommendations, which agencies and other entities may use at their discretion. This document does not alter lead agency discretion in

<sup>6</sup> Institute of Transportation Engineers Common Trip Generation Rates (PM Peak Hour)  
<https://www.troutdaleoregon.gov/sites/default/files/fileattachments/public%20works/page/966/ite%20land%20use%20list%2010th%20edition.pdf>

<sup>7</sup> SCAQMD High-Cube Warehouse Vehicle Trip Generation Analysis  
<https://www.ite.org/pub/?id=a3e6679a%2De3a8%2D6bf38%2D7f29%2D2961becdd498>

<sup>8</sup> Governor's Office of Planning and Research Technical Advisory on Evaluating Transportation Impacts in CEQA [https://opr.ca.gov/ceqa/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/ceqa/docs/20190122-743_Technical_Advisory.pdf)

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preparing environmental documents subject to CEQA. This document should not be construed as legal advice.”

The OPR document is not a legal interpretation, court decision, or amendment to the CEQA statute that clarifies the definition of automobile. The term “automobile” is not defined in the CEQA statute and application of the OPR interpretation is speculative and does not provide an analysis of the “worst-case scenario” for environmental impacts. Widespread public understanding and perception indicates that trucks, including medium/heavy-duty trucks and freight trips associated with the industrial nature of warehouse operations, are automobiles. A revised EIR must be prepared to remove this misleading information and include all truck/freight activity for quantified VMT analysis. The operational nature of industrial/warehouse uses involves high rates of truck/trailer/freight VMT due to traveling from large regional distribution centers to smaller industrial parks and then to their final delivery destinations. The project’s truck/trailer/freight 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. A revised EIR must be prepared to reflect a quantified VMT analysis that includes all truck/trailer/freight activity to adequately and accurately analyze the potentially significant project transportation impacts.

O7-29

## 5.0 Other CEQA Considerations

### *5.3 Growth Inducing Impacts of the Project*

The EIR does not discuss or analyze the project’s proposed General Plan Amendment, Zone Change, or adoption of a new Specific Plan anywhere in this section. This is misleading to the public and decision makers. The EIR must be revised to include the required GPA, SPA, and ZC for discussion and analysis and include a finding of significance as the project will contribute to growth that was not included as part of growth forecasts in Connect SoCal and/or the General Plan. The EIR must also include discussion for the precedence setting action that approval of the GPA, SPA, and ZC set for future land use changes in the area.

O7-30

The EIR must also include a cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting. For example, recent industrial projects within the City including the Potrero Logistics Center is estimated to generate approximately 771 employees. Cumulatively, the proposed project plus Potrero Logistics Center will generate 4,780 employees, which is 72% of the projected employment growth and 13.7% of the projected population growth from 2016 - 2045.

O7-31

Further, the EIR is grossly erroneous and misleading to the public and decision makers in stating that “No cumulative impacts were discovered during the analysis of the Project.” The EIR must be revised to remove this statement and discuss and analyze that implementation of the project will

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result in significant and unavoidable environmental impacts to Air Quality (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable), Noise (cumulatively considerable), and Transportation/VMT (cumulatively considerable). Project implementation will result in growth that does not comply with the AQMP, California's GHG reduction goals, SCAG'S RTP/SCS, and will have additional environmental impacts that cannot be mitigated. These significant and irreversible environmental changes which caused by the project necessitate a finding of significance in this section.

O7-32

## 6.0 Alternatives

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

O7-33

## 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.

O7-34

Sincerely,



Gary Ho

Blum Collins & Ho, LLP

### Attachments:

1. SWAPE Analysis

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**Responses to Comment Letter O7 – Blum Collins & Ho, LLP., Attorneys at Law**

**Gary Ho**

**O7-1** Comment noted. The City will put the commentator(s) on the Project's distribution list for any future communications pertaining to the Project.

**O7-2** This comment is a summary of the proposed Project. No further response is warranted.

**O7-3** **Section 3.0, Project Description**, of the DEIR includes a detailed description of the Project including site plans, street sections, land use plans and preliminary grading. The grading plans include grading contours with elevations which are all standard and customary for a DEIR.

**O7-4** Commentor raises concern that the Specific Plan is not included in the DEIR, specifically so they can review the development standards. **Section 3.9** of the DEIR includes a summary of the Development Plan that includes land uses and development standards including building heights, FAR, etc.

**O7-5** A list of development projects within the cumulative study area were identified and are presented in **Table 4-1**. The list includes past projects, projects under construction and approved, and pending projects that are anticipated to be either under construction or operational by the time of the completion of the proposed project. Because the area within which a cumulative effect can occur varies by resource area, for the purpose of this analysis, the geographic scope also varies according to the resource being evaluated. There is no requirement to depict the cumulative projects via an exhibit. The City has instead opted to provide the data in a table format.

The omission of the Potrero Logistics Center Project on **Table 4-1** was an error. However, due to the location of the Potrero Logistics Center project in relation to the proposed Project, no additional or greater impacts to study intersection impacts or other related impacts would occur. Refer to **Section 3.0, Errata**, of this FEIR.

**O7-6** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

**O7-7** The first sentence states that the EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. This is incorrect. The DEIR fully analyzed and disclosed the proposed Project's cumulative impacts in **Section 4.1, Aesthetics** through **Section 4.18, Wildfire**. More specifically, the DEIR fully analyzed and disclosed the proposed Project's impacts concerning air quality, transportation, and hazards and hazardous materials in **Section 4.2, Air Quality**, **Section 4.8, Hazards and Hazardous Materials**, and **Section 4.15, Transportation**, respectfully.

The comment notes that the Project is adjacent to a census tract (6065043811)<sup>8</sup>, which is designated as a SB 535 Disadvantaged Community. In fact, the Project is located more than 3 miles from this census tract according to the OEHHA SB 535 mapping. It should be noted that SB 535 does not include project specific requirements or prohibit developments in proximity to the designated communities.

SB 535 directs 25 percent of the proceeds from the Greenhouse Gas Reduction Fund (i.e., funds from the AB 32 cap-and-trade program) to go to projects that provide a benefit to disadvantaged communities (as identified by the OEHHA mapping). As noted throughout this Final EIR, an HRA was prepared for the Project and quantified risk levels at nearby sensitive receptors and determined that impacts would be less than significant.

**07-8** Refer to response to comment 07-7 above.

**07-9** The comment states that the DEIR did not use an approved energy compliance modeling software to calculate energy demand for the Project, citing that CalEEMod is not listed as approved software. The energy analysis presented in the DEIR is for purposes of estimating Project demand. The analysis included in the DEIR is not intended to demonstrate compliance with the 2019 Building Energy Efficiency Standards. Therefore, the energy analysis does not need to be redone using either CBECC-Com, EnergyPro, or IES VE and the DEIR does not need to be recirculated.

**07-10** The commenter does not agree that the Project is consistent with SCAG RTP/SCS Goal 2: Improve mobility, accessibility, reliability, and travel safety for people and goods based on the Project's significant and unavoidable impact on transportation/VMT. However, the proposed Project includes numerous mitigation measures and design features that would reduce emissions; refer to DEIR pages 4.2-22 through 4.2-24, pages 4.2-38 through 4.2-41, pages 4.7-29 through 4.7-31, and pages 4.7-39 through 4.7-40. Mitigation Measure **MM AQ-3** requires the implementation of a transportation demand management (TDM) program. The TDM will detail potential strategies that would reduce the use of single occupancy vehicles by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The Project's location in proximity to existing transit routes supports SCAG's goal by providing an accessible workplace for employees who choose to use transit. The Project's significant impact with regard to VMT is not relevant in determining accessibility and use of transit.

**07-11** The comment inaccurately states that the DEIR states that, the Project will impede the SCAG region's ability to enhance the preservation, security, and resilience of the regional transportation system because it will result in significant and unavoidable cumulatively considerable impacts to Transportation/VMT."

As noted in the cumulative impact section of DEIR **Section 4.15, Transportation**, the Project would not result in significant traffic related impacts resulting from conflicts with transportation plans or policies and is consistent with all applicable General Plan policies such as working with Caltrans, making needed roadway improvements, payment of TUMF fee or

<sup>8</sup> <https://oehha.ca.gov/calenviroscreen/sb535>

fair share contribution etc. Furthermore, according to DEIR **Appendix K, Traffic Study**, the City of Calimesa, with Caltrans and the County of Riverside proposes to reconstruct the Interstate 10 (I-10)/Cherry Valley Boulevard interchange to relieve congestion and improve traffic operations.

- Widen Cherry Valley Boulevard to two lanes in each direction
- Add turn pockets along Cherry Valley Boulevard approaching on-ramps
- Add pedestrian crosswalks and curb ramps
- Reconstruct and realign on- and off-ramps
- Realign Calimesa Boulevard north of the I-10/Cherry Valley Boulevard interchange
- Provide channelized turning on Cherry Valley Boulevard to Calimesa Boulevard
- Install new traffic signals
- Construct sidewalks and bicycle lanes along Cherry Valley Boulevard
- Add a 1,300-foot-long auxiliary lane to the eastbound off-ramp and 3,400-foot-long auxiliary lane to the westbound on-ramp.

Although not a regional transportation project, the Project would support SCAG's RTP/SCS Goal 3.

**07-12** The City respectfully disagrees with the comment. The Project is not a regional transportation project and therefore doesn't dictate the City's and Caltrans potential improvements on to the regional system. Furthermore, the comment states because of the EIR's determination that the Project will have significant and unavoidable cumulatively considerable impacts to Air Quality, Greenhouse Gas Emissions, and Transportation/VMT, the proposed project is directly inconsistent with Goal 7 to adapt to a changing climate. This is also incorrect. The air quality, health risk, and greenhouse gas emissions assessments, and traffic impact analysis reports prepared for the Project were prepared in accordance with applicable state and/or regional thresholds. Additionally, any updates to the air quality, health risk, GHG assessment and VMT analysis and/or DEIR document would not change the findings or conclusions of the impacts as significant and unavoidable.

**07-13** The City agrees with this comment. See **Section 3.0, Errata**, of this FEIR for these changes. However, also note that removal of farmland of local importance is not considered a significant impact under CEQA and therefore, does not make the proposed Project's agriculture and forestry impact analysis inadequate.

**07-14** Refer to response to comment O3-100. The commenter notes that RTP/SCS Goal 5 is to reduce GHG emissions and improve air quality. The proposed Project includes numerous mitigation measures and design features that would reduce emissions; refer to DEIR pages 4.2-22 through 4.2-24, pages 4.2-38 through 4.2-41, pages 4.7-29 through 4.7-31, and pages 4.7-39 through 4.7-40. These include implementation of a TDM program to reduce vehicle trips, charging

stations and infrastructure to support future electric vehicle demand to reduce mobile emissions, prohibiting idling when engines are not in use, including signage to report violations, incentives for using cleaner operating trucks, facilitate compliance with SCAQMD Rule 2035, requiring renewable energy, achieving CalGreen Tier 2 energy efficiency standards, diverting solid waste, and using electric landscape equipment. The Project's exceedance of thresholds are primarily due to the size of the Project and not the lack of reduction measures. The implementation of the various mitigation measures noted above and design features would ensure emissions are reduced consistent with 2020-2045 RTP/SCS Goal 5.

**07-15** As noted on DEIR page 4.7-48, although the Project exceeds regional thresholds for criteria pollutants, the Project's Localized Significance Thresholds (LSTs) would be less than significant (refer to DEIR pages 4.2-42 through 4.2-46) and health risk impacts would be less than significant (refer to DEIR pages 4.2-50 through 4.2-55), which indicates that the regional increases shown in DEIR Tables 4.2-10 through 4.2-14 are over counting truck emissions since not all these trips are in reality new to the air basin. Additionally, the Project would incorporate PDF AQ-2 (electric cargo handling equipment) and **MM AQ-1** (4 construction equipment) that would also reduce localized impacts. The reduction of localized emissions would support healthy and equitable communities.

**07-16** As discussed in **Section 4.10, Land Use and Planning** of the DEIR, CEQA requires that an EIR consider whether a Project would conflict with any applicable land use plan, policy, or regulation (including, but not limited to a general plan, specific plan, or zoning ordinance) that was adopted for the purpose of avoiding or mitigating environmental effect(s). This environmental determination differs from the larger policy determination of whether a proposed Project is consistent with a jurisdiction's general plan. The broader general plan consistency determination considers all evidence in the record concerning the Project characteristics, its desirability, as well as its economic, social, and other non-environmental effects. Regarding plan or policy consistency, a project is evaluated in terms of whether the proposed site plan, project design, and/or development within a given location would substantially impede implementation of an adopted plan or policy resulting in a significant environmental effect. The mere fact that a project may be inconsistent in some manner with particular policies in a general plan or zoning ordinance does not, *per se*, amount to a significant environmental effect. In the context of land use and planning, significant impacts occur when a conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project results in an adverse physical environmental impact.

The Project site is presently designated as "Single Family Residential" by the General Plan. A new Specific Plan and a General Plan Amendment would change the property's land use designation from Single Family Residential to Industrial, General Commercial, and Open Space. The proposed land use designations would be consistent with the proposed e-commerce center, commercial area, and permanent open space uses. Because approval of the Specific Plan and General Plan Amendment are part of the overall Project approvals, it is appropriate to measure consistency with the General Plan with these Project components in mind. As such, the conclusion in the DEIR is correct.

**07-17** Refer to response to comment O7-16 above.

**07-18** The Project's inconsistencies with the AQMP and California's statewide GHG reduction goals were thoroughly discussed in their appropriate impact analysis threshold within **Section 4.2, Air Quality, and Section 4.7, Greenhouse Gas Emissions** of the DEIR.

**07-19** Refer to Reponses to Comments O7-10through O7-15. The commenter incorrectly states that the Project would but inconsistent with the SCAG 2020-2025 RTP/SCS.

**07-20** Although the Project's potential employment is forecasted to represent a significant portion of SCAG's forecasted employment for the City, this does not constitute a significant impact according to CEQA. The City is considered housing-rich and in need for employment opportunities as the City has a high unemployment rate and a majority of City residents commute outside the City for work.

**07-21** The commenter is incorrect and the proposed Project's impact to population and housing does not require the Project quantify all employees generated by all other non-residential projects to determine a project-level impact concerning population and housing. As stated in DEIR **Section 4.12, Population and Housing**, the Project would not result in cumulative citywide or countywide population and housing impacts, since the Project would be adequately served by the regional and local workforce and improve SCAG's job-housing balance for the region, without necessitating additional housing. Furthermore, the Project's potential employment opportunities would provide much needed employment within the City and support the City's pursuit in a more balanced jobs-housing ratio.

**07-22** The City respectfully disagrees with the comment. Refer to response to comment O3-21 above. The information in **Table 4.12-7** is correct and accurately depicts the Project's employment, household, and jobs-housing ration versus SCAG's demographic data for the City and County.

**07-23** Upon approval of the General Plan Amendment and Specific Plan would make the proposed Project consistent with the General Plan.

**07-24** The commenter claims that the DEIR does not provide specific information regarding commutes and that construction jobs generated by the Project would potentially lead to the relocation of construction employees to the City. As discussed in **Appendix K** of the DEIR, the RivTAM tool was used to calculate VMT for the Project. The RivTAM model considers the interaction between different land uses based on socio-economic data such as population, households, and employment. The suggested updates to the VMT analysis and/or DEIR document would not change the findings or conclusions of the transportation/VMT impact as significant and unavoidable.

Regarding the relocation of construction employees to the City, construction activities would not result in direct generation of population growth. Construction activities are short term in nature and construction workers would go from one job to another and typically live and work within the same region.

**07-25** Chapter 17.20 of the Beaumont Municipal Code establishes a No Net Loss Program, whereby concurrent with the approval of any change in zone from a residential use to a less intensive use, a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City.

**07-26** See response to comment 07-25 above.

**07-27** The proposed project is consistent with the ITE description for ITE High-Cube Short-Term Storage Warehouse for Buildings 1 and 2, and ITE Warehouse for Building 3. High-Cube Fulfillment Center Warehouse and High-Cube Parcel Hub Warehouse uses are not proposed.

**07-28** CEQA Guidelines Section 15064.3, subdivision (a) states “For the purposes of this section ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” The OPR 2018 Technical Advisory clarifies the definition of the term automobile.

**07-29** The suggested updates to the VMT analysis and/or DEIR document would not change the findings or conclusions of the transportation/VMT impact as significant and unavoidable.

**07-30** This is already discussed on page 5-4 of **Section 5.0, Other CEQA Considerations**.

**07-31** Refer to response to comment 07-21 above.

**07-32** Refer to **Section 3.0, Errata**, of this FEIR that reflects the changes.

**07-33** **Section 6.0** of the DEIR includes a detailed analysis of the Project alternatives as required by CEQA. The analysis concludes that the reduced intensity alternative would reduce some of the potentially significant impacts, but it does not reduce any significant impacts to below a level of significant. Put another way, the reduced density alternative will not reduce any of the significant impacts and does not meet the Project objectives so was dismissed.

**07-34** Comment noted and will be taken into consideration by decision-makers.