

**FINAL**  
**Environmental Impact Report**  
**Highway 74 Community Plan**  
**County of Riverside, California**

**State Clearinghouse Number 2019059042**

Prepared for:

**County of Riverside**

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Riverside, CA 92501

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Contact: Andrew Svitek, Project Planner

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**FirstCarbon Solutions**

250 Commerce, Suite 220

Irvine, CA 92602

714.508.4100

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Tsui Li, Project Manager

Date: August 10, 2023

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## SECTION 1: INTRODUCTION

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088, the County of Riverside (Lead Agency) has evaluated the comments received on the Highway 74 Community Plan Draft Environmental Impact Report (Draft EIR). Pursuant to CEQA Guidelines Section 15132, the Draft EIR (and appendices attached thereto), a list of persons, organizations, and agencies that provided comments on the Draft EIR, the responses to comments and errata (along with the related appendices), which are included in this document, together with the ; Mitigation Monitoring and Reporting Program (MMRP), comprise the Final EIR for use by the County of Riverside during its review and to ensure proper implementation of the mitigation measures described in the Final EIR. This document is organized into three sections:

- **Section 1—Introduction.** Provides an introduction to the Final EIR.
- **Section 2—Master Responses.** Provides a single, comprehensive response to similar comments about a particular topic.
- **Section 3—Responses to Written Comments.** Provides a list of the agencies, organizations, and individuals who commented on the Draft EIR. Copies of all of the letters received providing comments on the Draft EIR and responses thereto are included in this section.
- **Section 4—Errata.** Includes an addendum listing refinements and clarifications on the Draft EIR, which have been incorporated.

The Final EIR consists of the following contents:

- Draft EIR (provided under separate cover)
- Draft EIR Appendices (provided under separate cover)
- List of persons, organizations, and public agencies that commented on the Draft EIR
- Responses to Written Comments on the Draft EIR and Errata (Sections 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

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## SECTION 2: MASTER RESPONSES

Master responses address similar comments made by multiple public agencies, organizations, or individuals through written comments submitted to the County of Riverside (County).

### 2.1 - Master Responses

#### Master Response 1—Program EIR

##### *Summary of Relevant Comments*

Several commenters indicated areas in which the Draft Environmental Impact Report (Draft EIR) was inadequate in its impact analysis and mitigation measures. Specific topics addressed include air quality, greenhouse gas emissions, energy, biological resources, and hazards and hazardous materials. Some comments state that further analysis should occur before the approval of the Draft EIR.

##### *Program Level Analysis is Appropriate for a Community Plan*

The proposed Highway 74 Community Plan provides planning policies and programs that guide future development in the County, but does not approve or propose any specific development project.

A Community Plan presents goals, policies and programs that are specific and unique to the community or area that it covers. A Community Plan is by definition intended to be broad, or “general,” in scope. Relegation of more specific regulatory details and requirements to implementing plans, regulations, and ordinances is common practice. Unlike a Specific Plan or a Precise Plan, a Community Plan is not a regulatory document. Community Plans do not include zoning regulations or development standards. (See California Public Resource Code [PRC] § 21083.3(e)).

Accordingly, the Draft EIR prepared for the proposed Highway 74 Community Plan is a Program-level EIR (Program EIR). A Program EIR is not expected to analyze site-specific or project-specific environmental impacts, nor provide the level of detail found in a project EIR. All analysis and mitigation included within the Program EIR is consistent with State CEQA Guidelines Section 15152 (c), Tiering, which provides the following:

Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan or community plan), the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

Community Plan policies and mitigation measures should be consistent with the geographic scope of the project, population size and density, fiscal and administrative capabilities, and economic, environmental, legal, social, and technological factors (Government Code §§ 65300.9 and 65301(c);

State CEQA Guidelines §§ 15143, 15146, 15151, and 15204). Section 15146(b) of the State CEQA Guidelines discusses the appropriate level of detail for preparation of an EIR for a General Plan or planning-level policy documents.

A Program EIR is appropriate to evaluate environmental effects “at a broad level,” so long as to the extent a subsequent project is not covered, additional environmental review occurs. See *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 45. Here, additional environmental review is ensured by the inclusion of the following Program EIR mitigation measures:

- MM AIR-6a-1 and MM AIR-6a-8 (requiring subsequent CEQA review to evaluate project-specific impacts resulting from construction and operational activities and requiring appropriate mitigation);
- MM AIR-6a-9 (requiring future facility-specific Health Risk Assessment for individual projects that propose to use diesel trucks);
- MM BIO-7a to 7e (requiring future project-specific surveys and studies to be completed to the satisfaction of applicable regulatory agencies);
- MM GHG-20a (requiring future project-specific GHG analysis demonstrating consistency with the County’s Climate Action Plan); and

A programmatic-level document is designed to provide a level of detail for the public to be informed and decision-makers to make decisions that intelligently take into account environmental consequences consistent with CEQA. Program EIRs “[a]llow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts” (State CEQA Guidelines §§ 15168(a), 15168(b)(4)). Many site-specific details may be properly deferred to a later environmental review document. (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1173). Unlike a project EIR, which addresses the environmental impacts of a specific development project, a Program EIR addresses the potential impacts of a series of actions that can be characterized as one large project. Therefore, the use of a Program EIR is appropriate in evaluating project-related environmental impacts resulting from implementation of a comprehensive planning program like a Community Plan.

Consistent with CEQA’s requirements, the Draft EIR is a Program-level environmental analysis that serves as a “first-tier” document to assess and document the broad environmental impacts of the proposed Highway 74 Community Plan, with the understanding that more detailed site-specific environmental reviews may be required to assess future projects implemented under the program. The proposed Highway 74 Community Plan and Draft EIR address plans and policies covering a Plan Area of approximately 2,220 acres. The proposed Highway 74 Community Plan includes changes to land use designations but does not propose any actual development. Although the general location and type of development within the Plan Area can be anticipated, until the County receives a development application, the exact location, type of development, and potential impacts are too speculative to be determined. Accordingly, within the context of Section 15146 of the State CEQA Guidelines, analysis of development of specific individual parcels is neither feasible nor required in

the Draft EIR. Thus, development is considered more broadly in the proposed Highway 74 Community Plan and Draft EIR.

Because there is no specific development project being proposed at this time, a project-level analysis cannot be prepared. If the Draft EIR is certified and the Highway 74 Community Plan approved, future implementing construction and development plans would be subject to project-level CEQA analysis and potentially additional feasible mitigation, if necessary, as required by Mitigation Measures (MM) AIR-6a-1, MM AIR-6a-8, MM AIR-6a-9, MM BIO-7a through MM BIO-7e, MM GHG-20a, and MM GEO-12a. As individual projects with site-specific grading, development, and architectural plans and facilities are submitted to the County for review, the County will evaluate each project in light of the information in the Program EIR. (See PRC §§ 21083.3, 21093, and 21094 and State CEQA Guidelines §§ 15152, 15164, 15168, and 15183.)

This Draft EIR provides the appropriate broad programmatic-level environmental analysis necessary to allow the decision-makers to evaluate the proposed Highway 74 Community Plan as a comprehensive guide for making future decisions about land use, community character, economic development, environmental preservation, open space, and public health and safety. Project level analysis is not appropriate, feasible, or pragmatic at this stage.

#### ***Future Development Proposals Will Require Environmental Compliance***

The proposed Community Plan does not include any specific development. As discussed throughout the Draft EIR, development consistent with the proposed Highway 74 Community Plan would be required to conform with federal, State, and local policies that would reduce potential environmental impacts to less than significant levels. When applicable, any additional new development within the Highway 74 Community Plan Area would be subject, on a project-by-project basis, to independent CEQA review as well as required adherence to mandatory regulations, policies and programs in the General Plan, the Code of Ordinances, and other applicable County requirements that reduce impacts (refer to MM AIR-6a-1, MM AIR-6a-8, MM AIR-6a-9, MM BIO-7a through MM BIO-7e, MM GHG-20a, and MM GEO-12a). The Draft EIR explicitly requires that future implementing development demonstrate consistency with the Code of Ordinances during the design review process to ensure that projects comply with all policies designed to reduce environmental impacts. Ministerial projects that are not subject to environmental review under CEQA must still comply with the Code of Ordinances and other applicable rules, regulations, and environmental programs. Accordingly, the County can reasonably rely on these mandatory regulations and policies to reduce potential environmental impacts, including required General Plan EIR mitigation measures identified within the Program EIR:

**Table 2-1: General Plan EIR Mitigation Measures**

Impact Area	Applicable General Plan EIR Mitigation	Where Referenced in Draft EIR/Final EIR
Air Quality	EIR No. 441 Mitigation Measures 2.51A, 4.51B, and 4.5.1C, and EIR No. 521 Mitigation Measures 4.6.B-N1, 4.6.B-N2, 4.6.B-N3, 4.6.D-N1, and 4.6.D-N2	Draft EIR pages 3.3-27; 3.3-54 through 3.3-56

Impact Area	Applicable General Plan EIR Mitigation	Where Referenced in Draft EIR/Final EIR
Biological Resources	EIR No. 521 Mitigation Measures 4.8.A-N1, 4.8.A-N2, 4.8.B-N1, 4.8.C-N1, 4.8.C-N2, and 4.8.D-N1	Draft EIR pages 3.4-6, see Errata

### ***Project Specific Mitigation is Not Deferral***

The Draft EIR is programmatic in nature and does not evaluate every future implementing development project. The policies and programs in the proposed Highway 74 Community Plan provide prescriptive measures that inform how future projects will address potential impacts as individual development applications are submitted within the Community Plan. Future discretionary projects would be evaluated under CEQA, as applicable, and project-specific mitigation measures would be prescribed, as necessary. Identifying project-specific mitigation at the time development projects are proposed is practical and is not deferral.

Section 15126.4 of the State CEQA Guidelines states the following: Formulation of mitigation measures shall not be deferred until some future time. 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.

As indicated in the language of Section 15126.4(a)(1)(B), mitigation may be developed after project approval when it is infeasible to include such details during a project's environmental review. The use of a Program EIR allows for such a condition; the details of future discretionary projects envisioned in the proposed Community Plan would be subject to CEQA review at the time they are proposed, and appropriate mitigation would be developed based on such analysis. The Community Plan does not propose or approve any specific projects and, therefore, future project details are unknown at this time rendering it both impractical and infeasible to include project-level mitigation.

Furthermore, compliance with established regulatory requirements and standards, such as those in a Code of Ordinances, is a legitimate basis for determining that the project will not have a significant environmental impact. (*Tracy First v City of Tracy* (2009) 177 CA4th 912.) A requirement that a project comply with specific laws or regulations may also serve as adequate mitigation of environmental impacts, if compliance with such standards can be reasonably expected (State CEQA Guidelines § 15126.4(a)(1)(B)). "[A] condition requiring compliance with regulations is a common and reasonable mitigation measure and may be proper where it is reasonable to expect compliance." (*Oakland Heritage Alliance v City of Oakland* (2011) 195 CA4th 884, 906.) For example, in *Oakland Heritage Alliance*, 195 CA4th at page 906, the court upheld the city's reliance on standards in the building code and city building ordinances to mitigate seismic impacts.

### ***Project Specific Analysis is Not Piecemealing***

The process of attempting to avoid a full environmental review by splitting a project into several smaller projects that appear more innocuous than the total planned project is referred to as "piecemealing." (See *Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1358.) The Supreme Court established a fact-specific two-part standard, requiring an analysis of environmental effects of future expansion or other action under CEQA only where both of the following two factors are satisfied: (1) the other action is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action is significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, a future potential action need not be considered in the evaluation of environmental impacts of a proposed project. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396.) The Court also explained that an EIR need not analyze "specific future action that is merely contemplated or a gleam in a planner's eye. To do so would be inconsistent with the rule that mere feasibility and planning studies do not require an EIR." (*Id* at page 398.) "Under this standard, the facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action." (*Id* at page 396.)

Here, the project is the County's proposed Highway 74 Community Plan. The Community Plan makes no attempt to split its policies or plans into smaller pieces, rather the Community Plan provides a comprehensive framework for future decision-making. The Community Plan does not approve any specific development projects. Moreover, future development will not change the scope of the proposed Community Plan or the potential impacts associated with the Community Plan policies and programs. Additionally, unidentified future development is too speculative to analyze on a project-level basis at this time and, therefore, addressing project specific impacts at the time specific projects are proposed does not constitute impermissible piecemealing.

## **Master Response 2—General Comments Unrelated to Environmental Issues**

### ***Summary of Relevant Comments and Response***

In addition to the comment letters discussed in Section 3, Responses to Written Comments, the County received 40 generic inquiries and comments, requesting information such as confirmation of the allowable land uses under a particular land use designation, requesting a different land use designation or to be excluded from the proposed project, timing of the public hearing in which the proposed project will be heard, and the proposed land use designation of their parcel. , Additionally, the County received several comments expressing opinions on the merits of the proposed project. A matrix of these non-CEQA related inquiries and comments is included as Appendix A of this Final EIR.

An agency need not respond to all comments on an EIR but only to the significant environmental issues presented. State CEQA Guidelines Sections 15088(c), 15132(d), 15204(a); *Citizens for E. Shore Parks v State Lands Comm'n* (2011) 202 CA4th 549. Comments on an EIR should focus on the sufficiency of the document's identification and analysis of significant environmental impacts, and measures to avoid or mitigate those impacts. State CEQA Guidelines Section 15204(a). CEQA does not require lead agencies to provide a response to comments unrelated to significant environmental issues. As these comments do not focus on the Draft EIR's analysis, raise any substantive issues regarding environmental impacts or mitigation measures and do not otherwise address the

adequacy of the Draft EIR, no further response is needed. These comments will be forwarded to the County's decision-makers for their consideration. The decision on the project's merits will be made by the Board of Supervisors, who will consider all the comments.

### **Master Response 3—General Comments Regarding Biological Resources and Traffic**

#### ***Summary of Relevant Comments***

The County received several comments with general questions about biological resources and traffic.

#### ***Response***

A general response to a general comment is sufficient. State CEQA Guidelines Section 15088(c). Comments should provide data, references, or other evidence to support their assertions. State CEQA Guidelines Section 15204(c). As such, please refer to the Draft and Final EIRs for analysis of potential impacts on biological resources and transportation. Specific comments regarding biological resources and traffic are addressed in Section 3 of this document.

## SECTION 3: RESPONSES TO WRITTEN COMMENTS

### 3.1 - List of Authors

The Highway 74 Community Plan Draft Program Environmental Impact Report (Draft Program EIR) was circulated for public review from April 26, 2023, to June 9, 2023. A list of public agencies, organizations, and individuals that provided comments during the public review period is presented below.

Within each letter, each individual comment has been assigned a code. Individual comments within each letter have been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

Author	Author Code
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#### Local Agencies

Agua Caliente Band of Cahuilla Indians .....	ACBCI
Riverside County Airport Land Use Commission .....	ALUC
Eastern Municipal Water District.....	EMWD
Riverside County Fire Department .....	RCFD
Riverside County Flood Control and Water Conservation District .....	RCFCWCD
Riverside Transit Authority .....	RTA

#### Organizations

Center for Biological Diversity .....	CBD
Supporters Alliance for Environmental Responsibility .....	SAFER-1
Supporters Alliance for Environmental Responsibility .....	SAFER-2
Southwest Mountain States Regional Council of Carpenters .....	SWMSRCC

### 3.2 - Responses to Comments

#### 3.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the County of Riverside, as the Lead Agency, evaluated the comments received on the Draft Program EIR (State Clearinghouse [SCH] No. 2019059042) for the Highway 74 Community Plan, and has prepared the following responses to the comments received. This Response to Comments document is part of the Final EIR for the project in accordance with CEQA Guidelines Section 15132.

#### 3.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

CEQA requires recirculation of an EIR when the lead agency adds “significant new information” to an EIR after public notice is given of the availability of the EIR for public review, but before EIR

certification (State CEQA Guidelines California Code of Regulations [CCR] § 15088.5). Recirculation is not required unless the EIR is changed in a way that would deprive the public of the opportunity to comment on significant new information, including a new significant impact in which no feasible mitigation is available to fully mitigate the impact (thus resulting in a significant and unavoidable impact), a substantial increase in the severity of a disclosed environmental impact, or development of a new feasible alternative or mitigation measures that would clearly lessen environmental impacts but which the project proponent declines to adopt (State CEQA Guidelines CCR § 15088.5(a)). Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR (State CEQA Guidelines CCR § 15088.5(b)).

These Responses to Comments include discussion providing clarification, amplification and/or additional information. Neither the clarifications, amplifications nor the additional information constitutes “significant new information” requiring recirculation.

# AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL HISTORIC PRESERVATION



03-006-2023-016

May 02, 2023

[VIA EMAIL TO:asvitek@rivco.org]  
Riverside County  
Andrew Svitek  
4080 Lemon Street, 12th floor  
Riverside, CA 92501

## Re: The Highway 74 Community Plan Project

Dear Andrew Svitek,

The Agua Caliente Band of Cahuilla Indians (ACBCI) appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in the The Highway 74 Community Plan project. The project area is not located within the boundaries of the ACBCI Reservation. However, it is within the Tribe's Traditional Use Area. For this reason, the ACBCI THPO requests the following:

- \*A cultural resources inventory of the project area by a qualified archaeologist prior to any development activities in this area.
- \*Copies of any cultural resource documentation (report and site records) generated in connection with this project.
- \*A copy of the records search with associated survey reports and site records from the information center.

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Again, the Agua Caliente appreciates your interest in our cultural heritage. If you have questions or require additional information, please call me at (760) 883-1134. You may also email me at ACBCI-THPO@aguacaliente.net.

Cordially,

Claritsa Duarte  
Cultural Resources Analyst  
Tribal Historic Preservation Office  
AGUA CALIENTE BAND  
OF CAHUILLA INDIANS

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## **Local Agencies**

### ***Agua Caliente Band of Cahuilla Indians (ACBCI)***

#### *Response to ACBCI-1*

The commenter states that the proposed project is not located within the ACBCI Reservation boundaries, but it is located within the ACBCI Tribe’s Traditional Use Area. The commenter requests the cultural resource inventory of the project site, cultural resource documentation, and records searches.

The County provided the proposed project’s Cultural Resources and Tribal Cultural Resources Draft Program EIR section and associated appendix to the ACBCI on May 16, 2023. This comment does not raise any substantive issues related to CEQA or the environmental analysis and no further response is needed.

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# RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

May 4, 2023

Andrew Svitek, Project Planner  
County of Riverside Planning Department  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside CA 92501

CHAIR  
Steve Manos  
Lake Elsinore

VICE CHAIR  
Russell Betts  
Desert Hot Springs

COMMISSIONERS

John Lyon  
Riverside

Steven Stewart  
Palm Springs

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Moreno Valley

Michael Geller  
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Vernon Poole  
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STAFF

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Paul Rull

Simon Housman  
Jackie Vega  
Barbara Santos

County Administrative Center  
4080 Lemon St., 14<sup>th</sup> Floor.  
Riverside, CA 92501  
(951) 955-5132

[www.rcaluc.org](http://www.rcaluc.org)

## RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW – DIRECTOR'S DETERMINATION

File No.: ZAP1072RG23  
Related File No.: GPA1205 (General Plan Amendment)  
Compatibility Zone: March (Zone E), Perris Valley (Zone E)  
APN: Countywide

Dear Mr. Svitek,

As authorized by the Riverside County Airport Land Use Commission (ALUC) pursuant to its Resolution No. 2011-02, as ALUC Director, I have reviewed County of Riverside General Plan Amendment (GPA1205), a proposal for The Highway 74 Community Plan (Project) consisting of General Plan Amendment (GPA) No. 1205 and a Zone Consistency Program which is proposed to master plan future development along a 6.8-mile long corridor of Highway 74 between the cities of Lake Elsinore and Perris in western Riverside County. The Project boundary encompasses approximately 2,220 acres of unincorporated land and includes portions of the Goodhope, Meadowbrook and Warm Springs Communities. As proposed, the Highway 74 Community Plan would provide for the development of residential neighborhoods of varying densities, along with commercial retail, mixed use areas, light industrial, business park, public facilities, rural, open space, and recreation areas. GPA No. 1205 will involve amendments to the existing General Plan Rural Village Land Use Overlays, Policy Areas, Foundation Components, land use designations, policies, trails, and road classifications. The Project will also include a Zone Consistency Program that will recommend parcel specific zone classifications that are consistent with the proposed land use designations.

The proposed amendments do not involve changes in development standards or allowable land uses that would be in conflict with the underlying compatibility criteria in Zone E of March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan and Zone E of Perris Valley Airport Land Use Compatibility Plan. Therefore, these amendments will not impact the safety of air navigation within both airport influence areas.

As ALUC Director, I hereby find the above-referenced project **CONSISTENT**, with the 2011 Perris Valley Airport Land Use Compatibility Plan and the 2014 March Air Reserve Base Airport Land Use Compatibility Plan.

This determination of consistency relates to airport compatibility issues and does not necessarily constitute an endorsement of the proposed amendment.

**AIRPORT LAND USE COMMISSION**

If you have any questions, please contact me at (951) 955-6893.

Sincerely,  
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

A handwritten signature in blue ink that reads "Paul Rull". The signature is written in a cursive style with a horizontal line extending from the end of the name.

---

Paul Rull, ALUC Director

cc: ALUC Case File

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## **Local Agencies**

### ***Riverside County Airport Land Use Commission (ALUC)***

#### *Response to ALUC-1*

This comment provides a summary of the proposed project and states that the proposed project is consistent with the 2011 Perris Valley Airport Land Use Compatibility Plan and the 2014 March Air Reserve Base Airport Land Use Compatibility Plan.

This comment does not raise any specific project-related to substantive environmental issues under CEQA and therefore no further response is needed.

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May 8, 2023

Riverside County Planning Department  
Attention: Andrew Svitek  
4080 Lemon Street 12<sup>th</sup> Floor  
Riverside, CA 92501

**Subject: EMWD Comments for the Highway 74 Community Project Project Notice of Availability of Draft Environmental Impact Report**

**Location:** Highway 74 between Interstate 15 and Interstate 215 between the cities of Lake Elsinore and Perris, Riverside County, California.

Dear Mr. Andrew Svitek:

Eastern Municipal Water District (EMWD) thanks you for the opportunity to comment on the Notice of Availability of Draft Environmental Impact Report for the Highway 74 Community Plan Project (project). The project proposes the development of potential future residential neighborhoods of varying densities, commercial retail, mixed use, light industrial, business park, public facilities, rural, open space, and recreational areas. The proposed project would lead to the increase of the following uses: approximately 3, 970 multi-family residential dwelling units; approximately 2,081,150 square feet of commercial retail uses; approximately 1,506,217 square feet of business park uses; approximately 740,903 square feet of light industrial uses; approximately 21.6 acres of public facilities uses; and approximately 4.28 acres of open space uses. Additionally, the proposed project would lead to the decrease of approximately 383 single-family detached residential family units, creating an adjusted net increase of 3,587 residential units.

EMWD offers the following comments:

To define the impact(s) on the environment and on existing EMWD facilities, and as development within this area occurs over time, the proponents of implementing development projects shall consult EMWD's

Board of Directors

Philip E. Paule, *President* Stephen J. Corona, *Vice President* Jeff Armstrong Randy A. Record David J. Slawson

2270 Trumble Road • P.O. Box 8300 • Perris, CA 92572-8300

T 951.928.3777 • F 951.928.6177 [www.emwd.org](http://www.emwd.org)

EMWD Comments

May 8, 2023

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Development Services Department to compare proposed and existing water demands and sewer flows, and prepare a Design Conditions report (DC), formally known as the Plan of Service (POS), to detail all pertinent facilities necessary to serve such implementing development projects, resulting in an approved DC, prior to final design and plan check of such facilities.

To help define EMWD's Design Conditions, EMWD requires beginning dialogue with project proponents at an early stage in the site design and development, via a one-hour complementary Due Diligence meeting. To set up this meeting the project proponent should complete a Project Questionnaire (form NBD-058) and submit to EMWD. To download this form or for additional information, please visit our web page [www.emwd.org](http://www.emwd.org), then select the "Developer" link, then select the "New Development Process Forms" link. This meeting will offer the following benefits:

1. Describe EMWD's development process.
2. Identify project scope and parameters.
3. Provide a preliminary review of the project within the context of existing infrastructure.
4. Discuss potential candidacy for recycled water service.
5. Identify project submittal requirements to start the Design Conditions review.

Following the Due Diligence meeting, and to proceed with a project, the Design Conditions will need to be developed by the developer's engineer and reviewed/approved by EMWD prior to submitting improvement plans for Plan Check. The DC process and approval will provide the following:

1. Technical evaluation of the project's demands and existing system capacities.
2. Identification of impacts to existing facilities.
3. Identification of additional on-site and off-site facilities, necessary to serve the project.
4. Identification of easement requirements, if necessary.
5. Identification of potential EMWD's cost participation in facility oversizing, if applicable.

If you have questions or concerns, please do not hesitate to contact Maroun El-Hage at (951) 928-3777, extension 4468 or by e-mail at [El-hagem@emwd.org](mailto:El-hagem@emwd.org).

Sincerely,

Alfred Javier  
Director of Environmental and Regulatory Compliance  
ARJ: hs

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CONT

***Eastern Municipal Water District (EMWD)***

*Response to EMWD-1*

The letter provides introductory remarks, including a summary of the project description. The letter notes that proponents of implementing development projects shall consult with the EMWD Development Services Department in order to define impacts to the environment and existing EMWD facilities and prepare a Design Conditions report.

The proposed project does not involve specific development. All future implementing projects within the EMWD service area would be required to comply with EMWD requirements and submit the required documentation. This letter does not raise any specific substantive project-related environmental issues under CEQA and therefore no further response is required.

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# RIVERSIDE COUNTY FIRE DEPARTMENT

IN COOPERATION WITH

THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION

130 South Main Street, Lake Elsinore, CA 92530 • Phone (951) 674-3124

[www.rvcfire.org](http://www.rvcfire.org)

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OF RIVERSIDE COUNTY  
AND THE CITIES OF:

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INDIAN WELLS

INDIO

JURUPA VALLEY

LAKE ELSINORE

LA QUINTA

MENIFEE

MORENO VALLEY

NORCO

PALM DESERT

PERRIS

RANCHO MIRAGE

RUBIDOUX CSD

SAN JACINTO

TEMECULA

WILDOMAR

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June 6, 2023

## CASE: Highway 74 Community Plan

GPA 1205

PLANNER: Andrew Svitek, Project Planner

REVIEWED BY: Traci Williams, Fire Marshal

The proposed project will have a cumulative adverse impact on the City of Lake Elsinore Fire Department's ability to provide an acceptable level of service. These impacts include an increased number of emergency and public service calls due to the increased presence of structures, traffic, and population. The project proponents/developers will be expected to provide proportional mitigations to these impacts via capital improvements and/or impact fees. Upon additional impact analysis, the applicants/developers may be required to enter into an agreement with the Lake Elsinore to offset costs and impacts.

1

The neighborhood within the sphere of Lake Elsinore influence, is now labeled as Neighborhood 3, where it was previously labeled as Mapping Area 1. Response to this neighborhood will likely be provided by Fire Station 97 – Rosetta Canyon, located at 41725 Rosetta Canyon Dr, Lake Elsinore, Ca.

2

Response times shall be shown as within 4 minutes to all or any portion of the proposed projects.

3

Elsinore Area Plan (ELAP 19.1, page 3.21-6) is acceptable.

4

Please note that Neighborhood 1 falls within a flood plain. In the event of a flood, this may adversely affect the fire department ability to respond and negatively impact response times.

5



**Traci Williams**

Fire Marshal - City of Lake Elsinore

Office of the Fire Marshal

Riverside County Fire Department

Direct: 951-674-3124 x 228

[twilliams@lake-elsinore.org](mailto:twilliams@lake-elsinore.org)

[traci.williams@fire.ca.gov](mailto:traci.williams@fire.ca.gov)

### **Riverside County Fire Department (RCFD)**

#### *Response to RCFD-1*

The comment states that the proposed project would have an adverse impact on the City of Lake Elsinore Fire Department's ability to maintain an acceptable level of service, due to an increased amount of emergency calls and presence of structures, traffic, and population. The commenter requests these impacts be mitigated through impact fees or capital improvements.

The proposed project would be located entirely within the County boundary, and to be served by the RCFD. According to prior communications with the RCFD, existing facilities are sufficient to serve the proposed project in conjunction with existing and cumulative projects. (Draft Program EIR, Chapter 4, Cumulative Effects, page 4-17.) The proposed project does not include or approve any specific development projects and all future implementing projects would be required to comply with all applicable RCFD requirements, including plan check, prior to project approval (see Master Response 1–Program EIR). As discussed in Draft Program EIR Section 3.16, Public Services, the County requires the payment of Development Impact Fees prior to final inspection by the Building and Safety Department for any residential dwelling. Future development facilitated by the proposed project would be required to comply with the County's Development Impact Fee program which funds fire protection capital improvements.

The Draft Program EIR concluded that the demonstration of compliance by future projects with existing General Plan Policies and Ordinances, such as the Development Impact Fee Program, would mitigate potential impacts to fire protection services to less than significant levels. Although parts of the proposed project would be adjacent to the City of Lake Elsinore, the proposed project would be adequately served by the RCFD and would not impact the City of Lake Elsinore Fire Department's ability to maintain an acceptable level of service. This comment does not raise any new environmental issues under CEQA, no further response is required.

#### *Response to RCFD-2*

This comment explains that the neighborhood within the sphere of Lake Elsinore influence has been relabeled from Mapping Area 1 to Neighborhood 3 and response to this neighborhood will be provided by Fire Station 97.

This comment is noted. This comment does not affect the analysis and conclusion related to fire services. No further response is required.

#### *Response to RCFD-3*

This comment requests that all or most of the proposed projects should be shown as having a response time within 4 minutes.

This comment is noted. This comment does not affect the analysis and conclusion related to fire services. No further response is required.

#### *Response to RCFD-4*

This comment states Elsinore Area Plan (ELAP 19.1, page 3.21-6) is acceptable.

This comment is noted and no further response is required.

*Response to RCFD-5*

This comment draws attention to the fact that Neighborhood 1 falls within a floodplain and that flooding could negatively impact response times.

As discussed above, the proposed project does not include any specific development projects nor does its adoption effectuate any project approval. All future implementing projects would be required to analyze fire response times and determine whether the future project would contribute to a delay in response times (for example by exacerbating flood risks), pursuant to CEQA. The future project would be required to demonstrate compliance with General Plan Policies and Ordinances, and contribute to the Development Impact Fee Program, to offset fire service impacts. No further response is required.

**Svitek, Andrew**

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**From:** McKinney, Elsa  
**Sent:** Tuesday, July 25, 2023 12:18 PM  
**To:** Svitek, Andrew  
**Cc:** McNeill, Amy; Cornelius, William  
**Subject:** FW: GPA 1205, HIGHWAY 74 COMMUNITY PLAN PROJECT  
**Attachments:** transmittal.pdf

Hi Andrew,

Since there is no need for permanent drainage, the district's facilities will not be impacted, and there are no ADP fees to be paid at this time, Riverside County Flood Control and Water Conservation District does not have any comments for this project.

Kind regards,

\*Please include myself, Elsa McKinney ([emckinne@rivco.org](mailto:emckinne@rivco.org)), Amy McNeill ([ammcneil@rivco.org](mailto:ammcneil@rivco.org)), and William (Michael) Cornelius ([wmcornel@RIVCO.ORG](mailto:wmcornel@RIVCO.ORG)) to your City's distribution list for Flood Control\*\*

Thank you,

~Elsa

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**From:** McKinney, Elsa  
**Sent:** Tuesday, May 2, 2023 2:42 PM  
**To:** Cunningham, Kevin <[kcunning@RIVCO.ORG](mailto:kcunning@RIVCO.ORG)>  
**Cc:** McNeill, Amy <[ammcneil@RIVCO.ORG](mailto:ammcneil@RIVCO.ORG)>; Cornelius, William <[wmcornel@RIVCO.ORG](mailto:wmcornel@RIVCO.ORG)>  
**Subject:** GPA 1205, HIGHWAY 74 COMMUNITY PLAN PROJECT

Hi Kevin,

We have received the attached Notice for Negative Declaration where an existing or proposed District facility or ROW may be impacted. Development Review will not be responding to the notice at this time.

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***Riverside County Flood Control and Water Conservation District (RCFCWCD)***

*Response to RCFCWCD-1*

This comment states that the agency has no comments on the Draft Program EIR, since the proposed project would have no impact on the district's facilities and no fees would be required to be paid at this time.

This comment does not raise any specific project-related to substantive environmental issues under CEQA and therefore no further response is needed.

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**From:** [Mauricio Alvarez](#)  
**To:** [Svitek, Andrew](#)  
**Subject:** General Plan Amendment 1205  
**Date:** Thursday, July 27, 2023 9:12:44 AM

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**CAUTION:** This email originated externally from the **Riverside County** email system. **DO NOT** click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Andrew,

Thank you for including Riverside Transit Agency in the review of GPA 1205, the intent to certify the environmental impact report. After further review, there are no comments to provide for this particular project.

Thank you,

**Mauricio Alvarez, MBA**

Planning Analyst  
Riverside Transit Agency  
p: 951.565.5260 | e: [malvarez@riversidetransit.com](mailto:malvarez@riversidetransit.com)  
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)  
1825 Third Street, Riverside, CA 92507

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***Riverside Transit Authority (RTA)***

*Response to RTA-1*

This comment letter states that the agency has no comments related to the Draft Program EIR; therefore no further response is needed.

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June 9, 2023

*Sent via email*

Riverside County Planning Department  
Attn: Andrew Svitek,  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
[asvitek@rivco.org](mailto:asvitek@rivco.org)

**Re: Highway 74 Community Plan Project Draft Environmental Impact Report**

Dear Andrew Svitek:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Highway 74 Community Plan Project (“Plan”) Draft Environmental Impact Report (“DEIR”). The Center has reviewed the DEIR and found that the Plan would result in loss of native biodiversity and in negative impacts to wildlife connectivity, air quality, traffic, housing, and energy. These impacts, in turn, would harm human communities as well. We strongly urge the County to focus resources on smart, sustainable planning that protects sensitive species and habitats, preserves and enhances existing open space and habitat connectivity, increases equitable access to nature, and creates denser neighborhoods with accessible public transit and other creative green solutions to support native biodiversity and resilient communities.

Life on Earth is experiencing a sixth mass extinction driven primarily by habitat loss and fragmentation, and climate change is an increasing threat. Combating the extinction and climate crises requires bold action to ensure we protect remaining biodiversity and open space. This not only helps wildlife, but it is essential to building a healthy, climate-resilient future for all Californians. Native landscapes help us regulate our climate, purify our air and water, pollinate our crops, and create healthy soil. Thoughtful land use planning that protects native biodiversity and increases access to nature will help ensure all County residents experience the physical and mental health benefits of nature while bringing the state closer to its commitment to conserve more than 30 percent of its lands and coastal waters by 2030 under executive order N-82-20.

The Center for Biological Diversity 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 and its members have worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Southern California.

**I. The DEIR fails to adequately assess impacts to special-status species and sensitive habitats.**

The DEIR lacks sufficient detail and is mostly speculative when describing the presence or potential presence of special-status species in and near the Plan area. Below are several examples of species and sensitive habitats that require further analysis, though this list is not comprehensive. With the Plan increasing human activity in more than 2,000 acres of mostly lightly developed or undeveloped land along a major highway, the DEIR must be thorough when determining species that historically occurred, currently occur, or may occur in the future in and near the Plan area.

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*A. Mountain lions*

The CEQA Guidelines indicate that a Project can be expected to have significant impacts to biological resources if the Project has a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (CEQA Guidelines, Appendix G, subd. IV(a); see also CEQA Guidelines § 15065(a)(1) [when performing an initial study, agencies shall make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species], California Fish and Game Code § 2085 [CESA candidate species treated like threatened or endangered species]).

3

The DEIR fails to adequately assess the Plan's impacts to mountain lions. Despite being a candidate species under the California Endangered Species Act (CESA) known to occur in and near the Plan area, there is no mention of mountain lions throughout the entire DEIR. The County must adequately assess and mitigate impacts to mountain lions and mountain lion movement in and in the vicinity of the Plan area.

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Signs of mountain lion have been documented approximately two miles north of the Plan boundary, east of the Maywood Rod and Gun Club.<sup>1</sup> Given that the home ranges of mountain lions in the SAM and EPR have been found to be as large as 192 square miles (Grigione et al., 2002; Zeller et al., 2017), it is possible that mountain lions are using habitat in and near the Plan area as live-in or move-through habitat. With some habitat enhancement and restoration, this area could help to provide much needed connectivity between the Santa Ana Mountains (SAM), Eastern Peninsula Range (EPR), and potentially even the San Gabriel/San Bernardino (SGSB) puma populations.

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As detailed in the Center's petition (Yap et al., 2019), there is ample scientific evidence that indicates mountain lion populations in Southern California and along the Central Coast are imperiled and that human activities and land use planning that does not integrate adequate habitat connectivity can have adverse impacts on mountain lions. Continued habitat loss and

<sup>1</sup> Observation on iNaturalist: <https://www.inaturalist.org/observations/152993485>. Accessed May 31, 2023.

fragmentation has led to 10 genetically isolated populations within California (Gustafson et al., 2018, 2021). There are six identified mountain lion populations in the proposed evolutionarily significant unit (ESU) and several, including the puma populations in and near the Plan area, are facing an extinction vortex due to high levels of inbreeding, low genetic diversity, and high human-caused mortality rates from car strikes on roads, depredation kills, rodenticide poisoning, poaching, disease, and increased human-caused wildfires (Benson et al., 2016, 2019; Benson, Sikich, et al., 2020; Ernest et al., 2003, 2014; Gustafson et al., 2018; Riley et al., 2014, 2021; Vickers et al., 2015).

The effective population sizes of the six populations within the ESU range from 2.3 to 26.9 (Gustafson et al., 2021). An effective population size ( $N_e$ ) of 50 is assumed to be sufficient to prevent inbreeding depression over five generations, while an effective population size of 500 is considered sufficient to retain evolutionary potential in perpetuity (Frankham et al., 2014; Traill et al., 2010). All six populations are well below that minimum threshold of 50, which indicates that these populations are at serious risk of becoming extirpated.

The populations most relevant to the Plan are in the SAM and EPR. The SAM and EPR populations have an estimated effective population size of 3.5 and 14.8, respectively (Gustafson et al., 2021). These effective population sizes are well below the minimum threshold of 50. Low genetic diversity and high human-caused mortalities are driving this population towards an extinction vortex similar to what the mountain lions in the Santa Monica and Santa Ana mountains are experiencing (Gustafson et al., 2018). Scientists predict that the Santa Ana populations are likely to become extinct within 50 years if gene flow with other mountain lion populations is not improved (Benson et al., 2016, 2019; Gustafson et al., 2018, 2021).

Given the SAM population's low genetic diversity, low effective population size, and patterns of isolation due to roads and development creating movement barriers, the SAM mountain lion population likely has high risk of inbreeding depression and extinction (Benson et al., 2019). The EPR population could be on a similar trajectory. Continued land use that further fragments mountain lion habitat in the Southern California region without adequately minimizing impacts to functional connectivity could contribute to the extinction of pumas in the area.

Numerous studies highlight the impacts of human activities on mountain lions. For example, 535 roadkill mountain lions were reported from throughout the state from 2015 to 2022, but these deaths are likely underreported. Former California Department of Fish and Wildlife (CDFW) biologist Justin Dellinger estimates there could be 200 puma deaths on roads every year (Price, 2020). And a UC Davis report identified a 58% reduction in mountain lion road mortalities after a 71% decrease in road use due to COVID-19 pandemic "stay-at-home" orders (Nguyen et al., 2020). This report highlights how roads and traffic are deadly barriers to puma movement and gene flow.

In addition to causing direct mortality in pumas, human activities also alter these large carnivores' behavior in ways that likely further impede important movement and gene flow. For example, Smith et al. (2017) found that mountain lions are so fearful of humans and noise generated by humans that they will abandon the carcass of a deer and forgo the feeding

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opportunity just to avoid humans. The study concluded that even “non-consumptive forms of human disturbance may alter the ecological role of large carnivores by affecting the link between these top predators and their prey” (Smith et al., 2017). In addition, mountain lions have been found to respond fearfully upon hearing human vocalizations, avoiding the area and moving more cautiously when hearing humans (Smith et al., 2017; Suraci et al., 2019). This is further supported by studies that show that pumas tend to avoid denser development (Nickel et al., 2020; Suraci et al., 2020; Wang et al., 2017). This behavior changed during the COVID-19 lockdown, when pumas ventured further into urban areas as people were sheltering in place (Wilmers et al., 2021).

Other studies have demonstrated that mountain lion behavior is impacted when exposed to other evidence of human presence, such as lighting or vehicles/traffic (Smith et al., 2015; Wang et al., 2017; Wilmers et al., 2013). In addition, preliminary results from study by researchers at UC Davis and University of Southern California, as well as those by other researchers, suggest that the light, noise, and other aspects of highways can have negative impacts on wildlife numbers and diversity near the highways (Shilling, 2020; Vickers, 2020). The researchers found a significant difference between species richness and species type (mammals, including mountain lions), with lower richness and fewer species at crossing structures compared to background areas 1 km away from the roads (Shilling, 2020). They also found that as traffic noises surpassed 60 dBC, the number of visits by small to large mammals decreased and most of the species in their study avoid traffic noise (Shilling, 2020). It is clear that different species have variable sensitivities to noise and light associated with development and transportation infrastructure; this can lead to changes in species distributions near roads and development, which can have ecosystem-level impacts (e.g., Suraci et al. 2019). Thus, roads, traffic, and development have negative impacts on puma survival and behavior, which can reduce the genetic health of populations and ultimately diminish their chances of long-term survival.

Yovovich et al. (2020) further documented the impacts of human activities on mountain lions in the Santa Cruz Mountains, specifically on communication and reproductive behaviors important for their survival. Males use scrapes to delineate territories as well as attract potential mates (Allen et al., 2015, 2016), and the males in the study preferred to use relatively flat areas away from human influence as scrape habitat (Yovovich et al., 2020). Similarly, when nursing females (with kittens less than 8 weeks old) shrank their home ranges to an average of 9 km<sup>2</sup> while their young were most vulnerable, they also selected undeveloped lands away from human disturbance, opting for habitat with protective cover and sufficient water and prey availability (Yovovich et al., 2020). The loss of adequate undisturbed communication and nursery habitat, or the loss of connectivity to such habitat, could disrupt important communication and reproductive behaviors that facilitate social structure and overall survival. The authors predicted that future development within the Santa Cruz Mountains could reduce nursery and communication habitat by 20% and 50%, respectively, while further fragmenting the landscape. Such patterns likely extend to other regions within the proposed Southern California/Central Coast ESU. Thus, continued habitat loss and fragmentation due to roads and development extending into mountain lion habitat with little regard for their movement and behavioral needs threaten the long-term survival of mountain lions throughout the proposed Southern California/Central Coast ESU.

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There are numerous scientific studies that provide insights on the profound impacts human activities and infrastructure have on mountain lion survival, and they emphasize the need to adequately assess and mitigate impacts to these CESA candidate species in the Plan area. These studies add to the accumulating evidence that mountain lions require a habitat mosaic that provides sufficient room to roam away from human-disturbed areas and connected to expansive, intact, heterogeneous habitats (Beier et al., 1995; Dickson et al., 2005; Dickson & Beier, 2002; Kertson et al., 2011; Zeller et al., 2017). Continued construction of roads and development in mountain lion habitat with little regard for their movement and behavioral needs has direct and indirect lethal and sublethal impacts that threaten the persistence of Southern California and Central Coast puma populations.

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Mountain lions are a key indicator species of wildlife connectivity and healthy ecosystems. As the last remaining wide-ranging large carnivore in the region, the ability to move through large swaths of interconnected habitat is vital for genetic connectivity and their long-term survival. Local extinction of mountain lions in the region could have severe ecological consequences. Many scavengers, including many raptors, foxes, and numerous insects, would lose a reliable food source (Barry et al., 2019; Elbroch et al., 2017; Ruth & Elbroch, 2014). Fish, birds, amphibians, reptiles, rare native plants, and butterflies could potentially diminish if this apex predator were lost (Ripple et al., 2014; Ripple & Beschta, 2006, 2008). Loss of this ecosystem engineer and important predator-prey dynamics could have cascading effects on other plant and animal species, potentially leading to a decrease in biodiversity and diminished overall ecosystem function (Ripple et al. 2014; Elbroch et al. 2017; Barry et al. 2019; Benson et al. 2020b).

### *B. Riparian habitats*

The DEIR fails to adequately describe and assess the Plan's impacts to riparian habitats. It is estimated that 90% to 95% of historic riparian habitat in the state has been lost. Continued destruction and degradation of what little is left will have severe, harmful impacts on overall biodiversity, ecosystem function and climate change resilience.

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Riparian ecosystems have long been recognized as biodiversity hotspots performing important ecological functions in a transition zone between freshwater systems and upland habitats. Many species that rely on these aquatic habitats also rely on the adjacent upland habitats. In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion depend on riparian-stream systems for survival (Kelsey and West 1998). They are especially important in the drier regions of Southern California, where they are important refugia for many animals, including migratory birds.

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The ephemeral nature of the riparian habitat in the Plan area is important for sensitive species like the western spadefoot, a candidate species under the federal Endangered Species Act. Recent scientific literature states that “[i]n many intermittent streams, remnant pools persist after flow ceases and provide refuge for aquatic organisms”(Bogan et al., 2019). Researchers found, for example, that remnant pools in Central California “supported a full assemblage of native fishes and numerous imperiled taxa, including California red-legged frogs and California

floater mussels,” almost all of which were absent from artificially perennial and urbanized reaches (Bogan et al., 2019). The researchers concluded:

Remnant pools in intermittent streams should be a focus of conservation efforts in regions with a Mediterranean climate, especially during extreme droughts. Native fauna adapted to harsh intermittent flow regimes can thrive in these habitats, whereas non-native taxa may fare poorly. Furthermore, remnant pools supported by deep groundwater sources, such as those along geological faults, may provide both ecological refuge and evolutionary refugia for freshwater biota. (Bogan et al., 2019)

Hydroperiod diversity is important for native amphibian population stability. Intermittent and ephemeral habitats are important refugia from invasive fish and American bullfrogs that outcompete and prey upon native amphibians in permanent waterbodies. They may also be important refuge and recovery sites for native amphibian species after extreme drought. Many native amphibian species, including the western spadefoot, are adapted to successfully reproduce in seasonally-drying wetlands, including intermittent streams and vernal pools.

Riparian areas are also vital movement corridors between heterogeneous habitats for a wide variety of species, including mountain lions, toads, butterflies and birds. Such connectivity is important for animals and plants to adjust to shifts in resource availability and maintain a suitable climate space as climate change alters habitats and ecological processes (Cushman et al., 2013; Heller & Zavaleta, 2009; Román-Palacios & Wiens, 2020; Scheffers et al., 2016; Warren et al., 2011; Wiens, 2016). The canopy cover of riparian trees and the availability of groundwater have a cooling effect for both air and water temperatures, which creates a cooler microclimate for both terrestrial and aquatic species to find refuge from a warming climate (Gray et al., 2020; Keeley et al., 2018; Knouft et al., 2021).

In Mediterranean regions, riparian habitats could be considered “carbon hotspots”(Matzek et al., 2020). Riparian forests are able to store more carbon in their biomass and soils as they mature (Dybala et al., 2019; Matzek et al., 2018). Scientists estimated that riparian habitats in California could store up to 325.7 metric tons of carbon per acre in their biomass and soils while accumulating about 0.81 metric tons of carbon per acre, per year (Matzek et al., 2020).

## **II. The DEIR fails to adequately mitigate impacts to special-status species and sensitive habitats.**

Generally, mitigation measures should not be deferred. (CEQA Guidelines, §§ 15126.4(a)(1)(B), 15025(b)(2).) Specific details of a mitigation measure “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.” (*Golden Door*

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*Properties, LLC. v. Cty. of San Diego* (2020) 50 Cal.App.5th at 518.) The DEIR fails to meet these requirements.

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The mitigation measures provided to minimize impacts to special-status species and sensitive habitats are vague, insufficient, and impermissibly deferred. The DEIR states that impacts to special-status species and sensitive habitats like riparian habitats would be less than significant after mitigation without providing substantive evidence to support such claims. MM BIO-7(a) only requires compliance with the MSHCP and the SKR HCP, which is already required by law. Under MM BIO-7(a) the DEIR states, “Additional surveys, studies, permitting, agency coordination, and/or reporting measures may be required for the project to maintain consistency with the MSHCP” (DEIR at 3.4-35), yet there are performance standards provided regarding when they such surveys/studies/permitting/consultation will be done or how they will be enforced. Targeted surveys conducted by a CDFW- or USFWS-approved biologist following CDFW and/or USFWS survey protocols should be a required standard when assessing project impacts to special-status species and sensitive habitats.

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MM BIO-7(b) simply requires the completion of a biological study be completed if there are federally- or state-listed species not covered under the HCPs. The measure states that a “Biologist approved by the County” shall prepare a Biological Study to be documented in a final report (DEIR at 3.4-37). As above, the biologist should be approved by CDFW or USFWS, not the County. While the measure states that the biologist would conduct “at a minimum, a site-specific literature review,” there is no enforceable mandate that requires the biologist to conduct targeted surveys, nor does it state how such surveys should be conducted. It simply states that “a site survey may be needed” for projects on “all or partially undeveloped” sites (DEIR at 3.4-37). No actual mitigation is required from the biological study. The DEIR should provide more specific, enforceable mitigation measures that are based on the best available science.

It is concerning that MM BIO-7(b) states that “a literature review would be sufficient for the Biologist to make a no impact and/or a less than significant impact determination” on project sites that are “previously completely developed” (DEIR at 3.4-37). It is unclear how “previously completely developed” is defined, and many species may still use or move through various levels of development. Alarming, Exhibit 3.4-1 is misleading because it shows just one color (gray) for developed and disturbed habitat. This misrepresents the open space within the Plan limits and misleads the reader into thinking that dense development already exists along much of the highway, when, in fact, a majority of the gray area is open space, with some degraded and low-density housing. Such areas, even when constrained, can serve as important live-in or move-through habitat. Without knowing how the County is defining “previously completely developed” areas, it is possible that all the gray areas in Exhibit 3.4-1 would be designated as “previously completely developed” and no on-the-ground surveys would be required. Conducting targeted surveys and ground-truthing literature reviews is critical to adequately assess a Plan’s impacts. The proposed mitigation is grossly insufficient and does not comply with CEQA. A site-specific literature review *and* on-the ground surveys, studies, permitting, and agency consultation should be required for *all* projects.

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To mitigate the Plan’s impacts to riparian habitat, the DEIR relies on MM BIO-7(a) and MM BIO-7(b). This is grossly insufficient. The DEIR should require minimum 300-foot buffers

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for riparian and wetland habitats. Mitigation should prioritize *avoiding* impacts to sensitive habitats like riparian areas and other sensitive natural communities. If impacts are unavoidable, *then* preservation and enhancement/creation should be considered. It is much more challenging to repair functionality to degraded ecosystems. In-kind mitigation should be undertaken at a minimum of 3:1 given that these habitats support numerous special-status species and high levels of biodiversity, can be important for wildlife connectivity and climate change resilience, and so much of these habitats have already been lost, and 5:1 for habitat restoration or creation with continued monitoring, adaptive management strategies, and well-defined success criteria, to be funded in perpetuity.

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### **III. The DEIR fails to adequately assess impacts to habitat connectivity and wildlife movement.**

If developed as proposed, the Plan would essentially create a habitat island to the north of Hwy 74, with north-south movement limited to just a small area where the MSHCP core cells are located. And as mentioned previously, Exhibit 3.4-1 is misleading and makes it seem like almost the entire plan area is already a barrier to movement. Although some of the Plan area is lightly developed or degraded habitat, such areas can still serve as important live-in or move-through habitat. The Plan area also has riparian habitat that may serve as potential north-south movement corridors, with a riparian underpass near Wasson Canyon Rd, which is located within the MSHCP proposed core (Exhibit 3.4-4) and some riparian habitat near Mapes Rd. The DEIR should more accurately reflect the baseline conditions for habitat connectivity and wildlife movement.

12

As highlighted in a 2021 report by the Center, habitat connectivity is vital for wildlife movement, biodiversity conservation, and climate change resilience (Yap et al., 2021). Restrictions on movement and dispersal (*e.g.*, development, roads, and other human-modified landscapes) can negatively affect animals' behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on plants, individual wildlife, populations, communities, and landscapes, and ecosystem function (Brehme et al., 2018; Ceia-Hasse et al., 2018; Cushman, 2006; Damschen et al., 2019; Derryberry et al., 2020; Haddad et al., 2015; Nickel et al., 2021; Serieys et al., 2021; Trombulak & Frissell, 2000; van der Ree et al., 2011). Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes (Cushman et al., 2013; Heller & Zavaleta, 2009; Krosby et al., 2018).

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The DEIR fails to assess the Plan's edge effects and how the Plan can impact wildlife connectivity beyond its physical footprint. Negative edge effects from human activity, such as traffic, lighting, noise, domestic pets, pollutants, invasive weeds, and increased fire frequency, have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute, 2003). Edge effects of development in and adjacent to open space, like the proposed Plan, will likely impact key, wide-ranging species like mountain lions, bobcats, and badgers (Benson et al., 2019; Crooks, 2002; Huffmeyer et al., 2021; Lee et al., 2012; Riley et al., 2006; Smith et al., 2015, 2017;

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Vickers et al., 2015; Wang et al., 2017) (Benson et al., 2019; Crooks, 2002; Huffmeyer et al., 2021; Lee et al., 2012; Riley et al., 2006; Smith et al., 2015, 2017; Vickers et al., 2015; Wang et al., 2017), as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and herpetofauna (Amburgey et al., 2021; Benítez-López et al., 2010; Cushman, 2006; Delaney et al., 2010, 2021; Derryberry et al., 2020; Gray, 2017; Kociolek et al., 2011; McClure et al., 2013; Slabbekoorn & Ripmeester, 2008; Ware et al., 2015; Wenner et al., 2022).

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Limiting movement and dispersal can affect species' ability to find food, shelter, unrelated mates, and refugia after disturbances like fires or floods. Further development that extends into riparian areas, woodlands, shrublands, and grasslands without incorporating habitat connectivity and wildlife movement into the design of the growth threatens the region's biodiversity.

#### **IV. The DEIR fails to adequately mitigate impacts to habitat connectivity and wildlife movement.**

The DEIR lacks sufficient mitigation for wildlife connectivity. It relies on MM BIO-7(b) and MM BIO-7(c), both of which are vague and insufficient. As mentioned above, MM BIO-7(b) simply requires the completion of a biological study be completed if there are federally- or state-listed species not covered under the HCPs. The measure states that a "Biologist approved by the County" shall prepare a Biological Study to be documented in a final report (DEIR at 3.4-37). As above, the biologist should be approved by CDFW or USFWS, not the County. While the measure states that the biologist would conduct "at a minimum, a site-specific literature review," there is no enforceable mandate that requires the biologist to conduct targeted surveys, nor does it state how such surveys should be conducted. It simply states that "a site survey may be needed" for projects on "all or partially undeveloped" sites (DEIR at 3.4-37). No actual mitigation is required from the biological study. The DEIR should provide more specific, enforceable mitigation measures that are based on the best available science.

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MM BIO-7(c) is insufficient to protect migratory and nesting birds. It allows for the removal of native vegetation when "necessary to construct a proposed future project as reflected in the relevant project approval documents" (DEIR at 3.4-41). This is vague and hardly a limitation or restriction. The measure only requires a pre-construction survey to be conducted if vegetation removal occurs during nesting season, and if an active nest is identified, "a qualified Biologist shall determine an appropriately sized avoidance buffer based on the species and anticipated disturbance level (DEIR at 3.4-41). Again, this is vague and insufficient. The measure provides no details, guidelines, or protocols to actually avoid or minimize a project's impacts to nesting birds. Nor does it consider other impacts to migratory birds beyond habitat removal. As with many other species, birds are negatively affected by edge effects of development, like lighting and noise. The DEIR should require a CDFW- or USFWS-approved biologist to conduct pre-construction surveys at least 14 days before any construction or vegetation removal starts, the biologists must be present to monitor construction and vegetation removal activities, and the avoidance buffers should be to CDFW and/or USFWS standards and protocols.

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The DEIR should require project proponents to conduct wildlife movement studies, including but not limited to roadkill surveys,<sup>2</sup> monitoring culverts and underpasses, and species-specific radio-collar movement studies. The project proponents should then be required to implement wildlife connectivity into the design and budget of the projects when planning starts, being sure to consider the local, regional, and global context of landscape connectivity for a given project in a given area. Opportunities to upgrade existing culverts or implement directional fencing to guide animals to existing culverts or underpasses should be actively sought for all future projects. Given that the Plan would essentially create a habitat island north of Hwy 74 and exponentially increase traffic in the region, wildlife crossings should be constructed on Hwy 74, especially in the area identified as MSHCP proposed core and criteria cells.

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Additionally, acquiring habitat on both sides of wildlife crossings should also be prioritized. And the different needs of the diverse species should be taken into account when designing crossings for wildlife passage. For example, mountain lions have been documented using culverts that are about 4 meters (~13 feet) in diameter (Clevenger & Waltho, 2005; Kintsch & Cramer, 2011; Riley et al., 2018), while smaller animals, including small mammals, reptiles, and amphibians, can use smaller passageways with cover items and critter shelves. In addition, smaller species with poor dispersal abilities would require more frequent intervals of crossings to increase their chances of finding a crossing compared to more mobile animals, like mountain lions or deer (Brehme et al., 2022). And for some herps and small mammals, such as western spadefoots and Stephens' kangaroo rats, undercrossings could include elevated roads or tunnels with grated tops so that the light and moisture inside the crossings are similar to that of the ambient environment (Brehme & Fisher, 2020; Langton & Clevenger, 2021).

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Mitigation measures should include the construction and long-term maintenance, adaptive management, and monitoring of crossing structures in perpetuity. Protecting, managing, and restoring lands in perpetuity on both sides of the constructed wildlife crossings should also be included to facilitate wildlife movement. Mitigation measures should also include measures to reduce impacts of light and noise in connectivity areas and at crossing infrastructure both during construction and operation of projects. Where fencing is unavoidable, wildlife-friendly fencing should be installed. The MSHCP's "Guidelines Pertaining to the Urban/Wildlands Interface" should apply not only to areas in or adjacent to the MSHCP conservation area, but the entire Plan area, as it is wholly located within the urban wildland interface.

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The DEIR should also ban the use of anticoagulant rodenticides. Secondary poisoning has been documented in many non-target animals, especially predators (e.g., coyotes (Riley et al., 2003), bobcats (Riley et al., 2007; Serieys et al., 2015, 2021), San Joaquin kit fox (McMillin et al., 2008), California fishers (Gabriel et al., 2012), raptors (Lima & Salmon, 2010), and many more). And a recent study found that rodenticides contributed to reduced functional connectivity in an already constrained landscape (Serieys et al., 2021). Therefore, to reduce edge effects of roads and development on wildlife and wildlife movement, the use of anticoagulant rodenticides should be restricted.

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<sup>2</sup> Snake roadkill observations in the Project area have been documented on iNaturalist (accessed June 6, 2023): <https://www.inaturalist.org/observations/2824929>, <https://www.inaturalist.org/observations/2824925>

Other mitigation measures should include prioritizing increasing housing density while implementing wildlife-friendly infrastructure. Although there are some tradeoffs between housing densification and biodiversity, scientists have found that designing denser neighborhoods with creative green solutions can increase affordable and accessible housing while supporting and enhancing biodiversity (McDonald et al., 2023). Examples of science-based solutions, or green interventions, include preserving remnant habitat patches, protecting riparian corridors with adequate buffers, requiring onsite stormwater capture, green roofs, increasing native vegetation around infrastructure, and creating managed urban parks (McDonald et al., 2023). Such mitigation strategies would help to minimize impacts to the area's biodiversity, wildlife movement, and habitat connectivity and should be included in the DEIR.

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It is widely recognized that the continuing fragmentation of habitat by humans threatens biodiversity and diminishes our (humans, plants, and animals) ability to adapt to climate change. In a report for the International Union for Conservation of Nature (IUCN), world-renowned scientists from around the world stated that “[s]cience overwhelmingly shows that interconnected protected areas and other areas for biological diversity conservation are much more effective than disconnected areas in human-dominated systems, especially in the face of climate change” and “[i]t is imperative that the world moves toward a coherent global approach for ecological connectivity conservation, and begins to measure and monitor the effectiveness of efforts to protect connectivity and thereby achieve functional ecological networks” (Hilty et al., 2020). The DEIR erroneously concludes that Plan impacts to wildlife movement would be less than significant after mitigation, relying on vague and insufficient mitigation measures. The DEIR fails to adequately assess and mitigate impacts to wildlife connectivity.

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## **V. The Project's Impacts to Air Quality Are Significant and Not Adequately Mitigated.**

The County acknowledges that the Project will significantly worsen air quality, which is particularly concerning because the residents of Riverside County already breathe some of the worst air in the country. (ALA 2023.) In an area where unchecked air pollution is causing illness and death, the County must prioritize improving air quality and resist approving more projects that don't adequately mitigate the air pollution they cause. Moreover, CEQA demands that the impacts be mitigated. (Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(1).) Because this Project does not include all feasible mitigation, it does not comply with CEQA and does not protect the residents of Riverside County.

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### **a. Harmful Air Quality Has Serious Health Impacts and Is an Environmental Injustice.**

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 to 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 2016), and in a positive feedback loop, poor air quality that

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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. Pregnant women are particularly vulnerable to air pollution, including pollution near busy roads and freeways. Studies show that women may develop high blood pressure or diabetes during pregnancy if they are close to high levels of air pollution. (Malmqvist et al., 2013.) Such harmful health problems extend to the developing fetus when a pregnant mother lives near high levels of air pollution. These impacts can lead to low-birth weight and premature births as well as changes to the developing brain. (Ruiz, 2014.) These health impacts have been linked to behavior, learning or other “cognitive” problems, including autism, ADHD, and schizophrenia. (Woodward, 2015.) For children who live or go to school near high levels of air pollution when they are young, their lung development can be significantly impacted, leading to problems throughout their lives. (Gauderman, 2015.)

Stretching into adulthood, research shows that air pollution exposure over a long periods can increase the risk of heart problems. This impact is associated with both ambient pollution (regional pollution that everyone in a community breathes) and traffic pollution (near-roadway pollution) and can lead to more deaths from heart disease. (Gold, 2013.) Furthermore, there are now proven links between traffic pollution and stroke, especially in middle-aged women. (Brook, 2010.)

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 2023.) Warehouse projects are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities. (Betancourt 2012, pp. 4-5.) Some of the nation’s most polluted counties are in Southern California, and Riverside County continually tops the list. (ALA 2023.) According to the American Lung Association’s 2023 “State of the Air” report, Riverside County is the second-worst ranked county in the country for ozone pollution, with a “Fail” grade. (*Ibid.*) The air in Riverside County has ozone levels in the unhealthy range almost every day—on average, 331 days per year. (*Ibid.*) The same report found that Riverside County received a “Fail” grade in all air quality metrics. (*Ibid.*)

Although there are many different types of air pollution, Ozone, PM2.5, and Toxic Air Contaminants (TACs) are of greatest concern in San Bernadino 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 2022.) 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

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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 2022a.) This is especially relevant for Southern California with its abundance of diesel shipping traffic. (Bailey; Betancourt 2012.)

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Warehouse projects in particular are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities. (Betancourt 2012, pp. 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, p. 2.)

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This has resulted in a massive expansion of warehouse development in Southern California. (Betancourt 2012.) The number of warehouses in San Bernardino and Riverside counties has grown from 162 in 1975 to 4,299 in 2021, according to a recent mapping project from the Robert Redford Conservancy for Southern California Sustainability at Pitzer College. (Rode 2022.) There were 970 warehouses by 2000, which almost doubled to 1,574 in 2005, then 2,089 in 2010 and to 2,757 in 2015. (*Ibid.*) From 2020 to 2021, the number rose again from 3,727 to 4,299. (*Ibid.*) 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.)

Of the six SCAQMD significance thresholds for air pollution, the Project will exceed five of them—sometimes by a factor of ten. The Project will cause a substantial increase in emissions over current conditions, will contribute to the nonattainment status of the Southern California Air Basin, will have significant cumulative impacts, and will be inconsistent with the applicable air quality plan. (3.3-37-38.) Specifically, constructing the Project would result in exceedances of VOC, NOx, and particulate matter. (3.3-45.) While the Project is operating, it will exceed daily thresholds for VOC, NOx, CO, and both types of particulate matter. (3.3-47.)

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All projects that have significant impacts must mitigate those impacts to the extent feasible. The failure to do this is a violation of CEQA and is particularly troubling for a project with emissions at this scale.

#### **b. The Project Fails to Adopt all Feasible Mitigation.**

This Project anticipates 167 acres of light industrial land uses. (DEIR Appendix C at 1). Because the Project will contribute to the warehouse boom and the attendant air quality harms, it’s particularly important that it fully disclose and mitigate the air quality impacts from warehouses, along with all the other land uses included in the Project.

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### *Truck Emissions*

Emissions from heavy-duty diesel trucks are one of the most harmful effects of warehouse development. The only way to fully mitigate this harm is by transitioning to zero emissions heavy-duty trucks as quickly as possible. It's crucial that warehouse projects, as the sites of concentrated, severe diesel impacts, accommodate the transition to clean trucks.

The EIR's only mitigation measure that addresses the impacts of trucks is MM AIR-6a-10, which requires the developer to provide tenants with information about the harms of diesel trucks and requires some tenants who use trucks older than 2007 to apply for state funding to replace them. (DEIR at 3.3-42.) This measure is badly out-of-step with state recommendations and current practice in the warehouse industry, and it falls far short of offering all feasible mitigation. First, the Attorney General recommends that warehouses require heavy-duty haul trucks to be model year 2010 or newer, which the AG has said is a feasible mitigation measure since at least 2021. (AGO 2021.) Second, the Attorney General recommends that all light- and medium- duty trucks be zero emissions, which, again, has been feasible for years. (*Ibid.*) For this project to replace recommended best practice measures that are clear, concrete, and feasible with a weak and limited alternative is a violation of CEQA.

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Moreover, this Project does not attempt to mitigate emissions from heavy trucks by accommodating the transition to zero emissions trucks. CARB has developed strategies to achieve 100% zero-emissions from medium and heavy-duty on-road vehicles in the State by 2045 everywhere feasible, and specifically to achieve 100% zero-emissions drayage trucks by 2035. (CARB 2022b.) Zero-emissions trucks are becoming widely available and economically feasible. Medium- and heavy-duty zero-emissions vehicles capable of meeting the daily needs of most trucking operations are available today. (*Ibid.*) Per the Advanced Clean Trucks rule, manufacturers in California will be selling higher percentages of zero emissions trucks every year. (CARB 2021.) CARB also expects to pass the Advanced Clean Fleet rule in spring of this year. Under that rule, all new trucks that companies add to drayage fleets after Jan 1, 2024 must be zero emissions. (CARB 2022b.) Trucks that are already being used as drayage trucks can continue to operate until the end of their legally defined useful life or until 2035, whichever comes first. (*Ibid.*) Transportation Refrigeration Units also emit significant GHGs, and CARB has responded with a rule requiring all TRUs operating in CA to be ZE by 2030. (CARB 2022a.)

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Given that the Project will not be fully operational until 2040, the EIR must require concrete, enforceable measures that prepare the Project's warehouses to operate with all-electric fleets, as they will be quickly required to do. (DEIR at 3.6-17.) The EIR must offer more electric truck charging infrastructure to meet the demands of the fleet mix of 2040. Otherwise, the Project will lag sorely behind the much-needed transition and will cement diesel emissions for decades.

In order to mitigate the Project's significant GHG impacts, the Project must first require that tenants to use only trucks that are model year 2010 or newer and that all of the light- and medium-duty trucks be zero emissions. Next, the Project must prepare to transition to clean trucks via installing an electric truck charging stations sufficient to allow every truck that serves the Project to be charged; requiring electric plugs for electric transport refrigeration units at

every dock door, if the warehouse use could include refrigeration; and adding the projected energy use of an all-electric fleet to the Project’s projected electricity use, and meeting that need with on-site solar panels.

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### *Idling times*

The EIR admits that NOx emissions during operations will exceed the significance thresholds. (DEIR at 3.3-47.) Because the impact is significant, the EIR has an obligation to adopt all feasible mitigation measures. (Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(1).) However, the EIR adopts a so-called mitigation measure that allows construction equipment to idle for up to five minutes—more than twice as long as the California Attorney General’s recommendation of a two-minute limit—and does not limit idling by trucks used during operations. (DEIR at 3.3-41, AGO 2021.) Further, a five-minute idling restriction is required by the California Airborne Toxics Control Measure. Therefore, it is not truly mitigation measure, it is a promise to follow the law. As the California Attorney General notes, compliance with regulations is a baseline expectation and should not be labeled a mitigation measure. (AGO 2021.) Again the EIR replaces a recommended, feasible mitigation measure with a much weaker substitute that does not properly mitigate a significant impact. The Project must revise MM-AIR-6a-5 to require idling times to be kept under two minutes for vehicles used both during construction and operation.

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### *Requiring Electrical Equipment on Site*

Warehouses require cargo handling equipment, like forklifts and pallet jacks, that produce considerable air pollution if they run on diesel. (CARB 2020.) Those emissions contribute to the Project’s emissions from mobile sources, which are by far the largest source of air pollutants. (DEIR at 3.3-47.) Therefore, the California Attorney General recommends that all electrical equipment that warehouses use on-site should be zero-emission. (AGO 2021.) However, this EIR only requires that some equipment meet the Tier IV final standards, or lower-tier standards if the Tier IV equipment is not sufficiently accessible. (DEIR at 3.3-41.)

However, zero emissions equipment requirements are feasible and becoming more and more common. The City of Fontana Warehouse Ordinance requires that all on-site motorized equipment be zero emission. (City of Fontana at 9-73.1). The Speedway Commerce Center II Project in San Bernadino County and the Beaumont Summit Station Project in Riverside County both require that all outdoor cargo handling equipment is zero-emission and powered by electricity (Speedway Commerce Center DEIR at 1-16; Beaumont Summit Station DEIR at 4.2-22).<sup>3</sup> Additionally, the California Air Resources Board (“CARB”) recommended that warehouses require that all service equipment (like yard hostlers, yard equipment, forklifts, and pallet jacks) that tenants use on-site to be zero emission in 2019. CARB said that the equipment was “widely available” in 2020. (CARB 2020). Further, CARB provides incentive funding to purchase zero emissions equipment through the Clean Off-Road Equipment Voucher Incentive. The Funding Finder website for the Voucher Incentive lists 226 programs that are available to buyers in Napa County. (California CORE Funding Finder Tool.) The EIR did not provide substantial evidence that this measure is infeasible. In fact, the evidence shows that it is feasible and common.

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<sup>3</sup> The Center does not here comment on the adequacy of any of these EIRs beyond noting that they required zero-emissions cargo handling equipment.

### *Sensitive Receptors*

The Project will also expose sensitive receptors to significant pollution concentrations. (DEIR at 3.3-58.) Despite this, the Project will not adopt any of the mitigation measures that the California Attorney General recommends to protect sensitive receptors from trucking impacts. These include:

- Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.
- Creating physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present, such as homes, schools, daycare centers, hospitals, community centers, and parks.
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets.
- Placing facility entry and exit points from the public street away from sensitive receptors, e.g., placing these points on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Locating warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors, e.g., placing these dock doors on the north side of the facility if sensitive receptors are adjacent to the south side of the facility. Screening dock doors and onsite areas with significant truck traffic with physical, structural, and/or vegetative barriers that adequately prevent or substantially reduce pollutant dispersal from the facility towards sensitive receptors. (AGO 2021.)

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#### **c. The Project Will Build Housing Without the Necessary Mitigation Measures to Keep Residents Safe.**

The Project also proposes adding 3,970 new multi-family dwelling units to an area that includes a freeway and significant industrial land uses. (DEIR at 2-9.) The DEIR acknowledges that the residents of these units could be exposed to substantial pollutant concentrations but only addresses this exposure risk through the implementation of air filtration devices within new residential buildings, and with the startling advice that residents not open their windows. (DEIR at 3.3-56-58). That measure does not address residents' exposure outside the building. Creating housing where residents cannot bike or walk, and where children cannot play outside, is an environmental injustice that is not fixed with air filters or closed windows.

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Instead, the Community Plan should be amended to include a buffer of 1,000 feet around Highway 74 and any warehouse development. This would ensure new residential development is protected against the worst impacts associated with exposure to these known pollution sources.

### **VI. The DEIR Fails to Adequately Mitigate Impacts to Transportation and Traffic.**

Providing alternatives to single occupancy vehicle travel is essential to building an efficient, sustainable and equitable transportation system. Unfortunately, we have a long way to go to achieve this vision in the U.S. In 2013, it was reported that of all the U.S. daily commutes to

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work, 76.4% are of people driving alone. (McKenzie, 2013.) According to the Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2015, our collective daily transportation in the U.S. constitutes about 27% of the total greenhouse gasses released. (EPA 2017.)

To change these trends, government agencies need to invest in alternative modes of transportation to not only make them cheaper to use, but more efficient than driving. While the DEIR does include some specific measures to encourage alternative modes of transportation, given the conclusion that significant impacts would remain for cumulative vehicle miles traveled (VMT) associated with the project, the DEIR must go further and incorporate all feasible measures to support and encourage the use of public transit, bicycles and walking.

Some best practices include:

*(1) Provide free public transit services for future residents and workers.*

This is virtually certain to result in significant ridership increases no matter where it is implemented. Evidence from previous studies indicate that ridership will usually increase from 20% to 60% in a matter of just a few months. (Studemund, 1982.) One evaluation found that the net ridership increased by about 15% (about 45% during the off-peak periods) when there was no fee. This included the combined effects of an increase in trip frequency by prior users and an increase in the number of off-peak bus riders. Most new bus trips were diverted from other modes; very few were newly generated. (Ewing, 2010.)

*(2) Implement Bus-Only Lanes.*

Building dedicated bus lanes are relatively cheap and quick to install, dramatically reduce congestion and increase efficiency. All of these benefits lead to increases in ridership. A summary of research suggests that bus lanes that reduce total transit door-to-door travel times by 5-15% will “by themselves increase urban peak ridership 2-9%.” The City of Denver found that ridership increased 2.8% in the first six months of their TTLs’ operation, even though travel speed improvements were relatively modest (3-6%), likely due to the TTL being an expansion of existing lanes that had already been operational during peak hours when TTLs yield the greatest benefits. (Gahbauer, 2019.)

*(3) Optimizing bus routes to minimize overlap and ensure coverage across the city in line with demand.*

Regional planning allows resources to be used efficiently and effectively to serve the areas that need it most. Houston re-specified their service after the LRT was put in place to reduce overlapping of these services and to ensure transit coverage in other areas of the city. This resulted in a 7% increase in ridership on local bus and light-rail from 2015 to 2016. (C40 Knowledge, 2021.)

*(4) Providing high-frequency, reliable services.*

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The bus network can be divided into main routes and local routes, with different frequencies. Bus routes on main city arteries and roads used for longer distance travel will require a frequent service, at least every 15 minutes. This is the minimum frequency at which the service is usually considered good enough for travelers to turn up without consulting a schedule. On local routes, a less frequent service may be sufficient, depending on demand and provided that the service operates punctually according to the timetable. São Paulo has implemented this dual frequency network timetable for the night shift, increasing night-time ridership by over 70%. (Gahbauer, 2019.)

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*(5) Building regular bus stops for easy access.*

Ensuring accessibility and convenience is essential to increasing ridership. Providing more bus stops decreases the distance residents have to travel to access such services. In Barcelona, the maximum distance between transit stops in the new bus network is 350m. In Seattle, the bus network upgrade plan will increase the percentage of households within 800m of frequent transit routes from 43% in 2015, to 73% by 2040. (*Ibid.*)

**To better plan and implement such public transportation networks we suggest the following edits to the mitigation measures listed below:**

- “MM TRANS-3: **Where applicable**, future implementing projects shall ensure that design of key intersections and roadways encourage the use of walking, biking and transit.” **That includes protected bike lanes, bus only lanes, and sheltered transit stops within a quarter mile of the project.**
- “MM TRANS-4: Future implementing projects shall collaborate with the Riverside Transit Authority (RTA) to determine the feasibility of providing new or re-route existing transit services to the Project.” **and provide the necessary funds to make such improvements.**
- “MM TRANS-5: In addition, the following TDM strategies **may** will be applicable at the implementing project-level:
  - Reduce Parking Supply for Retail Uses
  - Transit Rerouting and Transit Stops
  - **Free public transit passes for residents and workers.**
  - **Implementation of Local Shuttle Service that is free of charge and 100% electric**
  - Mandatory Travel Behavior Change Program, Promotions and Marketing
  - Promotions and Marketing
  - Emergency Ride Home (ERH) Program
  - School **Bus** ~~Carpool~~ Program
  - Bike Share
  - Implement/Improve On-street Bicycle Facility
  - **Traffic Calming Improvements**
  - Pedestrian Network Improvements”

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**VII. Powering the Project With Conventional Electricity Conflicts with the Statewide Policy to Achieve Carbon Neutrality by 2045.**

**a. Climate Change Is a Catastrophic and Pressing Threat to California.**

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and that climate change threats are becoming increasingly dangerous. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2014 Fifth Assessment Report that: “[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen,” and further that “[r]ecent climate changes have had widespread impacts on human and natural systems.” (IPCC 2014.) These findings were echoed in the United States’ own 2014 Third National Climate Assessment and 2017 Climate Science Special Report, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The Third National Climate Assessment concluded that “[m]ultiple lines of independent evidence confirm that human activities are the primary cause of the global warming of the past 50 years” and “[i]mpacts related to climate change are already evident in many regions and are expected to become increasingly disruptive across the nation throughout this century and beyond.” (Melillo 2014.) The 2017 Climate Science Special Report similarly concluded:

[B]ased on extensive evidence, it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.

The U.S. National Research Council concluded that “[c]limate change is occurring, is caused largely by human activities, and poses significant risks for—and in many cases is already affecting—a broad range of human and natural systems.” (NRC 2010.) Based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations. (74 Fed. Reg. 66496 (Dec. 15, 2009) [U.S. EPA, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule].)

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving 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.” (Melillo 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. (Melillo 2014 at 13, 14, and 649.)

In its 2018 Special Report on Global Warming of 1.5°C, the IPCC—the leading international scientific body for the assessment of climate change—described the devastating harms that would occur at 2°C warming. The report highlights the necessity of limiting warming to 1.5°C to avoid catastrophic impacts to people and life on Earth. (IPCC 2018.) The report also provides overwhelming evidence that climate hazards are more urgent and more severe than

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previously thought, and that aggressive reductions in emissions within the next decade are essential to avoid the most devastating climate change harms.

In the IPCC’s most recent report, entitled *Climate Change 2022: Impacts, Adaptation and Vulnerability*, it found that warming is proceeding even faster than anticipated, and the best-case scenario for climate change is slipping out of reach. (IPCC 2022.) The report now estimates that, over the next 20 years, the world will cross the global warming threshold of 1.5°C. And unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C—or even 2°C—will be beyond reach. The United Nations Secretary General described the forecasts in this report as an “atlas of human suffering.” (Borenstein 2022.)

In response to inadequate action on the national level, California has taken steps through legislation and regulation to fight climate change and reduce statewide GHG emissions. Enforcement and compliance with these steps are essential to help stabilize the climate and avoid catastrophic impacts to our environment. California has a mandate under AB 32 to reach 1990 levels of GHG emissions by the year 2020, equivalent to approximately a 15 percent reduction from a business-as-usual projection. (Health & Saf. Code, § 38550.) Based on the warning of the Intergovernmental panel on Climate Change and leading climate scientists, Governor Brown issued an executive order in April 2015 requiring GHG emission reduction 40 percent below 1990 levels by 2030. (Executive Order B-30-15 (2015).) The Executive Order is line with a previous Executive Order mandating the state reduce emission levels to 80 percent below 1990 levels by 2050 in order to minimize significant climate change impacts. (Executive Order S-3-05 (2005).) In enacting SB 375, the state has also recognized the critical role that land use planning plays in achieving greenhouse gas emission reductions in California.

The state Legislature has found that failure to achieve greenhouse gas reduction would be “detrimental” to the state’s economy. (Health & Saf. Code § 38501(b).) In his 2015 Inaugural Address, Governor Brown reiterated his commitment to reduce greenhouse gas emissions with three new goals for the next fifteen years:

- Increase electricity derived from renewable sources to 50 percent;
- Reduce today’s petroleum use in cars and trucks by 50 percent;
- Double the efficiency of existing buildings and make heating fuels cleaner.

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.

*Climate and Energy*

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Energy usage is the central focus of efforts to mitigate climate change. (UN, 2023.) Energy production accounts for more than two-thirds of total GHG emissions globally. (*Ibid.*) Fossil fuels are by far the largest contributor to global climate change, and they cause 80% of the United State’s GHG emissions. (*Ibid.*) California has recognized the need to rapidly decarbonize the energy sector by adopting policies that mandate a quick transition to renewable energy. In order to meet the state’s goal of carbon neutrality by 2045, sixty percent of the state’s electricity must come from renewable sources by 2030. (California Energy Commission.) In order to meet these decarbonization targets, California needs to double its clean energy generation in the next decade, which will require a “record-breaking” expansion of clean energy infrastructure. (Cart, California Energy Commission).

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**b. By Not Requiring 100% On-Site Solar, the Project will Conflict with Statewide Energy Goals and Therefore Will Have a Significant Impact.**

The EIR says that the Project will not conflict with any statewide plan for renewable energy. However, the Project will start full operation in 2040, just five years before the state plans to be carbon neutral, and will not contribute to the urgently needed expansion of clean energy generation capacity. This is a conflict with the statewide goals and must be mitigated via the construction of on-site solar.

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In the face of the climate crisis, California has set a bold and necessary goal to achieve net zero carbon emissions by 2045. In order to meet that decarbonization target, California needs to double its clean energy generation in the next decade, which will require a “record-breaking” expansion of clean energy infrastructure. (Cart, California Energy Commission). The Joint Agency SB 100 Report calls for building 2.8 GW/year of solar every year for 25 years, which is higher than the previous maximum annual build. (Joint Agencies at 116.) The biggest obstacle to increasing solar energy capacity as fast as it’s needed is the large amount of flat, sunny land that solar farms require. (Groom) Building solar infrastructure across undeveloped land is an imperfect solution that hurts important ecosystems, eliminates opportunities for natural carbon sinks, and is often opposed by local residents. (Groom, Cart, Courage.)

Installing solar on the roofs of large warehouses in California is a crucial opportunity to use miles of flat, sunny space that would otherwise be wasted. The Inland Empire has an estimated 1 billion square feet of warehouse, or 37 square miles. (Calma.) A recent study found that California’s 674 million square feet of big box stores could generate almost 10,000 gigawatt hours of energy from rooftop solar. (Huxley-Reicher et al.) Because warehouses in the Inland Empire cover much more square footage, their untapped potential is even greater than that.

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Each warehouse built with the capacity to provide 100% of its own clean energy via rooftop solar brings California closer to the clean energy targets we must meet in order to avoid the most devastating effects of the climate crisis. Conversely, building 167 acres of warehouse and planning to power it via electricity from off-site sets back progress to achieving carbon neutrality by 2045, and thus, conflicts with a statewide goal. The technology exists now to require all future building sites to install enough rooftop solar photovoltaic panels to meet 100% of projected energy needs or be built with the capacity for these panels to be added later. The California Attorney General recommends that new warehouses are built with this capacity, and

companies and municipalities are now following suit. (AGO 2021.) The City of Fontana, for example, already requires that every warehouse over 400,000 square feet get all its power from rooftop solar. (City of Fontana at 9-73.4)

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### VIII. Conclusion

We are in the midst of a global extinction crisis, with species going extinct at a rate of over 1,000 times the background rate and more than one million species on track to become extinct over the coming decades (Pimm et al., 2014). There is urgency in safeguarding the region's biodiversity and remaining wildlife habitat and connectivity. The DEIR fails to adequately assess and mitigate the Project's impacts to special-status species, sensitive habitats, wildlife connectivity, air quality, energy, and more. In addition, the DEIR fails to provide substantial evidence to support the conclusion that impacts to these biological resources are less than significant after mitigation. The EIR must fully disclose and analyze the Project's potential impacts to sensitive species and habitats and provide effective and enforceable mitigation measures for all impacts found to be significant.

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Thank you for the opportunity to submit comments on the Plan. Please include the Center on your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the email addresses listed below.

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Sincerely,



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## Organization

### **Center for Biological Diversity (CBD)**

#### *Response to CBD-1*

This comment provides introductory remarks and asserts that the proposed project would harm both wildlife and human communities.

As discussed in the Draft Program EIR and below, the proposed project would have less than significant impacts (with mitigations incorporated) on wildlife and human communities.

#### *Response to CBD-2*

This comment asserts the Draft Program EIR was speculative when describing the potential or actual presence of special-status species within or near the Plan Area and suggests several species and sensitive habitats require thorough analysis.

As discussed in detail below, Mitigation Measure (MM) BIO-7(a) through MM BIO-7(e) have been clarified to address the concerns of the commentor. As discussed in Master Response-1, the proposed Highway 74 Community Plan provides planning policies and programs that guide future development in the County but does not approve or propose any specific development project. Accordingly, the Draft Program EIR prepared for the proposed Highway 74 Community Plan is a Program-level EIR. A Program EIR is not expected to analyze site-specific or project-specific environmental impacts nor provide the level of detail found in a project EIR. A Program EIR is appropriate to evaluate environmental effects “at a broad level,” so long as to the extent a subsequent project is not covered, additional environmental review occurs. Although the general location and type of development within Plan Area can be anticipated, until the County receives a development application, the exact location, type of development, and potential impacts are too speculative to be determined. Accordingly, within the context of Section 15146 of the State CEQA Guidelines, analysis of development of specific individual parcels is neither feasible nor required in the Draft Program EIR. Thus, development is considered more broadly in the proposed Highway 74 Community Plan and Draft Program EIR.

Each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources.

Each project would also be required to comply with mitigation measures contained in the Riverside County General Plan EIR (General Plan EIR) that apply to protection of biological resources. General Plan EIR Mitigation Measures 4.8.A-N2 and 4.8.B-N1 require that a Biological Resources Assessment be performed by a Riverside County-approved Biologist for any project that contains or could affect

sensitive species or habitats, including riparian/riverine habitats. The mitigation measures also include requirements for assessments of riparian/riverine resources (General Plan EIR Mitigation Measure 4.8.A-N1) and acquisition of federal (General Plan EIR Mitigation Measure 4.8.C-N1) and State permits (General Plan EIR Mitigation Measure 4.8.C-N2) for any project that affects these resources. Furthermore, per General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project is required to avoid the resource or mitigate off-site if impacts are unavoidable. These mitigation measures have been added to Section 3.4, Biological Resources. See Section 4, Errata, of this Final EIR.

*Response to CBD-3*

This comment summarizes CEQA Guidelines related to thresholds of significance for potential impacts to biological resources.

No further response is required.

*Response to CBD-4*

This comment states the Draft Program EIR fails to adequately address impacts to mountain lions, a candidate species under the California Endangered Species Act (CESA). The comment asserts that mountain lions are known to occur in and near the Plan Area and that potential impacts to this species must be adequately assessed and mitigated.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species (including mountain lions), riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on mountain lions and wildlife movement corridors they may use and recommending appropriate avoidance or mitigation measures, if needed. Further, General Plan EIR Mitigation Measure 4.8.D-N1 would require consulting with a Riverside County Ecological Resources Specialist to determine whether the wildlife corridor is essential for the long-term viability of the species, and the project is required to avoid the resource or mitigate off-site if impacts are unavoidable.

Although not required as mitigation for any impact, the County has agreed to adopt and expand the requirements in MM BIO-7(b) and MM BIO-7(e) for the purpose of amplifying and clarifying the mitigation measures. See Section 4, Errata, of this Final EIR.

Therefore, this Draft Program EIR appropriately analyzed potential impacts at a programmatic-level and no further response is required.

*Response to CBD-5*

The commenter states that evidence of mountain lions has been documented in the vicinity of the Plan Area and it is possible that the Plan Area and its vicinity acts as habitat for this species. This comment provides background on the status of mountain lion populations in Southern California and describes the impact of human activities and infrastructure on mountain lions.

This comment provides background information and does not address the adequacy of the Draft Program EIR, no further response is needed.

*Response to CBD-6*

This comment states that the Draft Program EIR fails to adequately describe the proposed project's potential impacts to riparian habitats.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on riparian habitats and recommending appropriate avoidance or mitigation measures, if needed. Furthermore, the Riverside County General Plan requires assessments of riparian/riverine resources (General Plan EIR Mitigation Measure 4.8.A-N1) and acquisition of federal (General Plan EIR Mitigation Measure 4.8.C-N1) and State permits (General Plan EIR Mitigation Measure 4.8.C-N2) for any project that affects these resources.

Although not required as mitigation for any impact, the County has agreed to adopt and expand the requirements in MM BIO-7(a), MM BIO-7(b), and MM BIO-7(e) for the purpose of amplifying and clarifying the mitigation measures. See Section 4, Errata, of this Final EIR.

Therefore, this Draft Program EIR appropriately analyzed potential impacts at a programmatic-level and no further response is required.

*Response to CBD-7*

This comment provides background on the importance of riparian habitat, and notes that the riparian habitat within the Plan Area is important for sensitive species.

This comment provides background information and does not address the adequacy of the Draft Program EIR, no further response is needed.

*Response to CBD-8*

This comment asserts the Draft Program EIR fails to meet State CEQA Guidelines indicating that mitigation measures should not be deferred. The commenter inaccurately states that mitigation measures included in the Draft Program EIR to reduce impacts to special-status species and sensitive habitats to less than significant levels are insufficient and deferred and concludes that the “less than significant after mitigation” finding is unsupported.

As detailed in Master Response-1, the Draft Program EIR is programmatic in nature and does not evaluate every future implementing development project. The policies and programs in the proposed Highway 74 Community Plan provide prescriptive measures that inform how future projects will address potential impacts as individual development applications are submitted within the Community Plan. Future discretionary projects would be evaluated under CEQA, as applicable, and project-specific mitigation measures would be prescribed, as necessary. Identifying project-specific mitigation at the time development projects are proposed is practical and, as the commenter should be aware, is not deferral.

Section 15126.4 of the State CEQA Guidelines states the following: Formulation of mitigation measures shall not be deferred until some future time. 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.

As indicated in the language of State CEQA Guidelines Section 15126.4(a)(1)(B), and as supported by case law, mitigation may be developed after project approval when it is infeasible to include such details during a project’s environmental review. The use of a Program EIR allows for such a condition; the details of future discretionary projects envisioned in the proposed Community Plan would be subject to CEQA review at the time they are proposed, and appropriate mitigation would be developed based on such analysis. A program EIR may also be used to simplify the task of preparing later environmental documents for activities within the program as they are proposed for approval, including as a first tier EIR for purposes of tiering later environmental review under Section 15152. See State CEQA Guidelines section 15168. When a program EIR is used for this purpose, environmental review of activities within the program is limited to significant effects that were not examined in the prior EIR. The Community Plan does not propose or approve any specific projects and, therefore, future project details are unknown at this time rendering it both impractical and infeasible to include project-level mitigation. Moreover, as dictated under CEQA, all future activities would need to be compared against the program EIR to ascertain what additional analysis and/or mitigation may be required prior to approval.

Furthermore, compliance with established regulatory requirements and standards, such as those in a Code of Ordinances, is a legitimate basis for determining that the project will not have a significant environmental impact. (*Tracy First v City of Tracy* (2009) 177 CA4th 912.) A requirement that a project comply with specific laws or regulations may also serve as adequate mitigation of environmental impacts if compliance with such standards can be reasonably expected (State CEQA

Guidelines § 15126.4(a)(1)(B)). "[A] condition requiring compliance with regulations is a common and reasonable mitigation measure and may be proper where it is reasonable to expect compliance." (*Oakland Heritage Alliance v City of Oakland* (2011) 195 CA4th 884, 906.) For example, in *Oakland Heritage Alliance*, 195 CA4th at page 906, the court upheld the city's reliance on standards in the building code and city building ordinances to mitigate seismic impacts.

Therefore, no additional, site-specific mitigation measure is necessary at this time. No further response is needed.

*Response to CBD-9*

This comment states that MM BIO-7(a) requires compliance with the Multiple Species Habitat Conservation Plan (MSHCP) and the Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP), which is already required by law, and fails to provide performance standards regarding the timing or enforcement of the "additional surveys, studies, permitting, agency coordination, and/or reporting measures" noted in the mitigation measure. The commenter states that targeted surveys by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)-approved Biologist using CDFW or USFWS survey protocols should be required.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include determining project consistency with the Western Riverside County MSHCP and the SKR HCP and recommending actions to maintain project consistency with these plans.

Although not required as mitigation for any impact, MM BIO-7(a) has been revised to clarify the specific types of surveys that will need to be prepared as part of the future project's environmental review. See Section 4, Errata, of this Final EIR.

*Response to CBD-10*

This commenter states that MM BIO-7(b) should require that a CDFW or USFWS approved Biologist be retained to prepare a Biological Study, rather than a County-approved Biologist. Further, the comment states that MM BIO-7(b) fails to provide an enforceable mandate requiring targeted surveys and does not provide guidance on how such surveys should be conducted. The comment also notes that MM BIO-7(b) language "previously completely developed" is unclear, and asserts that Exhibit 3.4 of the Draft Program EIR misrepresents open space within the Plan Area, which could result in MM BIO-7(b) being improperly implemented. The comment suggests, therefore, that MM BIO-7(b) does not comply with CEQA. The comment suggests that site-specific literature reviews, on-the-ground surveys, studies, permitting, and agency consultation be required for all projects.

Typically, CEQA lead agencies such as counties and cities review, approve, and maintain lists of Biologists that are qualified to prepare and submit studies that assess potential project impacts within their jurisdiction. Responsible agencies, including the CDFW and USFWS, review reports that are produced by the Biologists that are approved by the Lead Agency. During the biological study performed by the approved, qualified Biologist, the habitats and occurrence potential of special-status species will be assessed, and the Biologist will provide recommendations for any surveys that may be needed to determine presence or absence of special-status species. Additionally, the approved, qualified Biologist will determine the extent that each project site may have previously been developed and provide recommendations that are commensurate with the biological conditions of each project site. Further, any project in the Plan Area would be subject to the Riverside County General Plan, which requires, under General Plan EIR Mitigation Measure 4.8.B-N1, that biological resources assessments be performed by a Riverside County-approved Biologist pursuant to a Memorandum of Understanding (MOU) executed between the Biologist and the County of Riverside; that the Biologist be on the Riverside County list of qualified consultants; and that fieldwork be performed by qualified Biologists according to professional standards.

Nonetheless, although not required as mitigation for any impact, MM BIO-7(b) has been revised to clarify its applicability to future project sites that have potential to support habitat for special-status species or other species protected by federal, State, or local laws or policies, and the types of biological resources to be reviewed as part of MM BIO-7(b). See Section 4, Errata, of this Final EIR.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. No further response is needed.

*Response to CBD-11*

This comment restates that MM BIO-7(a) and MM BIO-7(b) are insufficient, and mischaracterizes the measures as “grossly insufficient.” The comment states that the Draft Program EIR should require 300-foot buffers around riparian and wetland habitats to best avoid impacting sensitive ecosystems. If impacts are unavoidable, in-kind mitigation should be undertaken at a minimum of 3:1, and 5:1 for habitat restoration or creation with continued monitoring, adaptive management strategies, and well-defined success criteria to be funded in perpetuity.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community

Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. If riparian habitats or wetlands are found within a proposed project site, the approved, qualified Biologist will provide recommendations for avoidance buffers and mitigation ratios. These recommendations will be reviewed by responsible agencies, including CDFW and USFWS, and these agencies will determine the appropriate buffers and mitigation ratios needed to avoid or mitigate potential project impacts. Furthermore, the Riverside County General Plan requires assessments of riparian/riverine resources (General Plan EIR Mitigation Measure 4.8.A-N1) and acquisition of federal (General Plan EIR Mitigation Measure 4.8.C-N1) and State permits (General Plan EIR Mitigation Measure 4.8.C-N2) for any project that affects these resources. Therefore, MM BIO-7(a) and MM BIO-7(b) as written are adequate to mitigate project impacts. No further response is needed.

*Response to CBD-12*

This comment states that the proposed project would create a habitat island, limiting north–south movement to small area. The commenter restates that Exhibit 3.4-1 is misleading by implying the Plan Area already blocks movement. The commenter suggests the Draft Program EIR more accurately describe existing conditions related to habitat connectivity and wildlife movement.

The Draft Program EIR assessed the effects of project development in the Plan Area on wildlife movements. As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

Nonetheless, although not required as mitigation for any impact, MM BIO-7(b) has been revised to amplify the requirement to review whether the future project site contains dispersal habitats for wildlife and subsequent procedures as applicable. See Section 4, Errata, of this Final EIR.

*Response to CBD-13*

This comment provides background on the importance of wildlife movement and why habitat islands are harmful to overall conservation and biodiversity. This comment provides background information and does not address the adequacy of the Draft Program EIR, no further response is needed.

*Response to CBD-14*

This comment asserts that the Draft Program EIR does not account for how the proposed project could impact wildlife movement beyond the boundary of the Plan Area.

Contrary to the commenter's assertion, the Draft Program EIR assessed the individual and cumulative effects of project development in the Plan Area on wildlife movements through the Plan Area. See Section 3.4, Biological Resources, of the Draft Program EIR.

*Response to CBD-15*

This comment states that MM BIO-7(b) and MM BIO-7(c) are insufficient to mitigate impacts to wildlife connectivity.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

Although not required as mitigation for any impact, MM BIO-7(b), and MM BIO-7(c) have been revised for the purpose of amplifying and clarifying the mitigation measures. See Section 4, Errata, of this Final EIR.

*Response to CBD-16*

This comment restates the insufficiencies of MM BIO-7(b) as described in Comment CBD-10.

As previously stated, during the biological study performed by the approved, qualified Biologist, the habitats and occurrence potential of special-status species will be assessed, and the Biologist will provide recommendations for any surveys that may be needed to determine presence or absence of special-status species. The approved, qualified Biologist will also assess the project site for the

presence of other sensitive biological resources, per the CEQA Guidelines. Further, any project in the Plan Area would be subject to the Riverside County General Plan, which requires, under General Plan EIR Mitigation Measure 4.8.B-N1, that biological resources assessments be performed by a Riverside County-approved Biologist pursuant to an MOU executed between the Biologist and the County of Riverside; that the Biologist be on the Riverside County list of qualified consultants; and that fieldwork be performed by qualified Biologists according to professional standards.

Nonetheless, although not required as mitigation for any impact, MM BIO-7(b) has been revised to clarify its applicability to future project sites that have potential to support habitat for special-status species or other species protected by federal, State, or local laws or policies, and the types of biological resources to be reviewed as part of MM BIO-7(b). See Section 4, Errata, of this Final EIR.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources.

*Response to CBD-17*

This comment states that MM BIO-7(c) fails to provide survey protocols and mitigation guidelines, and is thus insufficient to mitigate impacts to nesting birds. The comment states that MM BIO-7(c) should require a CDFW or USFWS approved Biologist to conduct surveys at least 14 days prior to construction activities or vegetation removal and monitor construction and vegetation removal. The comment states that avoidance buffers should comply with CDFW and/or USFWS standards and protocols.

Typically, CEQA lead agencies such as counties and cities review, approve, and maintain lists of Biologists that are qualified to prepare and submit studies that assess potential project impacts within their jurisdiction. Responsible agencies, including the CDFW and USFWS, review reports that are produced by the Biologists that are approved by the Lead Agency. Although not required as mitigation for any impact, MM BIO-7(c) has been revised to clarify that vegetation removal shall be removed outside of the avian nesting season or a pre-construction survey shall be required. As revised, MM BIO-7(c) details the requirements with which future development must comply, including limiting removal of native vegetation to those necessary to construct the future project, vegetation removal shall be conducted outside of the avian nesting season, pre-construction survey to be prepared if vegetation removal must occur within the avian nesting season, procedures to protect active nest and buffer requirements, and biological monitoring of the active nest during construction activities. Therefore, MM BIO-7(c) properly provides survey protocols and guidelines to effectively mitigate impacts to nesting birds. No further response is required.

*Response to CBD-18*

This comment states that the Draft Program EIR should require project proponents to complete wildlife movement studies and implement wildlife connectivity into the design and budget of project during project planning. The comment suggests that a wildlife crossing be constructed on Highway 74.

During the biological study performed by the approved, qualified Biologist (MM BIO-7(b)), the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable. No further response is needed.

*Response to CBD-19*

This comment states that acquiring habitat on both sides of wildlife crossing should be prioritized and the needs of a variety of species need to be taken into account when designing wildlife crossings.

As previously stated, during the biological study performed by the approved, qualified Biologist (MM BIO-7(b)), the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance

and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

*Response to CBD-20*

This comment states that mitigation measure should include construction and long-term maintenance, adaptive maintenance, and monitoring of wildlife crossings in perpetuity, include measures to reduce light and noise impacts in connectivity areas, and install wildlife-friendly fencing.

As previously stated, during the biological study performed by the approved, qualified Biologist (MM BIO-7(b)), the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

*Response to CBD-21*

This comment asserts the Draft Program EIR should ban the use of anticoagulant rodenticides to reduce edge impacts on wildlife and wildlife movement.

The proposed Highway 74 Community Plan provides planning policies and programs that guide future development in the County. Rodenticide is regulated by the United States Environmental

Project Agency (EPA) and the County does not control the type of rodenticide used by private citizens.

Furthermore, as previously stated, during the biological study performed by the approved, qualified Biologist (MM BIO-7(b)), the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, including recommendations that would prevent toxic compounds from entering riparian corridors, regulated wetlands, and wildlife corridors, if needed. Furthermore, the Riverside County General Plan requires assessments of riparian/riverine resources (General Plan EIR Mitigation Measure 4.8.A-N1) and acquisition of federal (General Plan EIR Mitigation Measure 4.8.C-N1) and State permits (General Plan EIR Mitigation Measure 4.8.C-N2) for any project that affects these resources.

*Response to CBD-22*

This comment states that mitigation measures prioritizing housing density and wildlife-friendly infrastructure should be included in the Draft Program EIR to minimize impacts to wildlife movement, habitat connectivity, and biodiversity.

As previously stated, during the biological study performed by the approved, qualified Biologist, the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources

to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

*Response to CBD-23*

This comment restates that the Draft Program EIR fails to assess and mitigate impacts to wildlife connectivity and that the less than significant impact with mitigation conclusion is unsupported.

The Draft Program EIR assessed the individual and cumulative effects of project development in the Plan Area on wildlife movements through the Plan Area. See Section 3.4, Biological Resources, of the Draft Program EIR.

As previously stated, during the biological study performed by the approved, qualified Biologist, the wildlife habitats on each project site, including potential wildlife corridors, will be assessed, and the Biologist will provide recommendations for any surveys or studies that may be needed to determine wildlife movement through potentially significant wildlife corridors.

As previously stated, each project implemented under the proposed Highway 74 Community Plan would be required to assess whether special-status species, riparian habitats or other sensitive natural communities, protected wetlands, and/or wildlife corridors or wildlife nursery sites are present on or immediately adjacent to the project site, or whether the project would be subject to any tree preservation policies, other local policies, Habitat Conservation Plans, Natural Community Conservation Plans, or other local conservation plans. Additionally, each project applicant would need to analyze potential project impacts to sensitive biological resources and implement avoidance and/or mitigation measures that would reduce any potential project impacts to biological resources to a less than significant level and that are consistent with any applicable local plans or ordinances pertaining to biological resources. This would include assessing the potential effects of each project on wildlife movement within wildlife movement corridors and providing appropriate avoidance or mitigation measures, if needed. Furthermore, per Riverside County General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

*Response to CBD-24*

This comment states that the proposed project would worsen air quality and does not include all feasible mitigation, thus the proposed project does not comply with CEQA.

The comment provides introductory remarks to the following air quality comments that are addressed below. No response is needed.

*Response to CBD-25*

This comment outlines the importance of healthy air quality, who poor air quality impacts the most, the health impacts caused by long-term exposure, the substantial impacts of poor air quality on people living in poverty, and the different current sources of air pollution in Riverside County.

This comment provides background information and does not address the adequacy of the Draft Program EIR, no further response is needed.

*Response to CBD-26*

This comment explains why warehouses are particularly damaging to air quality and human health and describes the expansion of warehouse development in Southern California.

This comment does not raise any project-specific comments under CEQA and, therefore, no response is required.

*Response to CBD-27*

This comment asserts that the proposed project will exceed five South Coast Air Quality Management District (SCAQMD) significance thresholds for air pollution and states that all projects within significant must mitigate impacts to the extent feasible.

The comment summarizes the Draft Program EIR's findings of significance for air quality impacts and claims that the proposed project must mitigate its significant impacts to the extent feasible. This claim is addressed in Response to CBD-28 through CBD-33.

*Response to CBD-28*

The comment claims that, given the proposed project's 167 acres of light industrial land uses, the Draft Program EIR should "fully disclose and mitigate the air quality impacts from warehouses. . ."

The following considerations should be noted:

- As explained in the Draft Program EIR and Master Response 1, the proposed Highway 74 Community Plan is a programmatic-level document and does not approve or propose any specific development project. The Draft Program EIR and its air quality analysis address a maximum impact scenario in which all 167 acres of planned light industrial land uses are built out by the 2040 horizon year, but 100 percent buildout is not guaranteed. No specific development project is being proposed at this time.

Relatedly, it is speculative to assume that 100 percent of the light industrial land uses would be warehouses. A multitude of land uses are allowed under the Light Industrial land use designation. Furthermore, subsequent proposed development may require applicant-initiated zone changes to conform to the General Plan Land Use designations proposed by the Highway 74 Community Plan. The specific features of any potential future zone change are not currently known or reasonably foreseeable; therefore, any potential environmental impacts associated with unknown future zone changes are too speculative for evaluation at this time. Therefore, it would be speculative to assume

a certain type of light industrial use would be developed. Further, not all light industrial land uses are associated with the types of air pollutant sources and effects described by the commentor.

Nevertheless, in modeling the proposed project’s potential air quality impacts, the Draft Program EIR’s California Emissions Estimator Model (CalEEMod) analysis assumed that buildout of the proposed project would result in 167.95 acres of “Industrial Park” land uses. CalEEMod describes the “Industrial Park” land use type as containing “several industrial or related facilities” that are “characterized by a mix of manufacturing, service and warehouse facilities with a wide variation in the proportion of each type of use from one location to another.” In other words, the land use type assumes diversified industrial facilities. This land use type was utilized for two reasons: First, the “Industrial Park” land use type best reflects the likelihood that the proposed project would ultimately consist of a mix of light industrial, manufacturing, warehouse, and other uses that are permitted under the light industrial zoning designation. Second, and most notably, CalEEMod estimates that the “Industrial Park” land use type has similar or greater energy usage, mobile trip generation, fleet mix, and vehicle emissions factors than “Unrefrigerated Warehouse” or even “Manufacturing” land use types, so utilizing the “Industrial Park” land use type generally results in similar or greater emissions projections than the other related land use types. Methodologically, it is therefore a conservative approach to utilize the “Industrial Park” land use type when estimating the proposed project’s emissions. CalEEMod’s “Refrigerated Warehouse” land use types assume greater electricity energy intensity and natural gas energy intensity, but as explained, it was assumed that the “Industrial Park” land use type better reflects the ultimate mix of light industrial land uses that may occur under the proposed project. It is not anticipated that a substantial portion of light industrial acreage would be dedicated to refrigerated warehouse uses. Nevertheless, future implementing construction and development plans—whether industrial parks, unrefrigerated warehouses, refrigerated warehouse, or other light industrial land uses—would be subject to project-level CEQA analysis and potentially additional feasible mitigation, if necessary. For example, MM AIR-6a-9 would require proposed implementing development projects that include an excess of 10 dock doors for a single building, a minimum of 100 truck trips per day, 40 truck trips with Transport Refrigeration Units (TRUs) per day, or TRU operations exceeding 300 hours per week, and are located adjacent to sensitive land uses to prepare facility-specific Health Risk Assessments (HRAs) analyzing diesel particulate matter impacts. These considerations reflect screening criteria for potentially significant impacts as determined by the California Air Resources Board (ARB) in its *Air Quality and Land Use Handbook: A Community Health Perspective*.

Therefore, the Draft Program EIR appropriately analyzed and discloses air quality impacts at a programmatic-level reflective of the programmatic nature of the Community Plan. No further response is needed.

*Response to CBD-29*

This comment asserts that MM AIR-6a-10 is out of step and fails to offer all feasible mitigation, as required. The commenter notes that the Attorney General has recommended that warehouses require heavy-duty haul trucks to be model year 2010 or newer and that all light- and medium-duty trucks be zero-emission, both of which are considered feasible mitigation measures.

The comment sets forth a personal opinion on the merits of the proposed project. The commenter's opinion is noted and will be included in the administrative record for consideration by the City decision-makers. No further response is required.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR's air quality and greenhouse gas (GHG) emissions analyses, and corresponding mitigation measures.

The ARB's Truck and Bus Regulation requires nearly all trucks and buses registered in the State to have 2010 or newer model year engines by January 1, 2023—the start of this year. Thus, regardless of MM AIR-6a-10, it is anticipated that most uses under the proposed project would be required to utilize trucks with 2010 or newer model year engines as a matter of regulatory compliance. MM AIR-6a-10 would not supersede the State's regulations but would reinforce them by imposing clean truck requirements on facilities that may not otherwise be subject to the ARB Truck and Bus Regulation requirements. No further response is needed.

*Response to CBD-30*

This comment asserts that the proposed project does not mitigate emissions from heavy trucks by accommodating the transition to zero-emission trucks. Because the proposed project would not be fully operational until 2040, the commenter states that the Draft Program EIR must require measures which prepare the proposed project's warehouses to operate with all-electric fleets and must offer more electric truck charging infrastructure. The comment restates that heavy-duty trucks should be required to be model year 2010 or newer and that all light- and medium-duty trucks be zero-emission.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR's programmatic (air quality and GHG) analysis, and corresponding mitigation measures. As explained in the Response to CBD-29, it is anticipated that most uses under the proposed project would be required to utilize trucks with 2010 or newer model year engines as a matter of regulatory compliance with ARB's Truck and Bus Regulation. MM AIR-6a-10 would reinforce this regulation by imposing clean truck requirements on facilities that may not otherwise be subject to the regulation's requirements.

Further, MM GHG-20a would incentivize the development of electric truck charging infrastructure by future implementation projects that are determined to generate more than 3,000 metric tons (MT) carbon dioxide equivalent (CO<sub>2</sub>e) annually and therefore would be required to achieve a score of 100 points or greater through the incorporation of measures included in the County's Climate Action Plan (CAP) Screening Tables. Feature T4.B.1 "Electric Vehicle Recharging" would provide 2 points for the installation of circuit and capacity in garages and parking areas for the future installation of electric vehicle charging stations and 8 points per station for the installation of electric vehicle charging stations.

As determined by the Draft Program EIR, implementation of MM GHG-20a would be sufficient to mitigate the proposed project's potentially significant GHG impacts to a less than significant level. No other mitigation measures are necessary or required.

*Response to CBD-31*

This comment notes that the Draft Program EIR includes a mitigation measure which allows construction equipment to idle for up to 5 minutes. This is more than twice the 2-minute limit recommended by the California Attorney General. Furthermore, because the California Airborne Toxics Control Measure (ACTM) required a 5-minute idling restriction, compliance with this regulation should not be considered mitigation. The comment suggests MM AIR-6a-5 be revised to require idling times for vehicles used both during construction and operation be limited to under 2 minutes.

MM AIR-6a-5 is not equivalent to the ARB ACTM cited by the comment (CCR § 2485) and is therefore not merely “a promise to follow the law,” as characterized by the comment. For example, MM AIR-6a-5 implements a blanket 5-minute idling restriction for all on-site construction equipment, whereas the ARB ACTM only applies to diesel-fueled commercial motor vehicles with gross vehicle weight ratings of greater than 10,000 pounds that are licensed for operation on highways, with additional exceptions. Therefore, there is no disagreement between MM AIR-6a-5 and the comment’s assertion that, according to the California Attorney General, “compliance with regulations is a baseline expectation and should not be labeled a mitigation measure.” No further response is needed.

*Response to CBD-32*

This comment explains that warehouse equipment would contribute to the proposed project’s mobile source emission and restates that the Attorney General recommends that all on-site warehouse electrical equipment be zero-emission. The commenter asserts that the Draft Program EIR does not provide evidence that this measure is infeasible.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR’s programmatic-level analysis, and that future discretionary projects would be evaluated under CEQA, as applicable, and project-specific mitigation measures would be prescribed, as necessary. Identifying project-specific mitigation at the time development projects are proposed is practical and is not deferral. No further response is needed.

*Response to CBD-33*

This comment describes how the proposed project would expose sensitive receptors to pollution concentrations and notes that the proposed project does not adopted measures recommended by the Attorney General to protect sensitive receptors from trucking impacts.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR’s programmatic-level air quality analysis and its corresponding mitigation measures. The proposed project would not expose sensitive receptors to any pollution concentrations because the proposed Highway 74 Community Plan does not approve or propose any specific development project itself.

Additionally, it is worth exploring the connection between the measures recommended by the comment and the Draft Program EIR’s MM AIR-6a-9. The comment’s measures, notably the 1,000-foot siting distance, are largely based on advisory recommendations by the ARB in its *Air Quality and*

*Land Use Handbook: A Community Health Perspective*.<sup>1</sup> This is noted by the comment. However, unlike the comment’s measure, ARB’s recommendation is not that all warehouse facilities should be sited at least 1,000 feet from sensitive receptors. Rather, the ARB recommends the following:

- “Avoid siting new sensitive land uses within 1,000 feet of a distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating TRUs per day, or where TRU unit operations exceed 300 hours per week.”

These are the same screening criteria employed by the Draft Program EIR’s MM AIR-6a-9, which requires future implementation projects meeting these criteria (and that are subject to CEQA and are located adjacent to sensitive land uses) to prepare facility-specific HRAs analyzing diesel particulate matter impacts. There are several reasons why MM AIR-6a-9 is the more suitable measure for the proposed project.

First, the comment’s recommended measure does not accurately reflect ARB’s guidance to begin with. The comment’s measure would implement a blanket ban on warehouses within 1,000 feet of sensitive receptors. The ARB recommendations do not involve such a sweeping prohibition, but instead rely on screening criteria that have been incorporated into the Draft Program EIR’s MM AIR-6a-9.

Second, and relatedly, not all warehouse land uses are associated with the types of air pollutant sources and effects described by the commentor, and not all warehouse land uses would exceed the screening criteria established by ARB’s guidance.

Third, ARB’s analysis and resultant advisory recommendations—and in turn the comment’s blanket 1,000-foot siting ban—do not consider the effect of regulations beyond 2020, which would have a mitigating effect on warehouse-related diesel particulate matter (DPM) emissions. The commentor acknowledges the State’s rapidly developing strategies for transitioning to cleaner, and eventually zero-emissions, trucks. Regulations include the following:

- ARB’s current Truck and Bus Regulation requires nearly all trucks and buses registered in the State to have 2010 or newer model year engines by January 1, 2023—the start of this year. Most uses under the proposed project would be subject to this regulation.
- ARB’s Advanced Clean Trucks Regulation (ACT), which became effective in March 2021, requires manufacturers to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission truck/chassis sales are required to be 55 percent of Class 2b-3 truck sales, 75 percent of Class 4-8 straight truck sales, and 40 percent of truck tractor sales. Under the ACT, ARB estimates zero-emissions trucks to comprise over 50 percent of high priority fleets by 2050. ARB’s advisory recommendations and the comment’s blanket 1,000-foot siting ban do not account for the implementation of this regulatory program.

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<sup>1</sup> California Air Resources Board (ARB). 2005. Air Quality and Land Use Handbook. Website: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/california-air-resources-board-air-quality-and-land-use-handbook-a-community-health-perspective.pdf>. Accessed June 30, 2023.

- Executive Order N-79-20, issued by Governor Gavin Newsom in September 2020, sets a goal that 100 percent of medium- and heavy-duty vehicles in the State be zero-emissions by 2045.

Given these considerations, MM AIR-6a-9's requirement to evaluate implementing development projects that meet the mitigation measure's screening criteria on a case-by-case basis is the more appropriate measure than arbitrarily enacting a blanket 1,000-foot setback requirement that is based on an inaccurate reporting of ARB's advisory recommendations from 2005. The HRA requirement established by MM AIR-6a-9 may even discover instances where siting distances exceeding 1,000 feet are more appropriate. Therefore, MM AIR-6a-9 as written is appropriate and no revision is needed.

*Response to CBD-34*

This comment states that, while the Draft Program EIR mitigates air pollution inside the residential dwellings, it fails to do so outdoors. So, the comment suggests the Community Plan be amended to include a buffer of 1,000 feet around Highway 74 and any warehouse development.

In addition to the Highway 74 Community Plan mitigation measures, all future implementing projects must also comply with all applicable General Plan EIR mitigation measures. This includes General Plan EIR Mitigation Measure 4.6.D-N2 which provides siting requirements for various land uses including residential uses. If the minimum siting distance cannot be met, then there must be project-specific evaluation of human health risks that defines, quantifies, and reduces the potential incremental health risks through site design or the implementation of additional reduction measures to levels below applicable standards to ensure health risk impacts to future residents are less than significant. Therefore, the suggested siting buffer is not necessary. No further response is needed.

For clarification purposes, the above discussion has been added to Section 3.3, Air Quality. See Section 4, Errata, of this Final EIR.

*Response to CBD-35*

This comment suggests that the Draft Program EIR incorporate all feasible measures to encourage alternative modes of transportation. See responses below.

*Response to CBD-36*

This comment suggests alternative modes of transportation to be incorporated as mitigation measures.

As discussed in Draft Program EIR Section 3.18, Transportation, transit service is reviewed and updated by Riverside Transit Agency (RTA) periodically to address ridership, budget, and community demand needs. Changes in land use can affect these periodic adjustments which may lead to either enhanced or reduced service where appropriate. As discussed in Master Response 1, the Draft Program EIR is programmatic in nature and does not evaluate every future implementing development project. The policies and programs in the proposed Highway 74 Community Plan provide prescriptive measures that inform how future projects will address potential impacts as individual development applications are submitted within the Community Plan. Future discretionary projects would be evaluated under CEQA, as applicable, and project-specific mitigation measures to reduce Vehicle Miles Traveled (VMT) would be prescribed, as necessary.

Because of the programmatic nature of the proposed project, the suggested measures are speculative and not appropriate for the proposed project. Responses to each suggested measure are listed below.

**Suggested Measure No. 1**—Provide free public transit services for future residents and workers: Transit services are provided by RTA and are outside of the County’s purview.

**Suggested Measure No. 2**—Implement Bus-Only Lanes: The proposed project involves land use changes and does not approve any individual development. Roadway improvements are not part of the proposed project. Therefore, bus-only lane implementation would not be a feasible mitigation.

**Suggested Measure No. 3**—Optimizing bus routes to minimize overlap and ensure coverage across the City in line with demand: The proposed project involves land use changes and does not propose or approve any individual development. Although the general location and type of development within the Plan Area can be anticipated, until the County receives a development application, the exact location, type of development, and potential impacts are too speculative to be determined. Therefore, an attempt to plan bus routes and site bus stops without a clear understanding of the actual land uses that would take place and their locations would not “optimize” bus routes and would not ensure sufficient coverage across the Plan Area as suggested by this measure. CEQA recognizes that a lead agency may also decline to adopt a mitigation measure that it concludes will not be effective in mitigating an impact or that will not provide substantial additional mitigation beyond the measures that it does adopt. *Citizens for Open Gov’t v City of Lodi* (2012) 205 CA4th 296, 323; *A Local & Reg’l Monitor (ALARM) v City of Los Angeles* (1993) 12 CA4th 1773.

Furthermore, the proposed Community Plan sets forth a policy that future development should be coordinated with RTA to ensure bus routes are identified and bus stops are provided to adequately serve community residents. It is appropriate for this coordination to occur at a project-level when the project-specific land use detail and location are available.

**Suggested Measure No. 4**—Providing high-frequency, reliable services: As discussed above, it would be ineffective to plan bus routes and bus stop locations without first knowing the future land use details and locations. Similarly, it would be ineffective to plan bus frequencies. Therefore, this suggested measure would not be effective in reducing impacts.

**Suggested Measure No. 5**—Building regular bus stops for easy access: See response to suggested Measure No. 3.

*Response to CBD-37*

This comment provides an edited version of the transportation MM TRANS-3, MM TRANS-4, and MM TRANS-5 to implement alternative modes of transportation.

Responses to the suggested edited to MM TRANS-3, MM TRANS-4, and MM TRANS-5 are listed below.

**MM TRANS-3** The commenter suggested removal of “where applicable” from the mitigation measure. It is appropriate to include “where applicable” to this mitigation measure

because the individual implementing project might not be located in key intersections or roadways. A blanket requirement for all future implementing projects to ensure design of key intersections and roadways encourage use of walking, biking, and transit would not be appropriate. Similarly, the suggested addition of “protected bike lanes, bus only lanes, and sheltered transit stops within a quarter mile of the project” is not appropriate because depending on the project location and the adjacent roadway conditions, protected bike lanes, bus only lanes, and sheltered transit stops might not be feasible and therefore not appropriate to be applied to all future implementing projects.

**MM TRANS-4** The commenter suggested adding “and provide the necessary funds to make such Improvements” to the mitigation measure. Depending on the location of the future implementing project, providing new or re-route existing transit services to the project might not be feasible. Therefore, it would not be feasible to require payment of the necessary funds.

**MM TRANS-5** The commenter suggested replacing “may” with “will” so that all of the Transportation Demand Management (TDM) strategies would be required for all future implementing projects. As discussed above, although the general location and type of development within the Plan Area can be anticipated, until the County receives a development application, the exact location, type of development, and potential impacts are too speculative to be determined. Therefore, a blanket requirement regardless of key factors such as the type of land use, location, and roadway conditions would not be appropriate. Similarly, depending on the project location and the adjacent roadway conditions, the suggested additions might not be feasible and therefore not appropriate to be applied to all future implementing projects.

*Response to CBD-38*

This comment offers an explanation of climate change’s causes, statistics, impacts and regulations California has implemented to lessen its contribution to global GHG emissions.

This comment does not raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

*Response to CBD-39*

This comment summarizes how energy usage is a central focus of mitigating climate change and how California has made efforts to rapidly decarbonize the energy sector and be carbon neutral by 2045.

This comment does not raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

*Response to CBD-40*

There is no State, regional, or local requirement that the proposed project must be powered via 100 percent on-site solar, as the comment suggests, nor is there any conflict with “Statewide goals.”

Moreover, the comment does not identify any specific regulation or “Statewide goal” that the proposed project would conflict with, in this regard.

Future implementation projects would utilize electricity that meets State requirements for utilities. Senate Bill (SB) 100, a regulation acknowledged by the commentor, would require Southern California Edison (SCE) to increase its renewable energy portfolio to 50 percent by 2026, 60 percent by 2030, and 100 percent by 2045. Thus, by the State’s 2045 target for carbon neutrality, future implementation projects under the proposed project would utilize SCE-provided electricity that meets SB 100’s 100 percent renewables requirement.

Further, MM GHG-20a would incentivize the development of on-site renewable energy generation (i.e., solar or wind power) by future implementation projects that are determined to generate more than 3,000 MT CO<sub>2</sub>e annually and therefore would be required to achieve a score of 100 points or greater through the incorporation of measures included in the County’s CAP Screening Tables. For example, Feature CE1.B.1 “Photovoltaic” would provide up to 34 points for the installation of solar photovoltaic panels that provide up to 100 percent of the power needs of future implementation projects. Feature CE1.B.2 “Wind Turbines” would similarly provide up to 34 points for the installation of wind turbines that provide up to 100 percent of the power needs of future implementation projects.

*Response to CBD-41*

This comment explains how warehouses can install solar panels on their roofs to provide 100 percent of their own clean energy and help California reach its goal of carbon neutrality by 2045.

This comment does not raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

*Response to CBD-42*

This comment offers conclusory statements and restates that the Draft Program EIR fails to assess and mitigate impacts to biological resources and air quality, among other impact areas.

As discussed throughout this Final EIR, the Draft Program EIR appropriately and adequately analyzed potential impacts to special-status species, sensitive habitats, wildlife connectivity, air quality, and energy. No further response is needed.

*Response to CBD-43*

This comment provides conclusory statements and requests to be notified about future project updates. This comment is noted and no further response is needed.



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*Via Email*

May 12, 2023

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**Re: CEQA and Land Use Notice Request for Highway 74 Community Plan Project  
(SCH 2019059042)**

Dear Mr. Svitek, Ms. Leach, and Clerk of the Board,

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Highway 74 Community Plan Project (SCH 2019059042), including all actions related or referring to the proposed general plan amendment to guide the future development of the Highway 74 Community Plan area with approximately 3,970 multi-family residential dwelling units; 2,081,150 square feet of commercial retail uses; 1,506,217 square feet of business park uses; 740,903 square feet of light industrial uses; 21.6 acres of public facility uses; and 4.28 acres of open space uses, located on a 6.8-mile long noncontiguous corridor of Highway 74 between Interstates 15 and 215 in unincorporated Riverside County ("Project").

We hereby request that Riverside County ("County") send by electronic mail, if possible or U.S. mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the County and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the County, including, but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:
  - Notices of any public hearing held pursuant to CEQA.
  - Notices of determination that an Environmental Impact Report ("EIR") is required for the Project, prepared pursuant to Public Resources Code Section 21080.4.

May 12, 2023

CEQA and Land Use Notice Request for Highway 74 Community Plan Project (SCH 2019059042)

Page 2 of 2

- Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
- Notices of preparation of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21092.
- Notices of availability of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
- Notices of approval and/or determination to carry out the Project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of any addenda prepared to a previously certified or approved EIR.
- Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of determination that the Project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- Notice of any Final EIR prepared pursuant to CEQA.
- Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092**, which require local counties 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 notice by electronic mail or U.S. Mail to:

Richard Drury  
Molly Greene  
Colby Gonzales  
Lozeau Drury LLP  
1939 Harrison Street, Suite 150  
Oakland, CA 94612  
[richard@lozeaudrury.com](mailto:richard@lozeaudrury.com)  
[molly@lozeaudrury.com](mailto:molly@lozeaudrury.com)  
[colby@lozeaudrury.com](mailto:colby@lozeaudrury.com)

Please call if you have any questions. Thank you for your attention to this matter.

Sincerely,



Molly Greene  
Lozeau | Drury LLP

1 CONT

***Supporters Alliance for Environmental Responsibility (SAFER-1)***

*Response to SAFER-1-1*

This comment includes a brief summary of the proposed project and requests that the County send the ALUC notice of any and all actions or hearings related to the proposed project, including notices of CEQA actions and notices of any public hearings.

The comment does not raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

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*Via Email*

June 9, 2023

Andrew Svitek, Planner  
Planning Department  
Riverside County  
4080 Lemon Street 12th Floor  
Riverside, CA 92501  
[asvitek@rivco.org](mailto:asvitek@rivco.org)

**Re: Comment on Draft Environmental Impact Report, Highway 74 Community Plan Project (SCH 2019059042)**

Dear Mr. Svitek:

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Draft Environmental Impact Report (“DEIR”) prepared for the Highway 74 Community Plan Project (SCH 2019059042), which proposes a General Plan Amendment to guide the future development of the Highway 74 Community Plan area with approximately 3,970 multi-family residential dwelling units; 2,081,150 square feet of commercial retail uses; 1,506,217 square feet of business park uses; 740,903 square feet of light industrial uses; 21.6 acres of public facility uses; and 4.28 acres of open space uses, located on a 6.8-mile long noncontiguous corridor of Highway 74 between Interstates 15 and 215 in unincorporated Riverside County (“Project”).

1

SAFER is concerned that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project’s impacts. SAFER requests that the Planning Department address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approvals for the Project.

2

SAFER reserves the right to supplement these comments during the administrative process. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

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June 9, 2023

Comment on Draft Environmental Impact Report, Highway 74 Community Plan Project  
(SCH 2019059042)

Page 2 of 2

Sincerely,

A handwritten signature in black ink that reads "Amalia Bowley Fuentes". The signature is written in a cursive, flowing style.

Amalia Bowley Fuentes  
LOZEAU DRURY LLP

***Supporters Alliance for Environmental Responsibility (SAFER-2)***

*Response to SAFER-2-1*

This comment includes a brief summary of the proposed project. No further response is required.

*Response to SAFER-2-2*

This comment expresses concern that the Draft Program EIR fails to include all information and all feasible mitigation measures. Thus, the commenter requests that a Revised EIR be recirculated to address these shortcomings.

This comment is conclusory without any supporting evidence to demonstrate the assertions that additional mitigation measures and EIR recirculation are required. No further response is needed.

*Response to SAFER-2-3*

This comment states that the commenter has the right to supplement the comments they have made during the administrative process.

The comment is noted. No further response is required.

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139 South Hudson Avenue  
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**VIA E-MAIL**

June 9, 2023

Andrew Svitek  
Urban Regional Planner IV  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
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Em: [ASvitek@rivco.org](mailto:ASvitek@rivco.org)

**RE: Southwest Mountain States Regional Council of Carpenters’  
Comments Regarding the Draft Program Environmental Impact  
Report for the County of Riverside’s Highway 74 Community Plan.**

Dear Mr. Svitek:

On behalf of the Southwest Mountain States Regional Council of Carpenters (“**SWMSRCC**”), my Office is submitting these comments regarding the Draft Program Environmental Impact Report (**DEIR**) prepared for the County of Riverside’s (“**County**”) Highway 74 Community Plan (“**Community Plan**”) involving General Plan Amendment (**GPA**) No. 1205 and a Zone Consistency Program (SCH No. 2019059042) (“**Project**”).

The Project would provide for the development of residential neighborhoods of varying densities, commercial retail, mixed-use areas, light industrial, business park, public facilities, rural, open space, and recreation areas. The GPA will alter the existing Rural Village Land Use Overlays (RVLUO) (933 acres), Policy Areas, and General Plan Foundations primarily from the Rural and Rural Community Foundations to Community Development and Land Use Designations in support of the Project. The GPA is also anticipated to amend the road and trail classifications to support the proposed land use plan and policy amendments. The Zone Consistency Program will recommend parcel-specific zone classifications.

Given the large scope of the Project and the likelihood of implementing subsequent projects, the County prepared a Programmatic DEIR.

The Project does not include a request for development, nor does it include any development-specific entitlements. Any such proposal would be subject to its own project-specific CEQA analysis at a future date.

The Highway 74 Community Plan outlines the long-term vision, goals, and policies for the development and management of the Highway 74 corridor in Riverside County, California. This corridor encompasses portions of the unincorporated areas within the County. The Community Plan typically addresses a range of topics related to land use, transportation, public facilities, environmental protection, and community development. It provides a framework for future growth, development, and revitalization efforts in the area.

The Project is situated along 6.8 miles of Highway 74 (HWY 74) in Lake Elsinore, Menifee, and Perris in western Riverside County (“**Site**” or “**Plan Area**”). The Project boundary encompasses approximately 2,220 acres of unincorporated land and includes portions of the Goodhope, Meadowbrook, and Warm Springs communities. The cross streets are HWY 74 and 7th Street and HWY 74 and Conrad Avenue.

The Site is relatively rural between the rapidly developing cities of Lake Elsinore and Perris. There are existing single-family residential neighborhoods scattered throughout the corridor surrounded by low hilly terrain and large boulders. The Site has existing local businesses such as auto/tire repair shops, nursery, landscape and fencing supply, trailer supply, home businesses, towing services, truck repair/rental, neighborhood markets, storage facilities, and warehouses. The Site also has churches and a Caltrans maintenance facility.

SWMSRCC is a labor union representing over 63,000 union carpenters in 10 states, including California, and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of SWMSRCC live, work, and recreate in San Diego and surrounding communities and would be directly affected by the Project’s social and environmental impacts.

SWMSRCC expressly reserves the right to supplement these comments at or prior to hearings on the Project, at any later hearing and proceeding related to this Project, and during review of any version of the EIR. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; accord *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1121.

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CONT

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SWMSRCC incorporates by reference all comments raising issues regarding the Project, its environmental review, and associated documents and reports. See *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (citing *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875) (finding that any party who has objected to a project’s environmental documentation may assert any issue timely raised by other parties); see also *Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689, 701 (citing Pub. Res. Code, § 21177, subds. (a)-(b)) (to attack a decision that is subject to the California Environmental Quality Act (CEQA), the alleged grounds for noncompliance must have been presented to the public agency, and the person attacking the decision must have raised some objection during the administrative proceedings).

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CONT

Moreover, SWMSRCC requests that the County provide notice for any and all notices referring or related to the Project issued under CEQA (Pub. Res. Code, § 21000 et seq.) and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000–65010). California Public Resources Code, sections 21092.2 and 21167(f) and California 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.

4

# **I. THE COUNTY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT ITS ECONOMIC DEVELOPMENT AND THE ENVIRONMENT.**

The County should require that the Project be built using local workers who have graduated from a Joint Labor-Management Apprenticeship Program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a program, or are registered apprentices in such a program.

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Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impacts 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 (GHG) emissions, and provide localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

6

[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.

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

[L]abor 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>

Furthermore, workforce policies have significant environmental benefits given that they improve an area’s jobs-housing balance, decreasing the amount and length of job commutes and the associated GHG emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District (**South Coast AQMD**) found that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.<sup>2</sup>

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

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<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>.

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>3</sup>

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (**VMT**). According to planning experts Robert Cervero and Michael Duncan, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.<sup>4</sup> Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan further note that:

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

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (**AB2011**). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

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<sup>3</sup> California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cproundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>.

<sup>4</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>.

The County should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate GHG emissions, improve air quality, and reduce transportation impacts.

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

### A. Background Concerning Environmental Impacts Reports.

The California Environmental Quality Act is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations (“**CCR**” or “**CEQA Guidelines**”), § 15002, subd. (a)(1).<sup>5</sup> At its core, its purpose is to “inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

CEQA also directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1354; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400. The Environmental Impact Report (**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, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code section 21081. See CEQA Guidelines, §§ 15092, subds. (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. *Berkeley Keep Jets, supra*, 91 Cal.App.4th at p. 1355

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<sup>5</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. 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. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

(quoting *Laurel Heights, supra*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Ibid.* 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. County 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 First District Court of Appeal has previously stated, 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. *Berkeley Keep Jets, supra*, 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *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). 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. *Ibid.* 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. *Ibid.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” Pub. Res. Code, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75 (hereafter, “*No Oil*”); accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884 (hereafter, “*Jensen*”). Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res.

Code, §§ 21100, subd. (a), 21151; CEQA Guidelines, §§ 15064, subds. (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the lead agency *must* adopt a negative declaration. Pub. Res. Code, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063, subd. (b)(2), 15064, subd. (f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” Pub. Res. Code, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, supra*, 13 Cal.App.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309 (hereafter, “*Sundstrom*”). If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063, subd. (b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom, supra*, 202 Cal.App.3d at p. 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen, supra*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064, subd. (f)(1).

#### B. Background Concerning Initial Studies, Negative Declarations, and Mitigated Negative Declarations.

CEQA and CEQA Guidelines are strict and unambiguous about when an MND may be used. A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on

the environment.” Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; *No Oil, supra*, 13 Cal.App.3d at p. 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112.

Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064(f)(1)-(2); see *No Oil, supra*, 13 Cal.App.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” CEQA Guidelines, § 15384, subd. (a).

The fair argument standard is a “low threshold” test for requiring the preparation of an EIR. *No Oil, supra*, 13 Cal.App.3d at p. 84; *County Sanitation, supra*, 127 Cal.App.4th at p. 1579. It “requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]” *County Sanitation, supra*, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063, subd. (b)(1)). A lead agency may adopt an MND only if “there is no substantial evidence that the project will have a significant effect on the environment.” CEQA Guidelines, § 15074, subd. (b).

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. *League for Protection of Oakland’s Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905. “Where the question is the sufficiency of the evidence to support a fair argument, deference to the agency’s determination is not appropriate[.]” *County Sanitation, supra*, 127 Cal.App.4th at p. 1579 (quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318).

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” *Sundstrom, supra*, 202 Cal.App.3d at p. 311.

“Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Ibid*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Id.*

Both the review for failure to follow CEQA’s procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435. “Whether the agency’s record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist., supra*, 204 Cal.App.4th at p. 207; Kostka and Zischke, *Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

C. CEQA Requires Revision and Recirculation of an EIR When Substantial Changes or New Information Come to Light.

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

Significant new information includes “changes in the project or environmental setting as well as additional data or other information [that] deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CEQA Guidelines, § 15088.5, subd. (a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when the

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DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. *Ibid.*

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

Additionally, when new information is brought to light showing that an impact previously discussed in an environmental report or document—which was found to be insignificant with or without mitigation in the prior analysis—now has the potential for a significant environmental impact as supported by substantial evidence, the environmental document must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal.App.5th 1, 13, 17; accord *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.

A substantial revision includes the identification of new, avoidable significant effects requiring mitigation measures or project revisions to be added to reduce the effect to less than significant levels or upon the lead agency determining that a proposed mitigation measure or project change would not reduce a potential impact to insignificance. See *Jensen, supra*, 23 Cal.App.5th at p. 886.

For all of the reasons outlined in this letter, the DEIR should be revised and recirculated for additional public comment.

### **III. THE DEIR IS FUNDAMENTALLY FLAWED AND THE PROJECT IS UNLAWFUL.**

The DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the project’s impacts. As generally described further below, the DEIR is plagued by legal and technical deficiencies and the Project is not consistent with the law. For example, the DEIR improperly defers mitigation of the

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Project’s hazard impacts to a later date in violation of CEQA. See CEQA Guidelines, § 15126.2. The DEIR fails to disclose, analyze, and mitigate the Project’s significant air quality, health risk, GHG, and transportation impacts. The DEIR also fails to demonstrate the Project’s consistency with the Southern California Association of Governments’ (SCAG) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).<sup>6</sup> See Gov. Code, § 65860, subd. (a)(2).

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

When new information is brought to light showing that an impact previously discussed in the DEIR but found to be insignificant with or without mitigation in the DEIR’s analysis has the potential for a significant environmental impact supported by substantial evidence, the DEIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal.App.5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109. While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or thresholds of significance must be “based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines, § 15064, subd. (b); *Cleveland National Forest Found. v. San Diego Assn. of Governments* (2017) 3 Cal.App.5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal.App.5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence. *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 302.

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Additionally, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the

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<sup>6</sup> It should be noted that the DEIR also fails to demonstrate the Project’s consistency with the SCAG 2020-2045 RTP/SCS. Especially considering the Project’s potentially significant air quality, GHG, and transportation impacts, the DEIR must include careful consideration of the Project’s consistency with the specific policies and programs of the SCAG’s 2020-2045 RTP/SCS, and the availability of mitigation measures developed through the 2020-2045 RTP/SCS to offset the Project’s impacts. The DEIR omits such an analysis and offers only short and unsupported contentions that the Project is consistent with the overarching goals and strategies of the RTP/SCS.

risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. See also *Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection* (2008) 43 Cal.App.4th 936, 956 (the fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

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B. The DEIR Fails to Support its Findings on Hazards and Hazardous Waste Impacts with Substantial Evidence.

With respect to the Project’s potential impacts related to hazardous materials, the DEIR fails to fully disclose with meaningful specificity the extent of contamination existing within the Plan Area and the DEIR’s deferral of potential clean up methods and their associated environmental impacts. The County may feel that the appropriate time for investigating possible in-ground contamination—and remediation if contamination is found—should occur at the time any future development project is proposed, and not at the time of approving the Project here. Such a deferral is inconsistent with the law and the higher purposes of CEQA.

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C. The DEIR Fails to Support its Findings on Air Quality Impacts with Substantial Evidence.

The DEIR’s analysis of the Project’s air quality impacts is fundamentally flawed and not supported by substantial evidence. Specifically, CEQA requires that an EIR identify and discuss the significant effects of a Project, alternatives, and how those significant effects can be mitigated or avoided. CEQA Guidelines, § 15126.2; Pub. Res. Code, §§ 21100, subd. (b)(1), 21002.1, subd. (a). An EIR’s 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 *Laurel Heights Improvement Assn., supra*, 47 Cal.3d at p. 405; see also Pub. Res. Code, §§ 21002.1, subd. (e), 21003, subd. (b).

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The DEIR continues to utilize unsubstantiated air emission modeling parameters and incorrect mitigation assumptions to calculate the Project’s potential air quality impacts—resulting in the under-reporting of potential air emissions and

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unsubstantiated conclusions that the Project and/or future developments will result in less than significant air quality impacts. The DEIR admits that:

As discussed in Section 3-3, Air Quality, Impact AIR-6a, the proposed project would generate regional or localized construction or operational emissions that would exceed South Coast Air Quality Management District (SCAQMD) thresholds of significance, and would therefore have a potentially significant cumulative impact on air quality in the region. CEQA Guidelines Section 15206(b) states that a proposed project is of statewide, regional, or area-wide significance if the project is a residential development or more than 500 dwelling units or a commercial office building of 250,000 square feet or more or that employs 1,000 or more employees. Based on this criteria, the proposed project is of statewide, regional, or area-wide significance. Additionally, the proposed project has the potential to significantly alter the demographic projections beyond what is accounted for in the current Air Quality Management Plan (AQMP). . . . The implementation of the proposed project would represent a substantial increase in emissions compared to existing conditions.

DEIR, p. 4-6.

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

If the project has a significant effect on the environment, the lead agency may approve the project only upon reaching a finding that the project has “eliminated or substantially lessened all significant effects on the environment where feasible”<sup>7</sup> and find that ‘specific overriding economic, legal, social, technology or other benefits of

<sup>7</sup> PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

the project outweigh the significant effects on the environment.”<sup>8</sup> “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

Here, the DEIR finds that the Project will have significant and unavoidable impacts on air quality and GHG emissions, but fails to provide any adequate discussion of potential mitigations, especially operational mitigations. Even assuming the Project may take credit for all the claimed VMT reductions it outlines, the Project will still have a significant GHG emissions impact which requires that the DEIR adopt a finding of a significance and the adoption of all feasible mitigation measures to ameliorate this impact. Instead, the DEIR again defers discussion of air quality and greenhouse gas emissions to the future, and relies on the idea that future development within the Project area will comport with regulations and plans established by SCAQMD, SCAG, and other governmental organizations.

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The County is merely making conclusory statements about future compliance with the law and does not commit itself to any specific or binding course of action which is project-specific. A determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. There is no analysis in the DEIR connecting the effect of compliance with regulatory requirements such that the impacts could be determined to be less than significant. The County is essentially requesting a good-faith assumption that regulatory compliance will serve as a backstop without developing any mitigation measures. The County must identify in more detail the mitigation measures it lists. Sufficiency cannot be assumed based on compliance alone.

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D. The DEIR Fails to Support its Findings on GHG Impacts with Substantial Evidence.

<sup>8</sup> PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

The DEIR fails to properly model GHG emissions or consider feasible mitigation measures to offset the Project’s and/or future developments’ GHG emissions.

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CEQA Guidelines § 15064.4 allow a lead agency to determine the significance of a project’s GHG impact via a qualitative analysis (e.g., extent to which a project complies with regulations or requirements of state/regional/local GHG plans), and/or a quantitative analysis (e.g., using model or methodology to estimate project emissions and compare it to a numeric threshold). So too, CEQA Guidelines allow lead agencies to select what model or methodology to estimate GHG emissions so long as the selection is supported with substantial evidence, and the lead agency “should explain the limitations of the particular model or methodology selected for use.” CEQA Guidelines § 15064.4(c).

CEQA Guidelines sections 15064.4(b)(3) and 15183.5(b) allow a lead agency to consider a project’s consistency with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

CEQA Guidelines §§ 15064.4(b)(3) and 15183.5(b)(1) make clear qualified GHG reduction plans should include the following features:

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- (1) **Inventory:** Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);
- (2) **Establish GHG Reduction Goal:** Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
- (3) **Analyze Project Types:** Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- (4) **Craft Performance-Based Mitigation Measures:** Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
- (5) **Monitoring:** Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels.

Collectively, the above-listed CAP features tie qualitative measures to quantitative results, which in turn become binding via proper monitoring and enforcement by the jurisdiction—all resulting in real GHG reductions for the jurisdiction as a whole, and the substantial evidence that the incremental contribution of an individual project is not cumulatively considerable. Here, the DEIR’s analysis of the Project’s GHG emissions is not supported by substantial evidence, and it has failed to adequately evaluate the Project’s GHG impacts.

The DEIR estimates that the Project’s construction (excluding operational emissions) would generate net annual GHG emissions of 26,170 metric tons of CO<sub>2</sub> per year (**MT CO<sub>2</sub>e/year**) in 2023 and a total of 321,675 MT CO<sub>2</sub>e/year until the year 2039 for construction and and total Project emissions from operations of 258,262 MT CO<sub>2</sub>e/year by 2040. See DEIR, pp. 3.8-38-39, Tables 3.8-2, 3.8-3. Construction-related GHG emissions would occur from fossil fuel combustion for heavy-duty construction equipment, material delivery and haul trucks, and construction worker vehicles. *Ibid.*

However, the DEIR fails to compare the Project’s estimated GHG emissions to any quantitative threshold and the County has not adopted a numerical significance threshold for assessing impacts related to GHG emissions—nor has SCAQMD, OPR, CARB, CAPCOA, or any other state or regional agency adopted a numerical significance threshold for assessing GHG emissions that would be applicable here.

Consequently, the DEIR instead relies upon the Project’s consistency with the CARB’s 2017 *Scoping Plan*, SCAG’s 2016-2040 *Regional Transportation Plan/Sustainable Communities Strategy* (“RTP/SCS”), and the CAP in order to conclude that the Project would have a less-than-significant GHG impact.

**Table 3.8-2: Estimated Construction Greenhouse Gas Emissions**

Construction Year	Emissions (MT CO <sub>2</sub> e)
2023	26,170
2024	22,457
2025	20,487
2026	19,967
2027	19,483
2028	19,098
2029	18,651
2030	18,452
2031	18,150
2032	17,920
2033	17,626
2034	17,408
2035	17,217
2036	17,264
2037	17,217
2038	17,217
2039	16,792
<b>Total<sup>1</sup></b>	<b>321,576</b>
<b>Amortized over 30 years<sup>2</sup></b>	<b>10,719</b>

Notes:  
MT CO<sub>2</sub>e = metric tons of carbon dioxide equivalent.  
<sup>1</sup> Figures may not appear to add exactly due to rounding.  
<sup>2</sup> Construction GHG emissions are amortized over the 30-year life of the project.  
Source: CalEEMod Output (see Appendix C)

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However, the DEIR's GHG analysis, as well as the subsequent less-than-significant impact conclusion, are incorrect for a number of reasons, among them including: (1) the DEIR's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model; (2) CARB's 2017 *Scoping Plan*, SCAG's 2016-2040 RTP/SCS, and the CAP should not be relied upon to determine Project significance; (3) the DEIR fails to apply a quantitative GHG threshold; and, (4) the DEIR fails to identify a potentially significant GHG impact.

First, the DEIR estimates that the Project would generate net annual GHG emissions of 26,170 MT CO<sub>2</sub>e/year. DEIR, p. 3.8-38, Table 3.8-2. However, the DEIR's quantitative GHG analysis should not be relied upon, as it relies upon an unsubstantiated air model. Upon analyzing the Project's CalEEMod output files provided in the CalEEMod Output as Appendix C to the DEIR, several of the values included in the model are inconsistent with information disclosed in the DEIR and associated reports and documents. Consequently, the model underestimates the Project's actual GHG emissions. Therefore, the DEIR's quantitative GHG analysis should not be relied upon to determine Project significance in this regard. An updated EIR must be prepared that adequately assesses the potential GHG impacts that construction and operation of the Project and/or future projects within the Plan Area may have on the surrounding environment.

Second, the DEIR relies upon the Project's consistency with CARB's 2017 *Scoping Plan*, SCAG's 2016-2040 RTP/SCS, and the CAP in order to conclude that the Project's GHG impact would be less than significant. However, these plans and policies do not qualify as adequate GHG reduction plans under CEQA. CEQA Guidelines section 15064.4, subsection (b)(3) and section 15183, subsection (b) allow a lead agency to consider a project's consistency with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or

**Table 3.8-3: Estimated Operational Emissions in 2040**

Emissions Source	2040 Emissions (MT CO <sub>2</sub> e/year)
Area	2,989
Residential Energy–Electricity	7,248
Residential Energy–Gas	7,885
Nonresidential Energy–Electricity	13,862
Nonresidential Energy–Gas	1,134
Mobile	198,659
Waste	7,838
Water	7,927
Amortized Construction	10,719
<b>Total Project Emissions<sup>1</sup></b>	<b>258,262</b>
SCAQMD Tier 3 Threshold	3,000
<b>Exceed Threshold?</b>	<b>Yes</b>

Notes:  
MT CO<sub>2</sub>e = metric tons of carbon dioxide equivalent; SP = service population.  
<sup>1</sup> Totals may not appear to add exactly due to rounding.  
Source of emissions: CalEEMod Output (see Appendix C).  
Source of thresholds: South Coast Air Quality Management District (SCAQMD). 2008. Interim CEQA GHG Significance Threshold for Stationary Sources. Website: <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/ghg-significance-thresholds>. Accessed February 3, 2022.

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mitigation of GHG emissions. When read in conjunction, CEQA Guidelines section 15064.4, subsection (b)(3) and section 15183.5, subsection (b)(1) make clear that qualified GHG reduction plans should include the following features:

- (1) Inventory: Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);
- (2) Establish GHG Reduction Goal: Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
- (3) Analyze Project Types: Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- (4) Craft Performance Based Mitigation Measures: Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
- (5) Monitoring: Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels.

Collectively, the above-listed features tie qualitative measures to quantitative results, which in turn become binding through proper monitoring and enforcement tactics by the jurisdiction—together resulting in actual, tangible GHG reductions for the jurisdiction as a whole, and substantial evidence demonstrating that a project’s incremental contribution is not cumulatively considerable.

Here, however, the DEIR fails to demonstrate that these plans and policies include the above-listed requirements to be considered qualified GHG Reduction Plans. As such, the DEIR leaves an analytical gap evincing that compliance with said plans and policies can be used for a project-level significance determination. Thus, the DEIR’s GHG significance determination regarding CARB’s 2017 *Scoping Plan*, SCAG’s 2016-2040 *RTP/SCS*, and the CAP should not be relied upon.

Third, the DEIR fails to apply a quantitative GHG threshold to evaluate the Project’s emissions, instead incorrectly relying upon the Project’s consistency CARB’s 2017 *Scoping Plan*, SCAG’s 2016-2040 *RTP/SCS*, and the CAP, as described above. Given

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that the DEIR should not rely upon such plans and policies to determine Project significance, the Project must apply the AEP “2030 Land Use Efficiency Threshold” of 2.6 metric tons of CO<sub>2</sub> equivalents per service population per year (**MT CO<sub>2</sub>e/SP/year**).<sup>9</sup> In support of this threshold for projects with a horizon year beyond 2020, AEP’s guidance states:

Once the state has a full plan for 2030 (which is expected in 2017), and then a project with a horizon between 2021 and 2030 should be evaluated based on a threshold using the 2030 target. A more conservative approach would be to apply a 2030 threshold based on SB 32 for any project with a horizon between 2021 and 2030 regardless of the status of the Scoping Plan Update.<sup>10</sup>

As the CARB adopted *California’s 2017 Climate Change Scoping Plan* in November of 2017, the proposed Project “should be evaluated based on a threshold using the 2030 target,” according to the relevant guidance referenced above. Consequently, a revised EIR must be prepared, including a revised air model and comparison of the Project’s estimated GHG emissions to the AEP “2030 Land Use Efficiency Threshold” of 2.6 MT CO<sub>2</sub>e/SP/year.

Fourth, the DEIR’s incorrect and unsubstantiated air model indicates a potentially significant GHG impact when applying the “2030 Land Use Efficiency Threshold” of 2.6 MT CO<sub>2</sub>e/SP/year. According to CAPCOA’s *CEQA & Climate Change* report, service population is defined as “the sum of the number of residents and the number of jobs supported by the project.”<sup>11</sup> Here, the DEIR does not offer an estimation of the Project’s quantity of future residences and employees. Therefore, we cannot estimate a service population and cannot make a determination of whether the Project complies with the AEP “2030 Land Use Efficiency Threshold” of 2.6 metric tons of CO<sub>2</sub> equivalents per service population per year. The County must order a revised EIR with such information so that an adequate analysis of the Project’s actual GHG emissions may be conducted. Considering, though, that roughly five average-sized

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<sup>9</sup> “Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.” Association of Environmental Professionals (AEP), October 2016, *available at*: [https://califaep.org/docs/AEP-2016\\_Final\\_White\\_Paper.pdf](https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf), p. 40.

<sup>10</sup> “Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.” Association of Environmental Professionals (AEP), October 2016, *available at*: [https://califaep.org/docs/AEP-2016\\_Final\\_White\\_Paper.pdf](https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf), p. 40.

<sup>11</sup> CAPCOA (Jan. 2008) *CEQA & Climate Change*, *available at*: <http://www.capcoa.org/wpcontent/uploads/2012/03/CAPCOA-White-Paper.pdf>, p. 71-72.

homes can fit on one acre,<sup>12</sup> and considering that the Plan Area is 2,220 acres, it may not be unreasonable to assume that the Plan Area may one day be the site of 11,000 homes. At an average of 3.2 persons per home between 2017 and 2021,<sup>13</sup> that equates to a potential service population of 35,200 individuals. Nevertheless, the DEIR contends that the Plan Area will accommodate only 4,000 new residential units with a maximum resident population of 12,800. DEIR, 3.16-11. The number of employees the Plan Area is expected to have remains unknown,<sup>14</sup> as the DEIR assumed that “most employment opportunities would be filled by employees already living within the local region[.]” *Ibid.* Even assuming that the Plan Area will have *no* employees and the service population will remain at 12,800, dividing the Project’s operational GHG emissions in the year 200, as estimated by the DEIR, by a service population value of 12,8000 people, the Project would emit approximately 20.17 MT CO<sub>2</sub>e/SP/year. This figure exceeds AEP’s Land Use Efficiency Threshold by a large margin.

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E. The DEIR Fails to Support its Findings on Energy Impacts with Substantial Evidence.

Pursuant to CEQA Guidelines, section 15126.2, subsection (b), analysis of a project’s energy impacts “should include the project’s energy use for all project phases and components, including transportation-related energy, during construction, and operation.” Further, the Guidelines provide that “other relevant considerations may include . . . the project’s size, location, orientation, equipment use, and any renewable energy features that could be incorporated into the project.” *Ibid.*

Failing to undertake “an investigation into renewable energy options that might be available or appropriate for a project” violates CEQA. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 213. Energy conservation under CEQA is defined as the “wise and efficient use of energy.” CEQA Guidelines, appen. F, § I. The “wise and efficient use of energy” is achieved by “(1) decreasing overall per capita energy consumption, (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and (3) increasing reliance on renewable energy resources.” *Ibid.*

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According to Appendix F of the CEQA Guidelines, an environmental document must consider and analyze:

<sup>12</sup> See <https://homebay.com/how-big-is-an-acre/>.

<sup>13</sup> See <https://www.census.gov/quickfacts/fact/table/riversidecountycalifornia/INC110221>.

<sup>14</sup> “[T]he number of employees that would be projected in 2040 is unknown.” DEIR, p. 3.3-31.

1. The project's energy requirements and its energy use efficiencies;
2. The project's effects on local and regional energy supplies and on requirements for additional capacity;
3. The project's effects on peak-period and base-period energy demands;
4. The degree to which the project complies with existing energy standards;
5. The project's effects on energy resources; and,
6. The project's projected transportation energy use and its overall use of efficient transportation alternatives.

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CEQA Guidelines, appen. F.

Basing a Project's energy impacts on its compliance with the California Building Energy Efficiency Standards does not constitute an adequate analysis of energy. *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264-65; see Cal. Code Regs., tit. 24, part 6 (2023). Similarly, the court in *City of Woodland* held unlawful an energy analysis that relied on compliance with Title 24, that failed to assess transportation energy impacts, and that failed to address renewable energy impacts. *City of Woodland, supra*, 225 Cal.App.4th at 209-13.

First, the DEIR briefly mentions certain practices and equipment which the Project will engage to reduce energy consumption, though the details are vague and uncertain. Second, in addressing long-term energy impacts during operation, the DEIR admits that the project would generate new demand for electricity, natural gas, and transportation energy. It fails, though, to seriously consider and create plans to implement renewable energy uses and feasible conservation efforts. Third, the DEIR concludes that, with respect to operation-related fuel usage, energy impacts would be less than significant with mitigation measures. It bases this conclusion on, among other things, a cursory analysis of VMT and the contention that operation-related fuel usage associated with the proposed project would not be any more inefficient, wasteful, or unnecessary than similar development projects. The energy expenditures of similar development projects are no measure of or justification for whether this Project will result in significant energy impacts or waste and inefficiency. This line of analysis is neither reasonable nor focused on energy use by the Project.

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Without assessing the Project's use of energy activities in accordance with the CEQA Guidelines, the DEIR concludes that the Project will not result in wasteful, inefficient,

or unnecessary energy use. Consequently, the DEIR must be recirculated after broadening its scope and incorporating details, in particular, expanded options for renewable energy solutions.

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Last, rather than conducting any Project-specific analysis, the DEIR relies solely on regulatory measures to justify its less than significant findings. However, determinations that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. See *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1; *Ebbetts Pass Forest Watch v. Dept. of Forestry & Fire Protection* (2008) 43 Cal.App.4th 936, 956.

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F. The DEIR Fails to Support its Findings on Transportation Impacts with Substantial Evidence.

CEQA Guidelines, section 15064.3, subsection (b) requires analysis of a Project's VMT impacts as part of the environmental document's transportation impacts analysis. The Office of Planning and Research (**OPR**) technical guidance suggests that projects which have a VMT per capita of 15% or more below existing conditions may indicate a less than significant transportation impact relating to VMT.<sup>15</sup> Assuming then this is the proper methodology, the DEIR fails to demonstrate a less than significant impact with respect to VMT.

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Here, the DEIR underestimates resident and worker trips for the Project Site. Additionally, the impact thresholds for a significance determination that the DEIR utilizes are unsubstantiated. The proper Project baseline should be the existing conditions at the Site and the DEIR must demonstrate a 15% or below reduction in VMT to demonstrate a less than significant impact.

A thorough, CEQA-compliant, revised DEIR is necessary to determine the magnitude and severity of the impacts the Project will have on the environment, namely, on energy, air quality, GHG emissions, transportation, and biological resources—and, if those impacts are significant, the additional measures which may be engaged to mitigate such impacts. Therefore, the DEIR's reliance on regulatory compliance cannot rectify its failure to conduct Project-specific analyses and the DEIR must be revised to do so.

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<sup>15</sup> OPR Technical Advisory, On Evaluating Transportation Impacts in CEQA (Dec. 2018), *available at* [https://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf).

G. The DEIR Fails to Adequately Discuss Project Alternatives.

While there are no fixed rules governing the types of activities that should be analyzed as project alternatives or the level of analysis required, the nature of the project governs the course of the required analysis in the EIR. *Citizens of Goleta Valley v Board of Supervisors* (1990) 52 Cal.3d 553, 566. The requirement that EIRs identify and discuss alternatives to the project stems from the fundamental statutory policy that public agencies should require the implementation of feasible alternatives or feasible mitigation measures to reduce the project's significant environmental impacts. Pub. Res. Code, § 21002. The California Supreme Court has described the discussion of mitigation and alternatives as “the core of an EIR.” *Citizens of Goleta Valley, supra*, 52 Cal.3d at 564.

According to the CEQA Guidelines, an EIR must describe a reasonable range of alternatives to the proposed project, or to its location, that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects. And the EIR must evaluate the comparative merits of those alternatives. CEQA Guidelines, § 15126.6, subd. (a). The EIR should briefly identify alternatives rejected as infeasible and explain why they were rejected. CEQA Guidelines, § 15126.6, subd. (c). The discussion of alternatives should include sufficient information about each alternative to allow evaluation, analysis, and comparison with the proposed project. CEQA Guidelines, § 15126.6, subd. (d).

An agency cannot expect the public to accept its determination on blind trust, and the basis for its finding no feasible alternatives must be explained in meaningful detail. *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 404 (EIR did not include explanation or facts supporting its conclusory statements that suitable alternative sites for project were not available). An agency's determination that there are no feasible alternatives available that would both meet most project objectives and mitigate one or more of the project's significant impacts will be upheld if it is supported by a reasoned analysis. *Mount Shasta Bioregional Ecology Ctr. v County of Siskiyou* (2012) 210 Cal.App.4th 184. A useful example of the type of explanation that might be included in an EIR to show the unavailability of feasible alternatives is contained in *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1752. The EIR explained that alternative sites for the proposed senior citizen housing project had not been analyzed because there were no vacant, similarly sized, residentially zoned, privately owned parcels in the area; the city's

general plan discouraged demolishing existing housing in order to maintain its stock of affordable housing; and the general plan and zoning ordinance would not allow the project in either commercial or industrial zones within the city.

A proposal to change a site’s land use designation raises unique issues that make consideration of alternative sites particularly relevant. A proposed change in allowed uses raises a policy question of whether the site is appropriate for the new use. Resolution of this question depends on a comparison of the advantages and disadvantages of the site with other sites that are or could be designated for the same use. When an agency concludes that no feasible alternative locations exist, it should include its reasons in the EIR. CEQA Guidelines, § 15126, subd. (f)(2)(B).

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#### **IV. THE DEIR IMPROPERLY DEFERS THE DEVELOPMENT OF ENVIRONMENTAL MITIGATION MEASURES.**

The DEIR improperly defers critical details of mitigation measures. Feasible mitigation measures for significant environmental effects must be set forth in an EIR for consideration by the lead agency’s decision-makers and the public before certification of the EIR and approval of a project. The formulation of mitigation measures generally cannot be deferred until after certification of the EIR and approval of a project. See CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (formulation of mitigation measures should not be deferred until some future time).

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##### **A. CEQA Bars the Deferred Development of Environmental Mitigation Measures.**

Deferring critical details of a project’s mitigation measures undermines CEQA’s purpose as a public information and decision-making statute. “[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decision-making; and consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.” *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92. As the Court noted in *Sundstrom v. Cnty. of Mendocino* (1988), a “study conducted after approval of a project will inevitably have a diminished influence on decision-making. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA.” 202 Cal.App.3d 296, 307.

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A lead agency's adoption of an EIR's proposed mitigation measure for a significant environmental effect that merely states a "generalized goal" to mitigate a significant effect without committing to any specific criteria or standard of performance violates CEQA by improperly deferring the formulation and adoption of enforceable mitigation measures. See *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal. App. 4th 70, 93 (the EIR there merely proposed a generalized goal of no net increase in GHG emissions and then set out a handful of cursorily described mitigation measures for future consideration that might serve to mitigate the project's significant environmental effects); *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 (court upheld an EIR that set forth a range of mitigation measures to offset significant traffic impacts where performance criteria would have to be met, even though further study was needed and the EIR did not specify which measures had to be adopted by city).

Those CEQA mitigation measures which are proposed and adopted into an EIR are required to describe the specific actions to be taken to reduce or avoid an impact. See CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (providing formulation of mitigation measures should not be deferred until some future time). While CEQA Guidelines section 15126.5, subsection (a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to instances where "measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." *Ibid.* Courts have also recognized a similar exception to the general rule against deferral of mitigation measures where the performance criteria for each measure is identified and described in the EIR. *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011.

Improper deferral may occur where an EIR calls for mitigation measures to be created based on future studies or where the EIR describes mitigation measures in general terms while the lead agency fails to dedicate itself to specific performance standards. *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281 (lead agency improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671 (EIR failed to provide and commit to specific criteria or standards of performance for mitigating impacts to biological habitats); *Cleveland*

*Natl. Forest Found. V. San Diego Assn. of Govts.* (2017) 17 Cal.App.5th 413, 442 (generalized air quality measures in the EIR failed to set performance standards); *Cal. Clean Energy Comm. V. City of Woodland* (2014) 225 Cal.App.4th 173, 195 (lead agency could not rely on a future report on urban decay with no standards for determining whether mitigation was required); *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 740 (agency could not rely on future rulemaking to establish specifications to ensure emissions of nitrogen oxide would not increase because it did not establish objective performance criteria for measuring whether that goal would be achieved); *Gray v. Cnty. of Madera* (2008) 167 Cal.App.4th 1099, 1119 (rejecting mitigation measure requiring replacement water to be provided to landowners because it identified a general goal for mitigation rather than specific performance standard); *Endangered Habitats League, Inc. v. Cnty. of Orange* (2005) 131 Cal.App.4th 777, 794 (requiring report without established standards is impermissible delay).

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Here, the DEIR features several mitigation measures which are impermissibly vague and defer critical details.

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B. The DEIR Fails to Mitigate the Project’ Biological Resources Impacts Because the Mitigation Measures are Impermissibly Vague and Defer Critical Details.

When imposing mitigation, lead agencies must ensure there is a “nexus” and “rough proportionality” between the measure and the significant impacts of the project. CEQA Guidelines, § 15126.4, subd. (a)(4)(A); see *Nollan v. Cal. Coastal Commission* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 512 U.S. 374. All mitigation must be feasible and fully enforceable, and all feasible mitigation must be imposed by lead agencies. CEQA Guidelines, § 15041. Formulation of mitigation measures shall not be deferred until some future time. CEQA Guidelines, § 15126.4, subd. (a)(B).

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According to the DEIR, local special-status species, including the Stephens’ Kangaroo Rat, and nesting birds are expected to occur within the Plan Area during potential construction periods and may be affected by construction activity. Mitigation measure MM BIO-7(b), for example, “would require future projects to prepare biological studies to evaluate and mitigate potential impacts to sensitive biological resources.” DEIR, p. 4-8. And although the DEIR mentions the requirement of a qualified biologist in general terms, it neglects to commit to specific performance standards.

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At a minimum, the future biological resources impacts and avian surveys pursuant to MM BIO-7(b), 7(c), and 7(d) shall be conducted by a qualified wildlife biologist from the consultant list set forth by the environmental procedures of the municipal code of the city in which the future project sits and who is familiar with the identification of avian and other species known to occur in the vicinity of the project—including raptors and migratory birds covered under the Migratory Bird Treaty Act and Fish and Game Code sections 3503, 3503.5, and 3513 that are known to occur in the area.

There exist widely accepted protocols and guidelines for the qualifications requirements for biologists evaluating and mitigating impacts to biological resources that could be employed to avoid the deferred development of MM BIO-7(b).

*1. Wildlife Biologist Certification Program by The Wildlife Society.*

The Wildlife Society, a nonprofit scientific and educational organization devoted to stewardship and appreciation of wildlife, developed a professional certification program designed to evaluate the education and professional experience of wildlife biologists as follows:

**Certified Wildlife Biologist:** A Certified Wildlife Biologist is a professional who meets requisite educational and experience requirements and has demonstrated expertise in the art and science of applying the principles of ecology to the conservation and management of wildlife and its habitats.

**Associate Wildlife Biologist:** An associate wildlife biologist is an applicant for professional certification who has limited experience but who has completed the rigorous academic standards and is judged to be able to represent the profession as an ethical practitioner.

**Professional Development Program:** A graduate of the Professional Development Program from the Wildlife Society receives a Professional Development Certificate.<sup>16</sup>

*2. Qualifications Set Forth by the State of California, Department of Fish and Wildlife’s Survey and Monitoring Protocols and Guidelines.*

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<sup>16</sup> American Forest Foundation, Why Wildlife Biologists, available at, <https://mylandplan.org/content/wildlife-biologists>.

The California Natural Resources Agency, Department of Fish and Wildlife's Survey and Monitoring Protocols and Guidelines establish the biologist qualification requirements for avian species surveying.<sup>17</sup>

While the Project's potential impacts on avian species such include the loggerhead shrike as well as nesting migratory birds, the biggest concern would be on the burrowing owl. According to the Department of Fish and Wildlife, the qualifications for a biologist to perform surveys relating to Burrowing Owls are:

#### Biologist Qualifications:

The current scientific literature indicates that only individuals meeting the following minimum qualifications should perform burrowing owl habitat assessments, surveys, and impact assessments:

1. Familiarity with the species and its local ecology;
2. Experience conducting habitat assessments and non-breeding and breeding season surveys, or experience with these surveys conducted under the direction of an experienced surveyor;
3. Familiarity with the appropriate state and federal statutes related to burrowing owls, scientific research, and conservation;
4. Experience with analyzing impacts of development on burrowing owls and their habitat.<sup>18</sup>

#### 3. U.S. Department of the Interior's Qualification Requirements for Wildlife Biologists.

The Department of the Interior has several levels of wildlife biologist qualifications. Basic education requirements include:

Successful completion of a full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree in biological science that included:

<sup>17</sup> See California Natural Resources Agency, Department of Fish and Wildlife's (formerly Department of Fish Game) Survey and Monitoring Protocols and Guidelines for Several Avian Species, available at, <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>.

<sup>18</sup> California Natural Resources Agency, Department of Fish and Wildlife's (formerly Department of Fish Game) Survey and Monitoring Protocols and Guidelines, for Burrowing Owls, Page 5 (2012), available at, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>.

- At least 9 semester hours in such wildlife subjects as mammalogy, ornithology, animal ecology, wildlife management, or research course in the field of wildlife biology; and
- At least 12 semester hours in zoology in such subjects as general zoology, invertebrate zoology, vertebrate zoology, comparative anatomy, physiology, genetics, ecology, cellular biology, parasitology, entomology, or research courses in such subjects (Excess courses in wildlife biology may be used to meet the zoology requirements where appropriate.); and
- At least 9 semester hours in botany or the related plant sciences.<sup>19</sup>

*4. Wildlife Biologist Qualification Requirements Under the U.S. Fish and Wildlife Service.*

According to the U.S. Fish and Wildlife Service, the qualifications requirements for a Wildlife Biologist are:

Positions that require professional knowledge and competence in the science of wildlife biology to perform work involving: the conservation, propagation, management, protection, and administration of wildlife species; or the determination, establishment, and application of biological facts, principles, methods, techniques, and procedures necessary for the conservation and management of wildlife resources and habitats.

Degree Requirements: Successful completion of a full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree in biological science which includes at least 12 semester hours in subjects such as general zoology, invertebrate or vertebrate zoology, comparative anatomy, physiology, genetics, ecology, cellular biology, parasitology, entomology, or research courses in such subjects. Where appropriate, excess coursework in wildlife biology may be used to meet the zoology requirements. Additionally, the position requires nine semester hours in wildlife courses such as mammalogy, ornithology, animal ecology, and wildlife management or research courses in the field

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<sup>19</sup> Department of the Interior's Qualification Requirements for Wildlife Biologists, available at, <https://www.usgs.gov/human-capital/wildlife-biologist-gs-0486>.

of wildlife biology; and nine semester hours in botany or the related plant disciplines.<sup>20</sup>

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The County should amend all Mitigation Measures relating to biological resources to specify which performance standards are to be utilized to ensure that biological impacts caused by future projects within the Plan Area will be less than significant.

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## **V. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE COUNTY’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, and serves as a “constitution” or “charter” for all future development. *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773; *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.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.” *Debottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213.

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.” 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 general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal.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, subd. (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

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<sup>20</sup> U.S. Fish and Wildlife Service, Wildlife Biologist Qualification Requirements, available at <https://www.fws.gov/sites/default/files/documents/Basic%20Qualification%20Requirements.pdf>.

achievement of its policies is invalid and cannot be given effect. *See Lesher*, 52 Cal.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, subd. (a)(2); *Neighborhood Action Group*, 156 Cal.App.3d at 1184.

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. 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.3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

Here, the Project is inconsistent with the County’s General Plan and fails to establish the Project’s consistency with several General Plan goals. The Project fails to discuss in detail its conformity with each of the Goals, Policies, and Programs laid out in the General Plan, despite that the Project will have reasonably foreseeable impacts on land use, traffic, vehicle trip generation, air quality, and emissions. This discussion is relevant not only to compliance with land use and zoning law, but also with the contemplation of the Project’s consistency with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating environmental impacts. The DEIR should be amended to include analysis of the Project’s comportment with the Goals, Policies, and Programs of the General Plan. As such, the Project violates the State Planning and Zoning law.

## **VI. THE DEIR FAILS TO INCLUDE A CONSULTATION AND PREPARATION SECTION AND LACKS AN ADEQUATE, STABLE, AND FINITE PROJECT DESCRIPTION.**

CEQA requires that all EIRs contain certain contents. See CEQA Guidelines, §§ 15122-15131. CEQA expressly requires an EIR “identify all federal, state, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other

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authorization.” CEQA Guidelines, § 15129. This information is imperative to demonstrate that a lead agency fulfilled its obligation to “consult with, and obtain comments from, each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project, and any city or county that borders on a city or county within which the project is located[.]” Pub. Res. Code, § 21104, subd. (a).

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Failure to provide sufficient information concerning the lead agency’s consultation efforts could undermine the legal sufficiency of an EIR. Courts determine *de novo* whether a CEQA environmental document sufficiently discloses information required by CEQA as “noncompliance with the information disclosure provisions” of CEQA is a failure to proceed in a manner required by law. Pub. Res. Code, § 21005, subd. (a); see also *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515.

Here, the DEIR fails to identify which federal agencies, state agencies, local agencies, or other organizations, if any, that were consulted in the preparation of this DEIR. The DEIR should be revised to identify the organizations the County consulted with in the preparation of the DEIR in compliance with Section 21104, subsection (a) of the Public Resources Code.

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

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CEQA Guidelines section 15124 requires a project describe in enough detail to allow for evaluation of its potential environmental impacts: (a) the project’s precise location and boundaries; (b) a clearly written statement of objectives sought by the proposed project; (c) a description of the project’s technical, economic, and environmental characteristics; and (d) a statement describing a list of agencies, permits, and approvals which the project expects to use.

The DEIR's Project description does not satisfy this requirement by failing to clearly include a statement describing a list of agencies, permits, and approvals which the Project expects to use. The DEIR's Project Description is confusing and uncertain as to the nature and variety of actions that will be taken for the Project. The description contains numerous possible and potential elements, leaving the reader to speculate as to exactly what will be undertaken. For this reason, too, the DEIR must be revised and recirculated.

A project description fails for not including sufficient detail when there is not enough information provided to accurately evaluate the project's environmental impacts. Here, the DEIR's project description is not accurate, stable, or finite, thus undermining much of the subsequent analysis in the DEIR. For example, though the Project description calls for 4,000 dwelling units, the DEIR does not adequately describe the non-residential uses which will be built, only speculating as to the ultimate development of the Plan Area. As the DEIR itself concedes throughout, the ambiguity and uncertainty regarding the final use of the areas covered by the Project undercuts the DEIR's analysis of the Project's environmental impacts.

An EIR must be "prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences." *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26. An EIR's description of the project should identify the project's main features and other information needed for an assessment of the project's environmental impacts. *Citizens for a Sustainable Treasure Island v City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1053. The DEIR does not meet CEQA's requirements for an adequate project description.

## **VII. DUE TO THE COVID-19 CRISIS, THE CITY MUST ADOPT A MANDATORY FINDING OF SIGNIFICANCE THAT THE PROJECT MAY CAUSE A SUBSTANTIAL ADVERSE EFFECT ON HUMAN BEINGS AND MITIGATE COVID-19 IMPACTS.**

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

Public health risks related to construction work require a mandatory finding of significance under CEQA. Construction work has been defined as a lower- to high-

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risk activity for COVID-19 spread by the Occupational Safety and Health Administration. Recently, several construction sites have been identified as sources of community-wide spreads of COVID-19.

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

In particular, and based upon its experience with safe construction site work practices, SWMSRCC recommends that the City require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site be limited to two controlled entry points.
- Entry points 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 be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

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Testing Procedures:

- The temperature screenings used are non-contact devices.
- Temperature readings are not to be recorded.

- Personnel be screened upon entering the testing center and should only take one to two 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 be refused access to the Project Site.
- Screenings be performed at both entrances from 5:30 am to 7:30 am at the main gate and personnel gate.
- After 7:30 am, only the main gate entrance continues 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 human resources 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.

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 City should require that all

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construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

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SWMSRCC 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.

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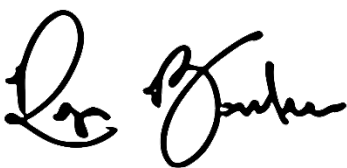
The ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance, and renovation of healthcare facilities. These protocols prevent cross-contamination, minimizing the risk of secondary infections in patients at hospital facilities. The City should require that the Project be built using a workforce trained in ICRA protocols.

## VIII. CONCLUSION

In light of the aforementioned concerns, SWMSRCC respectfully requests that the County: (1) require a local and skilled workforce for future developments subject to the Project; (2) prepare and circulate a revised DEIR prior to any approvals for the Project; and, (3) order Applicant to revise the Project to ensure its consistency with all applicable laws and regulations especially those addressing the Project's potential impacts on human and environmental health. Should the County have any questions or concerns, it should feel free to contact my Office.

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Sincerely,



Reza Bonachea Mohamadzadeh  
Attorney for Southwest Mountain  
States 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);

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Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B);  
Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

**Please see Appendix B for Exhibits**

***Southwest Mountain States Regional Council of Carpenters (SWMSRCC)***

*Response to SWMSRCC-1*

This comment includes a summary of the proposed project. It does not raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

*Response to SWMSRCC-2*

This comment introduces SWMSRCC and their interest in the proposed project.

The comment is noted. No further response is required.

*Response to SWMSRCC-3*

This comment states that SWMSRCC has the right to supplement these comments in the letter at multiple stages during the EIR review. The SWMSRCC incorporates by reference all comments related to the proposed project, its environmental review, and associated documents and reports.

This comment is noted. No further response is required.

*Response to SWMSRCC-4*

The commenters requests the County provide notice for any and all notices regarding or related to the project issued under CEQA.

This comment is noted. No further response is required.

*Response to SWMSRCC-5 through Response to SWMSRCC-8*

This comment states that the proposed project should be built using local workers who have graduated from a Joint Labor-Management Apprenticeship Program approved by the State of California. The comment includes a summary of benefits associated with hiring local workers, like reducing VMT and GHG emissions associated with commuting, promoting sustainable economic development, and improving an area's jobs-housing balance.

Employee training and workforce requirements are outside the purview of CEQA; however, this comment is noted and will be provided to the County decision-makers for their consideration. The comment does not address the adequacy of the Draft Program EIR, therefore no further response is needed.

*Response to SWMSRCC-9*

This comment merely includes an overview of CEQA and Environmental Impact Report preparation. The comment does not address the adequacy of the Draft Program EIR, therefore no further response is needed.

*Response to SWMSRCC-10*

This comment included a brief overview of Initial Studies, Negative Declarations, and Mitigated Negative Declarations.

This comment is wholly unrelated to the proposed project since a Draft Program EIR was prepared for the proposed project. No further response is needed.

*Response to SWMSRCC-11*

This comment discusses the circumstances under which CEQA requires the revision and recirculation of an EIR.

The comment does not address the adequacy of the Draft Program EIR. As demonstrated throughout this section, the commenter has not presented any significant new information that would require revision and recirculation of this Draft Program EIR. No further response is needed.

*Response to SWMSRCC-12*

This comment incorrectly states that the Draft Program EIR fails to impose all feasible mitigation measures to reduce project impacts related to air quality, health risks, GHG, and transportation impacts and fails to demonstrate consistency with the Southern California Association of Governments (SCAG) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

This comment is a summary of the subsequent comments, see responses below.

*Response to SWMSRCC-13*

This comment states that when new information shows that an impact previously discussed in the Draft Program EIR but found to be insignificant has the potential to be significant, the Draft Program EIR must consider and resolve this conflict by providing adequate explanation and supporting evidence. Furthermore, project-specific analysis must be considered when making a determination that impacts would be less than significant as a result of regulatory compliance.

This comment merely provides a general interpretation of CEQA and does not discuss the adequacy of the Draft Program EIR, thus no further response is required. For a discussion of the appropriate level of CEQA documentation for this project, please refer to Master Response 1–Program EIR.

*Response to SWMSRCC-14*

This comment states that the Draft Program EIR fails to fully disclose the extent of contamination within the Plan Area and the deferral of remediation methods is inconsistent with the law and the purposes of CEQA.

Please refer to Master Response 1—Program EIR for a discussion on program-level analysis and deferral of project-specific mitigation. As discussed in Master Response-1, the proposed Highway 74 Community Plan provides planning policies and programs that guide future development in the County, but does not approve or propose any specific development project. Accordingly, the Draft Program EIR prepared for the proposed Highway 74 Community Plan is a Program-level EIR. A Program EIR is not expected to analyze site-specific or project-specific environmental impacts nor provide the level of detail found in a project EIR. A Program EIR is appropriate to evaluate environmental effects “at a broad level,” so long as to the extent a subsequent project is not covered, additional environmental review occurs. Although the general location and type of development within Plan Area can be anticipated, until the County receives a development application, the exact location, type of development, and potential impacts are too speculative to be determined. Accordingly, within the context of Section 15146 of the State CEQA Guidelines, analysis of development of specific individual parcels is neither feasible nor required in the Draft Program

EIR. Thus, development is considered more broadly in the proposed Highway 74 Community Plan and Draft Program EIR.

Draft Program EIR, Section 3.9, Hazards and Hazardous Materials considers impacts related to hazards and hazardous materials. The Draft Program EIR identifies potential hazards within the Plan Area as well as within a 0.25-mile radius of the Plan Area boundaries (see Section 3.9, Hazards and Hazardous Materials, Tables 3.9-1 and 3.9-2). Future development would undergo project-specific analysis of potential impacts related to hazards and hazardous materials and would be required to mitigate any significant impacts, for example through remediation.

As indicated in the language of State CEQA Guidelines Section 15126.4(a)(1)(B), mitigation may be developed after project approval when it is infeasible to include such details during a project's environmental review. The use of a Program EIR allows for such a condition; the details of future discretionary projects envisioned in the proposed Community Plan would be subject to CEQA review at the time they are proposed, and appropriate mitigation would be developed based on such analysis. The Community Plan does not propose or approve any specific projects and, therefore, future project details are unknown at this time rendering it both impractical and infeasible to include project-level mitigation. (Master Response-1)

No further response is needed.

*Response to SWMSRCC-15*

This comment states that the Draft Program EIR's analysis of the proposed project's air quality impacts are flawed and unsupported.

As demonstrated below, the proposed project's air quality impacts are adequately analyzed at a program-level appropriate for the proposed project.

*Response to SWMSRCC-16*

This comment states that the Draft *Program* EIR's conclusion that the proposed project and/or future development would result in less than significant air quality impacts relies on unsubstantiated air emission modeling parameters and mitigation assumptions.

The comment begins by alleging – inaccurately – that the Draft Program EIR utilizes “unsubstantiated air emissions modeling parameters and incorrect mitigation assumptions to calculate the Project's potential air quality impacts” and that this results “in the under-reporting of potential air emissions and unsubstantiated conclusions that the Project and/or future developments will result in less than significant air quality impacts.” There are several issues with this allegation. First and foremost, the comment does not substantiate the alleged “unsubstantiated air emissions modeling parameters and incorrect mitigation assumptions,” much less demonstrate how these purported errors have resulted in under-reported air emissions or unsubstantiated determinations of significance. Second, the portion of the Draft Program EIR cited by the comment discusses why the proposed project would be inconsistent with the growth assumptions of the Air Quality Management Plan (AQMP), a matter that is unrelated to the comment's alleged modeling and mitigation deficiencies. The comment does not explain or demonstrate how this separate issue is relevant to its claims. Third, the Draft Program EIR concludes that the proposed project's impacts related to AQMP consistency,

regional air quality impacts related to construction emissions, regional air quality impacts related to operational emissions, localized emissions impacts, construction-related toxic air contaminants (TAC) impacts, and operational TAC impacts would all be potentially significant and unavoidable. Only impacts related to objectionable odors and carbon monoxide (CO) hotspots are concluded to result in less than significant impacts, and neither of these less than significant impacts were assessed using “air emissions modeling.” Therefore, these impact conclusions cannot be ascribed to the alleged “modeling deficiencies.” There is no connection between the proposed project’s air emissions modeling and these conclusions, which are based on considerations such as intersection traffic volumes for CO and existing General Plan policies for odors.

Next, the comment claims the Draft Program EIR “fails to provide any adequate discussion of potential mitigations” concerning its significant and unavoidable air quality and GHG impacts, and that the Draft Program EIR “defers discussion of air quality and greenhouse gas emissions to the future.” Regarding GHG impacts, the comment is incorrect: the Draft Program EIR does not find that the proposed project would result in significant and unavoidable GHG emissions. Rather, the Draft Program EIR finds that the proposed project would result in less than significant GHG emissions after the implementation of MM GHG-20a. Therefore, the Draft Program EIR is not required to adopt “all feasible mitigation measures to ameliorate this impact”—there would be no significant and unavoidable impact to begin with. Regarding air quality impacts, Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR’s air quality analysis and related mitigation measures.

Additionally, “the idea that future development within the Project area will comport with regulations and plans established by SCAQMD, SCAG, and other governmental organizations” is not speculative or unsubstantiated, as the comment insinuates. Future development within the proposed project’s area would be required to abide by the regulations of agencies and governmental organizations with the relevant authority as a matter of law. As such, it is speculative to assume that future development would unlawfully disregard applicable regulations. No further response is needed.

*Response to SWMSRCC-17*

The comment states that the Draft Program EIR’s conclusory statements are reliant on future compliance with the law rather than project-specific mitigation. As previously noted by the commenter, the determination that regulatory compliance is sufficient to ensure a less than significant impact must be based on project-specific analysis. Thus, the comment concludes that the Draft Program EIR’s mitigation measures are not sufficiently detailed.

See Master Response 1–Program EIR a discussion on program-level analysis and deferral of project-specific mitigation.

As explained in Response to SWMSRCC-16, it is neither speculative nor conclusory to assume that future development in the proposed project’s area would be compliant with the laws and regulations of agencies and other governmental organizations. Notwithstanding, it is unclear which air quality impacts the comment refers to. The comment does not identify any specific air quality impacts or explain why “compliance with regulatory requirements” would be insufficient to prevent

significant impacts. As noted in Response to SWMSRCC-16, only impacts related to objectionable odors and CO hotspots are concluded to result in less than significant impacts.

*Response to SWMSRCC-18*

This comment states that the Draft Program EIR fails to properly model GHG emissions and address feasible mitigation measures for the proposed project or future development.

The comment's claims are addressed in Response to SWMSRCC-19 through SWMSRCC-23.

*Response to SWMSRCC-19*

This comment summarizes CEQA Guidelines related to determining the significance of a project's GHG impact based on project compliance with local GHG plans and lists features that qualified GHG plans should include. The comment does not raise specific issues regarding the analysis in the Draft Program EIR.

This comment provides a general interpretation of CEQA and does not include any specific allegations regarding the proposed project, thus no further response is required.

The comment acknowledges that "CEQA Guidelines §15064.4 allow a lead agency to determine the significance of a project's GHG impact via a qualitative analysis (e.g., extent to which a project complies with regulations or requirements of state/regional/local GHG plans)." It also acknowledges that the "CEQA Guidelines allow lead agencies to select what model or methodology to estimate GHG emissions." The comment adds, "CEQA Guidelines sections 15064.4(b)(3) and 15183.5(b) allow a lead agency to consider a project's consistency with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions."

The comment's central claim that, "the DEIR's analysis of the Project's GHG emissions is not supported by substantial evidence" and "has failed to adequately evaluate the Project's GHG impacts," are addressed in Response to SWMSRCC-20 through SWMSRCC-23, below.

*Response to SWMSRCC-20*

The comment states that the Draft Program EIR fails to compare the proposed project's GHG emissions to a quantitative threshold. The commenter notes that the County, SCAQMD, Governor's Office of Planning and Research (OPR), ARB, the California Air Pollution Control Officers Association (CAPCOA) nor any other State or regional agency has adopted a numerical significance threshold for assessing GHG emissions that would be applicable to the proposed project. The comment states that the Draft Program EIR's quantitative GHG analysis is unreliable as it is based on an unsubstantiated air model and that several values included in the CalEEMod model are inconsistent with information disclosed in the Draft Program EIR. The commenter suggests an updated EIR which adequately assesses potential GHG impacts is required.

As described in the methodology section in Draft Program EIR Section 3.8, Greenhouse Gas Emissions, the Draft Program EIR's analysis was based on the most applicable SCAQMD guidelines and CalEEMod Version 2020.4.0 was used to estimate the proposed project's construction and operation-related air pollutant emissions. The CalEEMod model was developed in cooperation with air districts throughout the State and is designated as a uniform platform for government agencies,

land use planners, and environmental professionals to quantify potential criteria pollutant emissions associated with construction and operation from a variety of land uses.

The comment's first claim is that "the DEIR fails to compare the Project's estimated GHG emissions to any quantitative threshold and the County has not adopted a numerical significant threshold for assessing impacts related to GHG emissions." However, as noted in Response to SWMSRCC-19, the commentor acknowledges that CEQA Guidelines Section 15064.4 permits a lead agency to assess the significance of a project's GHG emissions using a qualitative analysis. Thus, this claim is in disagreement with the commentor's own demonstrated understanding of CEQA Guidelines Section 15064.4, which permits the Draft Program EIR's analytical approach.

The comment's next claims are the following: "(1) the DEIR's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model; (2) ARB's 2017 Scoping Plan, SCAG's 2016-2040 RTP/SCS, and the CAP should not be relied upon to determine Project significance; (3) the DEIR fails to apply a quantitative GHG threshold; and (4) the DEIR fails to identify a potentially significant GHG impact." These points are addressed below.

The comment alleges that "several of the values" noted within the proposed project's CalEEMod output files (contained in Appendix C to the Draft Program EIR) "are inconsistent with information disclosed in the Draft Program EIR and associated reports and documents," and that this results in the underestimation of the proposed project's GHG emissions. The comment does not identify any of the alleged errors or explain why the alleged errors have caused the proposed project's GHG emissions to be underestimated. Merely stating the data is incorrect is not sufficient to prove the data is incorrect. Therefore, the commenter did not provide substantial evidence and no further response is needed.

The remaining claims are addressed in Response to SWMSRCC-21 through SWMSRCC-23, below.

#### *Response to SWMSRCC-21*

This comment states that the Draft Program EIR's reliance on project's consistency with ARB's 2017 Scoping Plan, SCAG's 2016-2040 RTP/SCS, and the CAP to conclude the proposed project's GHG impact was less than significant is insufficient as the Draft Program EIR fails to demonstrate that these plans and policies are considered qualified GHG Reduction Plans.

The comment lists five features established by CEQA Guidelines Section 15183.5(b)(1), hereafter referred to as the Plan Elements. According to the comment, the Draft Program EIR fails to demonstrate that ARB's 2017 Scoping Plan, SCAG's 2016-2040 RTP/SCS, and the CAP embody the Plan Elements. Consequently, the comment claims that the Draft Program EIR's GHG significance determination should not be relied upon.

First, it is worth noting that the comment does not demonstrate why ARB's 2017 Scoping Plan, SCAG's 2016-2040 RTP/SCS, and the CAP fall short of achieving the Plan Elements, as it suggests. The comment fails to provide any evidence in this regard.

Second, the conformance of ARB's 2017 Scoping Plan and SCAG's 2016-2040 RTP/SCS with the Plan Elements is an irrelevant matter because the Draft Program EIR's analysis relies on consistency with

the CAP to determine significance. Consistency with SCAG’s 2020-2045 RTP/SCS (not the 2016-2040 RTP/SCS noted by the commentor) is briefly assessed for informational purposes. Consistency with ARB’s 2017 Scoping Plan is addressed to the extent that the CAP includes GHG reduction targets and strategies that are in line with the 2017 Scoping Plan’s GHG reduction targets. In this way, consistency with the CAP indicates a project’s consistency with the 2017 Scoping Plan—the two are intrinsically linked. But the Draft Program EIR does not assess the significance of the proposed project’s GHG impacts based on a direct comparison with the 2017 Scoping Plan, so the issue of whether the 2017 Scoping Plan embodies the Plan Elements is a moot point.

Draft Program EIR Section 3.8, Greenhouse Gas Emissions, subsection 3.8.4 “Thresholds of Significance” and the “Impact Analysis” under Draft Program EIR subsection 3.8.6 explain that consistency with the CAP forms the basis of the Draft Program EIR’s analysis:

“Given that the County of Riverside CAP is a qualified local GHG reduction plan, the proposed project will be analyzed for consistency with the CAP to analyze the potential project’s significance for GHG emissions.”

See also:

“The proposed project’s GHG emissions impact determination is based on the extent to which the project complies with regulations or requirements adopted to implement a Statewide, regional, or local plan for the reduction or mitigation of GHG emissions. The proposed project is located in the County of Riverside. As discussed earlier, the County of Riverside has developed a CAP that meets the description of mitigation found in State CEQA Guidelines Section 15130(a)(3) and Section 15183.5 and allows for streamlined CEQA compliance for new development projects.”

The Draft Program EIR explains that the CAP includes the “required components for a qualified GHG reduction plan.” It lists the following considerations that demonstrate the CAP’s qualification under the Section 15183.5 criteria:

- “Consistency with AB 32 reduction targets, including [new] SB 32 reduction targets.”
- “Include emission estimates agreed upon by the ARB or SCAQMD.”
- “Gone through CEQA review.”
- “Have an associated Final CEQA document.”
- “Include emission inventory tracking mechanisms.”
- “Include process to monitor progress toward reduction targets.”
- “Include a commitment to remedy excess GHG emissions (enforcement).”

As noted earlier, the comment does not provide evidence or any other explanation demonstrating the CAP’s alleged inconsistency with these criteria.

*Response to SWMSRCC-22*

The comment restates that, in relying on the project’s consistency with ARB’s 2017 Scoping Plan, SCAG’s 2016-2040 RTP/SCA, and the CAP, the Draft Program EIR fails to apply a quantitative threshold to evaluate the proposed project’s GHG emissions. The comment states that the Draft

Program EIR must be recirculated with GHG impact evaluation based on the Association of Environmental Professionals (AEP) “2030 Land Use Efficiency Threshold” of 2.6 MT CO<sub>2</sub>e per service population per year (MT CO<sub>2</sub>e/SP/year).

The issue of the Draft Program EIR’s alleged failure “to apply a quantitative GHG threshold to evaluate the Project’s emissions” is addressed in Response to SWMSRCC-20.

The comment asserts that “the Project must apply the AEP ‘2030 Land Use Efficiency Threshold’ of 2.6 metric tons of CO<sub>2</sub> equivalents per service population per year.” There is no such requirement. The Lead Agency has discretion in selecting the appropriate methodology for the proposed project and has elected to utilize an analysis that assesses the proposed project’s consistency with the CAP, an approach that is consistent with State CEQA Guidelines Sections 15130 and 15183.5.

*Response to SWMSRCC-23*

The comment states that, because the Draft Program EIR does not offer an estimate of the proposed project’s future residences and employees, the Draft Program EIR cannot make a determination of consistency with the AEP “2030 Land Use Efficiency Threshold” of 2.6 MT CO<sub>2</sub>e per service population per year. As noted previously, the commenter states that the proposed project must apply the AEP standard threshold rather than relying on consistency with ARB’s 2017 Scoping Plan, SCAG’s 2016-2040 RTP/SCS and the CAP. The comment states that the Draft Program EIR should be revised to include employee and residence estimates so that an adequate analysis of the project GHG emissions may be conducted using the aforementioned AEP threshold. The comment states that the Plan Area could accommodate 11,000 homes which equates to 35,200 individuals rather than 4,000 residential units with a maximum resident population of 12,800 as detailed in the Draft Program EIR. The commenter goes on to reason that, even without any employees and a population of 12,800, the proposed project would exceed AEP’s Land Use Efficiency Threshold by a large margin.

The “potentially significant GHG impact” identified by the comment relates to the comment’s speculative estimate of the proposed project’s “service population” and resultant “land use efficiency,” all based upon the AEP’s “2030 Land Use Efficiency Threshold.” As noted in the Response to SWMSRCC-22, the Lead Agency has discretion in selecting the appropriate methodology for the proposed project and has elected to utilize an analysis that assesses the proposed project’s consistency with the CAP, an approach that is consistent with CEQA Guidelines Sections 15130 and 15183.5. The AEP’s “2030 Land Use Efficiency Threshold” is not a threshold adopted for analysis of the proposed project’s GHG impacts by the Lead Agency, and the comment’s analysis is not substantial evidence that the proposed project would result in a significant GHG impact.

*Response to SWMSRCC-24*

The comment provides outlines and interprets CEQA Guidelines related to analysis of a project’s energy impacts. The comment asserts that compliance with the California Building Energy Efficiency Standard or Title 24 does not constitute an adequate analysis of energy.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR’s energy analysis.

The comment lists six considerations that it contends are requirements for analysis “[a]ccording to Appendix F of the CEQA Guidelines” (i.e., “an environmental document must consider and analyze. . . ” Underline added for emphasis). This is incorrect: the listed considerations are not requirements for analysis under Appendix F. They are advisory and “designed to assist in the preparation of an EIR.” The Lead Agency has discretion in selecting the appropriate methodology (i.e., the appropriate considerations) for assessment of the proposed project’s energy impacts.

Next, the comment suggests that the Draft Program EIR’s energy analysis is inadequate because it is based on “compliance with California Building Energy Efficiency Standards.” This shortchanges the Draft Program EIR’s analysis, which considers additional factors such as General Plan policies and CAP measures that would further implement and/or promote energy efficiency for future development projects that fall under the proposed project. For example:

“The reduction measures of the Riverside County CAP reinforce these State [Title 24] standards. The General Plan additionally includes energy conservation policies designed to reduce energy demand through improving energy efficiency of homes and businesses, facilitating residential and commercial renewable energy, and promoting recycling and water conservation efforts. For example, the General Plan’s Air Quality policies aim to adopt incentives and/or regulations to enact energy conservation requirements and encourage energy efficient design for private and public developments. The Air Quality policies also promote the increased densities, mixed use, electric vehicles, and improved circulation to reduce VMT and energy consumptions. The Land Use policies would encourage the development of renewable energy resources and related infrastructure. The proposed project also encourages urban greening, complete streets, improved public transit services and transportation circulation. Future development projects envisioned under the proposed project would be required to comply with stipulations originating from these General Plan and CAP policies. . . As such, compliance with the applicable General Plan and CAP policies would help avoid building energy consumption that would be considered wasteful, inefficient, or unnecessary.” Therefore, the Draft Program EIR appropriately analyzed energy impacts.

*Response to SWMSRCC-25*

The comment states that the Draft Program EIR fails to provide detailed information on energy saving practices and equipment to be utilized by the proposed project. Second, the Draft Program EIR fails to consider and create plans to implement renewable energy uses and feasible conservation efforts. Third, the Draft Program EIR’s conclusion that energy impacts related to operation-related fuel usage would be less than significant with mitigation is unsupported because the Draft Program EIR compares the proposed project to similar developments rather than analyzing the proposed project itself. Thus, the commenter states that the Draft Program EIR must be recirculated to address these points.

Master Response 1 addresses the adequacy and appropriateness of the Draft Program EIR’s program-level energy analysis.

Additionally, the comment's understanding of the Draft Program EIR and its conclusions is incorrect. The comment states, "[t]he DEIR concludes that, with respect to operation-related fuel usage, energy impacts would be less than significant with mitigation measures." This is false: the Draft Program EIR concludes that all energy-related impacts, including those with respect to operation-related fuel usage, would be less than significant without mitigation.

*Response to SWMSRCC-26*

This comment argues that the Draft Program EIR relies solely on current regulations to justify less than significant findings rather than conducting project-specific analysis, which is insufficient under CEQA Guidelines.

As discussed in Master Response 1, compliance with established regulatory requirements and standards, such as those in a Code of Ordinances, is a legitimate basis for determining that the project will not have a significant environmental impact. (*Tracy First v City of Tracy* (2009) 177 CA4th 912.) A requirement that a project comply with specific laws or regulations may also serve as adequate mitigation of environmental impacts if compliance with such standards can be reasonably expected (State CEQA Guidelines § 15126.4(a)(1)(B)). "[A] condition requiring compliance with regulations is a common and reasonable mitigation measure and may be proper where it is reasonable to expect compliance." (*Oakland Heritage Alliance v City of Oakland* (2011) 195 CA4th 884, 906.) For example, in *Oakland Heritage Alliance*, 195 CA4th at page 906, the court upheld the city's reliance on standards in the building code and city building ordinances to mitigate seismic impacts.

*Response to SWMSRCC-27*

The commenter asserts that the Draft Program EIR underestimates the worker and resident trips for the project site and that the Draft Program EIR must demonstrate a 15 percent or more reduction to VMT below existing conditions at the project site to demonstrate a less than significant impact.

Similar to many prior comments, this assertion that the Draft Program EIR underestimated resident and work trips is conclusory without any supporting evidence. The VMT analysis is prepared using the County's travel demand forecasting modeling (RIVTAM) which is the appropriate tool for conducting VMT modeling according to Riverside County Transportation Analysis Guidelines. As described in the County Guidelines, VMT significance thresholds are based on land use type, which for purposes of the analysis are separated into efficiency or net change metrics. Thresholds of significance based on the adopted County Guidelines are provided in Draft Program EIR, Section 3.18, Transportation and Traffic, Table 3.18-2.

Efficiency metrics include either VMT per capita (residential based VMT) and VMT per-employee (employee based VMT). "Net Change" refers to the net change in regional VMT. Net change is used for elements that include a significant customer base such as retail uses. The County adopted thresholds of significance that evaluate the project-generated VMT and the proposed project's effect on VMT in the baseline and cumulative conditions. The proposed project would exceed the County's adopted threshold under Existing Plus Project Scenarios and would reduce VMT per capita as compared to the Cumulative No Project scenario. Future implementing projects would be required to implement MM TRANS-1 through MM TRANS-5 to reduce VMT impact. The impact thresholds and

analysis are therefore in accordance with County Guidelines and fully substantiated, contrary to the commenter's assertion.

*Response to SWMSRCC-28*

The comment asserts that a revised Draft Program EIR is necessary to provide project-specific analyses with regards to project impacts related to energy, air quality, GHG emissions, transportation, and biological resources.

As demonstrated above, the proposed project adequately analyzed impacts related to energy, air quality, GHG emissions, transportation, and biological resources at a level appropriate for the proposed project. No further analysis is needed.

*Response to SWMSRCC-29*

This comment provides a summary and interpretation of CEQA related to the purpose and possible implementation of project alternatives. This comment lacks any substantive detail and does not raise any specific project-related environmental issues under CEQA as it relates to the EIR's alternatives analysis and therefore no further response is needed.

*Response to SWMSRCC-30*

This comment states that the Draft Program EIR defers critical details of mitigation measures, which must be set forth in an EIR and cannot be deferred until after the certification of an EIR approval.

As discussed in Master Response-1, the Draft Program EIR is programmatic in nature and does not evaluate every future implementing development project. The policies and programs in the proposed Highway 74 Community Plan provide prescriptive measures that inform how future projects will address potential impacts as individual development applications are submitted within the Community Plan. Future discretionary projects would be evaluated under CEQA, as applicable, and project-specific mitigation measures would be prescribed, as necessary. Identifying project-specific mitigation at the time development projects are proposed is practical and is not deferral.

Section 15126.4 of the State CEQA Guidelines states the following: Formulation of mitigation measures shall not be deferred until some future time. 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.

As indicated in the language of State CEQA Guidelines Section 15126.4(a)(1)(B), mitigation may be developed after project approval when it is infeasible to include such details during a project's environmental review. The use of a Program EIR allows for such a condition; the details of future discretionary projects envisioned in the proposed Community Plan would be subject to CEQA review at the time they are proposed, and appropriate mitigation would be developed based on such analysis. The Community Plan does not propose or approve any specific projects and, therefore, future project details are unknown at this time rendering it both impractical and infeasible to include project-level mitigation.

No further analysis is required.

*Response to SWMSRCC-31*

This comment provides summary and interpretation of CEQA Guidelines related to the adoption and deferral of mitigation measures. This comment does not address the adequacy of the Draft Program EIR, no response is needed.

*Response to SWMSRCC-32*

The comment states that several mitigation measures in the Draft Program EIR are vague and defer critical details.

See Response to SWMSRCC-30.

*Response to SWMSRCC-33*

This comment provides a summary and interpretation of CEQA Guidelines related to the formulation of mitigation measures. This comment does not address the adequacy of the Draft Program EIR, no response is needed.

*Response to SWMSRCC-34*

This comment asserts that the mitigation measures included to reduce impacts to biological resources fail to include specific performance standards and provides definitions of a Biologist as defined by various agencies and organizations to be added to the mitigation to avoid deferred development of MM BIO-7(b).

Contrary to the commenter's assertion, MM BIO-7(b) details the performance standards to be achieved by the mitigation. MM BIO-7 (b) requires the applicant of development plans that are listed but not covered by the MSHCP or SKR HCP to employ a qualified Biologist approved by the County to prepare a biological study, and specifies the applicable regulations the biological study must comply with, the types of biological resources to evaluate, the thresholds to be evaluated against, and to document the findings. The commenter lists out various definitions of what constitutes a "biologist" but has not demonstrated how the proposed MM BIO-7(b) lacked performance standards that would cause a mitigation deferral.

*Response to SWMSRCC-35*

This comment recommends all mitigation measures related to biological resources in the Draft Program EIR be revised to include the undefined performance standards in Comment SWMSRCC-34. See Response to SWMSRCC-34, no further response is needed.

*Response to SWMSRCC-36*

This comment offers background on California State Planning and Zoning Law and states that a project cannot be found consistent with a general plan if it is found to conflict with a general plan policy. This comment does *not* raise any specific project-related environmental issues under CEQA and therefore no further response is needed.

*Response to SWMSRCC-37*

This comment states that the Draft Program EIR is inconsistent with the County's General Plan and must be amended to analyze the proposed project's conformity with the General Plan Goals, Policies, and Programs.

The commenter's assertion that the proposed project is inconsistent with the General Plan is conclusory. The proposed project's consistency with the General Plan is discussed in Draft Program EIR Section 3.11, Land Use and Planning. The proposed project includes policies, land use designations, and design guidelines that preserve and protect the environment and that are anticipated to result in improvements in land use planning, improved connectivity, and reduced environmental impacts. Therefore, the proposed project would improve land use planning in the area and would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No further response is needed.

*Response to SWMSRCC-38 and Response to SWMSRCC-39*

This comment asserts that Draft Program EIR must be revised to include all the agencies, organizations, and individuals consulted in the creation of the Draft Program EIR to be in compliance with CEQA, and cites Public Resources Section 21104 and CEQA Guidelines Section 15129. For the commenter's benefit, Public Resources Section 21104 only applies to State agencies and is therefore not applicable to the County of Riverside. In accordance with CEQA Guidelines Section 15129, Draft Program EIR Section 7, List of Preparers, shows the agency and organizations consulted during the preparation of the Draft Program EIR. No further response is necessary.

*Response to SWMSRCC-40*

This comment discusses what qualifies as a project description under CEQA Guidelines Section 15124. The commenter suggests that the project description does not include a statement describing the list of agencies, permits, and approvals anticipated to apply to the proposed project. Furthermore, the comment states that the project description lacks sufficient detail to adequately describe the final use of the areas covered by the proposed project. The comment states, therefore, that the Draft Program EIR must be revised and recirculated.

Refer to Master Response 1 – Program EIR a discussion on program-level analysis. The Draft Program EIR includes a description of the determination of the Lead Agency in Chapter 1, Introduction, Section 1.1.3, Lead Agency Determination. The Draft Program EIR does, in fact, include a statement describing the list of approvals and permits in Draft Program EIR, Chapter 2, Project Description, Section 2.5.1, Discretionary and Ministerial Actions. "Discretionary approvals and permits are required by the County for implementation of the proposed project. The proposed project would require the following discretionary approvals and actions, including: certification of the Draft Program EIR, adoption of GPA No. 1205, Highway 74 Community Plan."

Meanwhile, Draft Program EIR, Chapter 2, Project Description, Section 2.3.1, Project Summary, describes the General Plan Amendment as follows: "The proposed project includes a General Plan Amendment (GPA No. 1205) to guide light industrial, business park, public facilities, rural, open space, and recreation areas. Existing land use designations would be updated as part of the proposed project, which would alter the General Plan Foundations primarily from the Rural and Rural Community Foundations to Community Development and corresponding land use designations. The proposed project would also alter other land use designations within their current Foundation Component and provide guiding policies that support the modification of the planning

area’s structure.” This offers more detail to the project description and, thus, the Draft Program EIR contains sufficient detail.

*Response to SWMSRCC-41*

This comment states that the public health risk of spreading COVID-19 at construction sites should qualify as a mandatory finding of significance under CEQA.

COVID-19 safety protocols are established in local, State, and federal requirements that are mandatory for California employers. For example, COVID-19 safety compliance in the workplace is regulated by the United States Department of Labor and standards and directives are set by the Occupational Safety and Health Administration (OSHA).<sup>2</sup> Construction contractors would adhere to local, State, and federal agencies’ health and safety requirements including the Centers for Disease Control and Prevention (CDC), and the California Division of Occupational Safety and Health (Cal/OSHA). Cal/OSHA’s Safety and Health Guidance COVID-19 Infection Prevention in Construction (Cal/OSHA Guidance), dated October 27, 2020, requires California employers to establish and implement an Injury and Illness Prevention Program (IIPP) to protect construction employees from all worksite hazards, including infectious diseases. The Cal/OSHA Guidance contains information for construction employers on ways to update their IIPPs to include information on employee training, industry guidance, California Department of Public Health guidelines, government programs, Families First Coronavirus Response Act, Governor’s Executive Order M-62-20, and measures to prevent the spread of COVID-19. The comment does not, however, provide substantial evidence that COVID-19 is a significant adverse impact on the environment within the purview of CEQA and therefore does not necessitate a mandatory finding of significance. Furthermore, the County is the Lead Agency for the proposed project and has discretionary authority over the proposed project and project approvals, not the City as the commenter indicates. Therefore, no further response is required.

*Response to SWMSRCC-42*

This comment states that the City should adopt mitigation measures to mitigate public health risks and require safe construction work practices and training/certification for construction workers during the construction at the project site. Employee training and workforce requirements are outside the purview of CEQA. Construction contractors would adhere to local, State, and federal agencies’ health and safety requirements including the CDC and Cal/OSHA. Furthermore, the County is the Lead Agency for the proposed project and has discretionary authority over the proposed project and project approvals, not the City as the commenter indicates. Therefore, no further response is required.

*Response to SWMSRCC-43*

This comment recommends the City should require COVID-19 training for all construction workers conducting construction activities at the project site.

Employee training and workforce requirements are outside the purview of CEQA. As noted previously, COVID-19 safety protocols are established in local, State, and federal requirements that are mandatory for California employers. Construction contractors would adhere to local, State, and

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<sup>2</sup> United States Department of Labor. 2021. Regulations. Website: <https://www.osha.gov/coronavirus/standards>. Accessed June 20, 2023.

federal agencies' health and safety requirements including the CDC and Cal/OSHA. Cal/OSHA requires California employers to establish and implement an IIPP to protect construction employees from all worksite hazards, including infectious diseases. The comment does not, however, provide substantial evidence that COVID-19 is a significant adverse impact on the environment within the purview of CEQA and therefore does not necessitate a mandatory finding of significance. Furthermore, the County is the Lead Agency for the proposed project and has discretionary authority over the proposed project and project approvals, not the City as the commenter indicates. Therefore, no further response is required.

*Response to SWMSRCC-44*

This comment introduces the SWMSRCC's Infection Control Risk Assessment training program and states that the City should require that the proposed project utilize a workforce trained in this program.

Employee training and workforce requirements are outside the purview of CEQA. Construction contractors would adhere to local, State, and federal agencies' health and safety requirements including the CDC and Cal/OSHA. Furthermore, the County is the Lead Agency for the proposed project and has discretionary authority over the proposed project and project approvals, not the City as the commenter indicates. Therefore, no further response is required.

*Response to SWMSRCC-45*

The comment provides a conclusory statement and restates that future development should require a local and skilled workforce, a revised EIR should be prepared, and that the applicant should revise the proposed project to be consistent with all applicable laws and regulations. Each of these points have been adequately addressed in responses to preceding SWMSRCC comments. No further response is required.

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## SECTION 4: ERRATA

The following are revisions to the Draft Program EIR for the Highway 74 Community Plan Project. These revisions are minor refinements and revisions to the document that merely amplify and clarify the analysis herein, and do not change the significance of any of the environmental issue conclusions within the Draft Program EIR or otherwise require recirculation of the EIR. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

### 4.1 - Changes in Response to Specific Comments

#### Executive Summary

##### Page ES-3

The following typo has been corrected in Objective 4. This minor correction does not represent a substantial change in the Draft EIR.

To advance the underlying purpose, the project objectives are as follows:

1. Accommodate the development of a balance of land uses that maintain and enhance Riverside County's fiscal viability, economic diversity, and environmental integrity.
2. Update policies to be consistent with current legal requirements and legislation.
3. Encourage consolidation of parcels to promote better land use development and project design and maximize density of residential, commercial, and industrial uses.
4. Facilitate access from Highway 74 to residential, commercial, and industrial sites. Where ~~where~~ feasible, the development of frontage/service roads should be encouraged to increase.
5. Support economic vitality by maximizing the availability of a wide variety of employment opportunities within the planning area.
6. Provide live-work spaces within the MUAs where appropriate.
7. Promote livable and resilient neighborhoods that provide housing, goods and services, open space, and multi-modal transportation options within proximity to each other and that reduce reliance on the automobile.
8. Promote healthy neighborhoods that incorporate best practices related to land use, mobility, air quality, housing, affordability, safety, environmental justice, community services, and design. Encourage complete streets, which include sidewalks, greenbelts, and trails to facilitate use by pedestrians and bicyclists where such facilities are well separated from parallel or cross through traffic to ensure pedestrian and cyclist safety.

**Page ES-21–ES-24**

The following edits are to further clarify the mitigation measures related to Biological Resources. This minor correction does not change any conclusions made in the Draft Program EIR, Section 3.4, Biological Resources.

<p><b>Impact BIO-7(a):</b> The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or State conservation plan.</p>	<p>Compliance with MM BIO-7(a)</p> <p><b>MM BIO-7(a): MSHCP and SKR HCP Compliance</b></p> <p>All future implementing projects within the planning area would include payment <u>of the Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP) Mitigation Fee and preparation of a Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis report that would be submitted to the County to document each individual future implementing project's consistency with the goals, objectives, and requirements of the MSHCP. Additional surveys, studies, permitting, agency coordination, and/or reporting measures may be required for the project to maintain consistency with the MSHCP. Any such additional measures would be identified in the MSHCP Consistency Analysis report prepared for each project. The project applicant for all development projects proposed within the planning area would coordinate with the County and the Western Riverside County Regional Conservation Authority (RCA) to submit all applicable forms, fees, and/or technical reports detailing any desktop analyses and/or biological field studies or surveys. Conditions that may apply to future development within the planning area include the following:</u></p> <ul style="list-style-type: none"> <li>• The completion of any required MSHCP wildlife and plant protocol surveys, including, <u>as needed, vegetation mapping, mapping of Riparian/Riverine Areas, mapping of vernal pools, fairy shrimp surveys, riparian birds bird surveys, Narrow Endemic Plant Species surveys, Criteria Area plant species surveys, amphibian species surveys, and burrowing owl surveys, and mammal species surveys.</u></li> </ul>	<p>Less than significant impact.</p>	<p>County and RCA review.</p>
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	<ul style="list-style-type: none"> <li>• Evaluation of project impacts to Conservation Areas, Covered Roads, Covered Public Access Activities, Public Quasi-Public Lands, and Riparian/Riverine Areas.</li> <li>• The preparation of Determination of Biologically Equivalent or Superior Preservation (DBESP), a mitigation plan required for any impacts to MSHCP resources such as Riparian/Riverine habitat, etc., if triggered by the proposed project.</li> <li>• Participation in the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) process to determine conservation requirements if the development project occurs within a Criteria Cell.</li> <li>• Implementation of Guidelines Pertaining to the Urban/Wildlands Interface for projects located in or adjacent to Conservation Areas.</li> <li>• <del>The completion</del> <u>Implementation of</u> any <del>required</del> <u>applicable</u> mitigation and Best Management Practice (BMPs) to offset impacts to any MSHCP-protected resources.</li> </ul>		
<p><b>Impact BIO-7(b):</b> The project could have a substantial adverse effect, either directly or through habitat modifications, on any endangered, or threatened species, as listed in Title 14 of the California Code of Regulations (Sections 670.2 or 670.5) or in Title 50, Code of Federal Regulations (Sections 17.11 or 17.12) with implementation of mitigation.</p>	<p><b>MM BIO-7(b): Completion of a Biological Study</b> For all future development plans within the planning area that could contain <u>special-status</u> species that are <del>listed</del> <del>but</del> not covered by the Multiple Species Habitat Conservation Plan (MSHCP) or Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP), or habitat conducive to hosting such species, <u>inclusive of foraging, breeding, or dispersal habitats for wildlife</u>, the project applicant shall employ a qualified Biologist approved by the County to prepare a Biological Study to evaluate potential impacts to sensitive biological resources regulated by the United States Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), or other local, regional plans or policies that may result from the development of the specific project. The qualified Biologist shall conduct, at a minimum, a site-specific literature review, which shall</p>	Less than significant impact.	County review of biological study

	<p>consider the future development project, site location, Geographic Information System (GIS) information and known sensitive biological resources. <u>The qualified Biologist shall, if the project site has potential to support habitat for special-status species or other species protected by federal, State, or local laws or policies, conduct a site visit as part of project review.</u> The review shall assess the site for State or federally listed plants and/or wildlife <u>or other special-status species</u>, aquatic resources, <u>riparian or sensitive natural communities, wildlife movement corridors, <del>or</del> nurseries, or potential nesting or roosting sites,</u> or other regulated biological resources covered by the Endangered Species Act, or California Endangered Species Act (CESA) that could be affected by the proposed project. In some cases, such as a project site that is previously completely developed <u>and contains no potential habitat for protected species</u>, a literature review would be sufficient for the Biologist to make a no impact and/or a less than significant impact determination for all six of the thresholds of significance for biological resources. In other cases, such as project sites that are all or partially undeveloped <u>or contain features that could provide soil substrates for special-status plants or foraging, breeding, nesting, roosting, or dispersal habitats for special-status wildlife</u>, a site survey may be needed to assess the biological conditions on-site.</p> <p>The qualified Biologist employed by each project applicant shall assess potential project impacts to non-listed, non-covered, <u>special-status</u> species, identify threshold of significance with a significance conclusion, and document the findings in a report. Additionally, future implementing projects may be required to incorporate additional mitigation depending on results of such future biological studies.</p>		
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Page ES-24

<p><b>Impact BIO-7(d):</b> The project could interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</p>	<p>Implement <b>MM BIO-7(b)</b> and <b>MM BIO-7(c)</b></p> <p><b>MM BIO-7(c):</b> Protection of Nesting Birds For all future development plans within the planning area that contain habitats or features that could provide nesting habitat for bird species protected under the Migratory Bird Treaty Act (MBTA) and Fish and Game Code, the following measures shall apply:</p> <ol style="list-style-type: none"> <li>1. Removal of native vegetation shall be limited to only those necessary to construct a proposed future project as reflected in the relevant project approval documents.</li> <li>2. <u>To the extent possible, vegetation shall be removed outside of the avian nesting season, or from October 1 through January 31.</u></li> <li>3. If a proposed future project requires vegetation to be removed during the nesting season, <u>or between February 1 and September 30</u>, pre-construction surveys shall be conducted 7 days prior to tree removal to determine whether or not active nests are present.</li> <li>4. If an active nest is located during a preconstruction survey, a qualified Biologist shall determine an appropriately sized avoidance buffer based on the species and anticipated disturbance level. A qualified Biologist shall delineate the avoidance buffer using Environmentally Sensitive Area (ESA) fencing, pin flags, and or yellow caution tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently.</li> </ol>	<p>Less than significant impact.</p>	<p><b>MM BIO-7(b):</b> County review of biological study</p> <p><b>MM BIO-7(c):</b> County review of project documents</p>
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	<p>No construction activities or construction foot traffic is allowed to occur within the avoidance buffer(s).</p> <p><u>5.</u> The qualified Biologist shall monitor the active nest during construction activities to prevent any potential impacts that may result from the construction of the proposed project until the young have fledged.</p>		
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**Page ES-25–ES-26**

<p><b>Impact BIO-7(f):</b> The project would not have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.</p>	<p>Implement <b>MM BIO-7(d)</b> and <b>MM BIO-7(e)</b> <b>MM BIO-7(d): Determination of the Extent of Impacts to Jurisdictional Waters and Wetlands</b></p> <p>Any proposed development within the planning area that could impact any potentially jurisdictional waters or wetlands shall prepare a separate jurisdictional delineation report to establish the jurisdictional limits of any potentially regulated waters/wetlands.</p> <p><b>MM BIO-7(e): Apply for Permits from Regulatory Agencies</b></p> <p>Any project proponent that proposes impacts to jurisdictional waters or wetlands within the planning area shall consult with the California Department of Fish and Wildlife (CDFW) regarding a Section 1602 Streambed Alteration Agreement Permit, the United States Army Corps of Engineers (USACE) regarding a Clean Water Act (CWA) Section 404 Permit, and the Regional Water Quality Control Board (RWQCB) regarding a CWA Section 401 Certification. <u>Any project proponent that proposes take of federal or State listed or candidate species that are not</u></p>	<p>Less than significant impact.</p>	<p><b>MM BIO-7(d):</b> Prior to project approval, County review of jurisdictional delineation report</p> <p><b>MM BIO-7(e):</b> Prior to project construction, County verification that all permits have been obtained</p>
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	covered under the Multiple Species Habitat Conservation Plan (MSHCP) shall consult with the CDFW and/or the United States Fish and Wildlife Service (USFWS), as applicable, regarding an Incidental Take Permit pursuant to Section 2081 of the California Endangered Species Act (CESA) or Sections 7 or 10 of the federal Endangered Species Act. The project applicant shall be required to obtain these permits as a condition of approval and prior to the issuance of any grading, construction or building permits from the County and prior to the commencement of any grading or construction activities. The project applicant shall implement the mitigation measures as prescribed in the permits.		
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The table is revised to accurately reflect the level of impacts as discussed in the Draft Program EIR, Section 3.5, Cultural Resources. This minor correction does not change any conclusions made in Section 3.5.

Impacts	Mitigation Measures	Level of Significance After Mitigation	Monitoring
<b>Section 3.5—Cultural and Tribal Cultural Resources</b>			
<b>Impact CUL-8(a):</b> The project <del>could</del> <u>would not</u> alter or destroy a historic site.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact CUL-8(b):</b> The project <del>could</del> <u>would not</u> cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact CUL-9(a):</b> The project <del>could</del> <u>would not</u> alter or destroy an archaeological site.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact CUL-9(b):</b> The project <del>could</del> <u>would not</u> cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact CUL-9(c):</b> The project <del>could</del> <u>would not</u> disturb any human remains, including those interred outside of formal cemeteries.	No mitigation measures are required.	Less than significant impact.	None.

**Page ES-31**

The table is revised to add the correct mitigation measures as discussed in Section 3.8, Greenhouse Gas Emissions. This minor correction does not change any conclusions made in Section 3.8.

Impacts	Mitigation Measures	Level of Significance After Mitigation	Monitoring
<b>Section 3.8—Greenhouse Gas Emissions</b>			
<b>Impact GHG-20a:</b> The project <del>would not</del> <u>could</u> generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	<del>No mitigation measures are required.</del> <b>MM GHG-20a:</b> Prior to issuance of building permits, the project applicant/developers shall prepare and submit documentation to the County of Riverside that demonstrates that proposed development projects in the planning area that are determined to generate 3000 metric tons (MT) of carbon dioxide equivalent (CO <sub>2</sub> e) or more per year, and which are not exempt from CEQA, shall achieve a score of 100 points or greater through the implementation of measures included in the County of Riverside Climate Action Plan (CAP) Screening Tables, or shall otherwise mitigate significant GHG emissions per County of Riverside-approved methodologies included in the CAP. The project applicant shall prepare documentation consistent with the Screening Tables or other County of Riverside CAP requirements applicable at the time of submittal. This measure shall be enforced as a condition of approval implemented by the County of Riverside.	Less than significant impact.	None.
<b>Impact GHG-20b:</b> The project <del>would not</del> <u>could</u> conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.	<del>No mitigation measures are required.</del> <u>Implement MM GHG-20a.</u>	Less than significant impact.	None.

**Page ES-42**

The table is revised to reflect the correct level of significance in Impact HAZ-21d.

<b>Section 3.9—Hazards and Hazardous Materials</b>			
<b>Impact HAZ-21a:</b> The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials with implementation of mitigation.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact HAZ-21b:</b> The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact HAZ-21c:</b> The project would not impair implementation of or physically interfere with an adopted emergency response plan or an emergency evacuation plan.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact HAZ-21d:</b> The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter (1/4) mile of an existing or proposed school.	No mitigation measures are required.	<del>Less than significant impact.</del> <u>No impact.</u>	None.

**Page ES-42**

The table is revised to reflect the correct mitigation measure numbers.

<b>Section 3.18—Transportation and Traffic</b>			
<b>Impact TRANS-37a:</b> The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.	No mitigation measures are required.	Less than significant impact.	None.

<p><b>Impact TRANS-37b:</b> The project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).</p>	<p><b><del>MM TRANS-1</del> TRANS-37b-1:</b> Future implementing projects shall provide more options for shorter trips by locating residential uses within walking distance to retail, office, and service- oriented uses.</p> <p><b><del>MM TRANS-2</del> TRANS-37b-2:</b> Future implementing projects shall provide pedestrian and bicycle network improvements within the development connecting complementary uses (i.e., residential, employment and retail) internally and to existing off-site facilities.</p> <p><b><del>MM TRANS-3</del> TRANS-37b-3:</b> Where applicable, future implementing projects shall ensure that design of key intersections and roadways encourage the use of walking, biking and transit.</p> <p><b><del>MM TRANS-4</del> TRANS-37b-4:</b> Future implementing projects shall collaborate with the Riverside Transit Authority (RTA) to determine the feasibility of providing new or re-route existing transit services to the Project.</p>	<p>Significant and unavoidable.</p>	<p><b><del>MM TRANS-1</del> TRANS-37b-1 through <del>5</del> -37b-5:</b> County to review applicable trip reduction options on a project by project basis</p>
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## Page ES-43

Impacts	Mitigation Measures	Level of Significance After Mitigation	Monitoring
	<p><b><del>MM TRANS-5</del> TRANS-37b-5:</b> In addition, the following TDM strategies may be applicable at the implementing project-level:</p> <ul style="list-style-type: none"> <li>● Reduce Parking Supply for Retail Uses</li> <li>● Transit Rerouting and Transit Stops</li> <li>● Implementation of Local Shuttle Service</li> <li>● Mandatory Travel Behavior Change Program, Promotions and Marketing</li> <li>● Promotions and Marketing</li> </ul>		

Impacts	Mitigation Measures	Level of Significance After Mitigation	Monitoring
	<ul style="list-style-type: none"> <li>• Emergency Ride Home (ERH) Program</li> <li>• School Carpool Program</li> <li>• Bike Share</li> <li>• Implement/Improve On-street Bicycle Facility</li> <li>• Traffic Calming Improvements</li> <li>• Pedestrian Network Improvements</li> </ul>		
<b>Impact TRANS-37c:</b> The project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) with implementation of mitigation.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact TRANS-37d:</b> The project would not cause an effect upon, or a need for new or altered maintenance of roads.	No mitigation measures are required.	Less than significant impact.	None.
<b>Impact TRANS-37e:</b> The project would not cause an effect upon circulation during the project's construction with implementation of mitigation.	<b>MM TRANS-6 TRANS-37e:</b> Prior to commencement of construction, the project applicant of future implementing projects shall prepare a traffic management plan that will specify traffic controls required to maintain adequate circulation and access along Highway 74. At least one lane shall remain open in each direction during construction and access to all existing businesses shall be maintained.	Less than significant impact.	<b>MM TRANS-6 TRANS-37e:</b> Prior to commencement of construction, County to review and approve construction management plan.

**Page ES-44**

Impacts	Mitigation Measures	Level of Significance After Mitigation	Monitoring
<b>Impact TRANS-37f:</b> The project would not result in inadequate emergency access or access to nearby uses.	Implement <del>MM TRANS-6</del> <u>TRANS-37e</u>	Less than significant impact.	<del>MM TRANS-6</del> <u>TRANS-37e:</u> At the time of planning application submittal, County to review and approve construction management plan
<b>Impact TRANS-38(a):</b> The proposed project would not include the construction or expansion of a bike system or bike lanes.	No mitigation measures are required.	No impact.	None.

**Section 2.3.3 Community Plan Policies****Page 2-11****Neighborhood 2 Policies**

- N 2.1** Developments should support the neighborhood's emerging identity.
- N 2.2** Encourage complete streets, which include sidewalks, greenbelts, and trails to facilitate use by pedestrians and bicyclists where such facilities are well separated from parallel or cross through traffic to ensure pedestrian and cyclist safety.
- N 2.3** Work on preserving outstanding scenic vistas and features and encourage underground placement of electric or communication distribution lines.
- N 2.4** Implementing projects within the boundaries of the Colinas Del Oro (SP364) specific plan may propose a General Plan Amendment that will change any of the existing land use designations to any of the other designations in the Community Development Foundation, including the Light Industrial ("LI") land use designation. Implementing projects will require separate applications and project specific environmental review.

**Section 2.4—Project Objectives****Page 2-15**

The following typo has been corrected in Objective 4. This minor correction does not represent a substantial change in the Draft EIR.

To advance the underlying purpose, the project objectives are as follows:

1. Accommodate the development of a balance of land uses that maintain and enhance Riverside County's fiscal viability, economic diversity, and environmental integrity.
2. Update policies to be consistent with current legal requirements and legislation.
3. Encourage consolidation of parcels to promote better land use development and project design and maximize density of residential, commercial, and industrial uses.
4. Facilitate access from Highway 74 to residential, commercial, and industrial sites. Where ~~where~~ feasible, the development of frontage/service roads should be encouraged to increase.
5. Support economic vitality by maximizing the availability of a wide variety of employment opportunities within the planning area.
6. Provide live-work spaces within the MUAs where appropriate.
7. Promote livable and resilient neighborhoods that provide housing, goods and services, open space, and multi-modal transportation options within proximity to each other and that reduce reliance on the automobile.
8. Promote healthy neighborhoods that incorporate best practices related to land use, mobility, air quality, housing, affordability, safety, environmental justice, community services, and design. Encourage complete streets, which include sidewalks, greenbelts, and trails to facilitate use by pedestrians and bicyclists where such facilities are well separated from parallel or cross through traffic to ensure pedestrian and cyclist safety.

### Section 3.3—Air Quality

#### Page 3.3-56

These existing mitigation measures would serve to reduce the potential air quality impacts from future project operations to sensitive receptors.

All future implementing projects must also comply with all applicable General Plan mitigation measures. This includes General Plan EIR Mitigation Measure 4.6.D-N2 which provides siting requirements for various land uses including residential uses. If the minimum siting distance cannot be met, then there must be project-specific evaluation of human health risks that defines, quantifies, and reduces the potential incremental health risks through site design or the implementation of additional reduction measures to levels below applicable standards to ensure health risk impacts to future residents are less than significant.

### Section 3.4—Biological Resources

#### Page 3.4-6

- OS 6.1** During the development review process, ensure compliance with the Clean Water Act's Section 404 in terms of wetlands mitigation policies and policies concerning fill material in jurisdictional wetlands.

Additionally, each project within Riverside County is required to comply with mitigation measures contained in the Riverside County General Plan EIR that apply

to protection of biological resources. General Plan EIR Mitigation Measures 4.8.A-N2 and 4.8.B-N1 require that a biological resources assessment be performed by a Riverside County-approved Biologist for any project that contains or could affect sensitive species or habitats, including riparian/riverine habitats. The mitigation measures also include requirements for assessments of riparian/riverine resources (General Plan EIR Mitigation Measure 4.8.A-N1) and acquisition of federal (General Plan EIR Mitigation Measure 4.8.C-N1) and State permits (General Plan EIR Mitigation Measure 4.8.C-N2) for any project that affects these resources. Furthermore, per General Plan EIR Mitigation Measure 4.8.D-N1, if a Biological Resources Assessment identifies a wildlife nursery site or native resident or migratory wildlife corridor on a project site, the project applicant shall consult with a Riverside County Ecological Resources Specialist to determine whether the site is essential for the long-term viability of the species, and the project required to avoid the resource or mitigate off-site if impacts are unavoidable.

### **Page 3.4-35–36**

#### **Mitigation Measures**

##### **MM BIO-7(a) MSHCP and SKR HCP Compliance**

All future implementing projects within the planning area would include payment of the Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP) Mitigation Fee and preparation of a Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis report that would be submitted to the County to document each individual future implementing project's consistency with the goals, objectives, and requirements of the MSHCP. Additional surveys, studies, permitting, agency coordination, and/or reporting measures may be required for the project to maintain consistency with the MSHCP. Any such additional measures would be identified in the MSHCP Consistency Analysis report prepared for each project. The project applicant for all development projects proposed within the planning area would coordinate with the County and the RCA to submit all applicable forms, fees, and/or technical reports detailing any desktop analyses and/or biological field studies or surveys. Conditions that may apply to future development within the planning area include the following:

- The completion of any required MSHCP wildlife and plant protocol surveys, including, as needed, vegetation mapping, mapping of Riparian/Riverine Areas, mapping of vernal pools, fairy shrimp surveys, riparian ~~birds~~ bird surveys, Narrow Endemic Plant Species surveys, Criteria Area plant species surveys, amphibian species surveys, ~~and~~ burrowing owl surveys, and mammal species surveys.
- Evaluation of project impacts to Conservation Areas, Covered Roads, Covered Public Access Activities, Public Quasi-Public Lands, and Riparian/Riverine Areas.
- The preparation of Determination of Biologically Equivalent or Superior Preservation (DBESP), a mitigation plan required for any impacts to MSHCP

resources such as Riparian/Riverine habitat, etc., if triggered by the proposed project.

- Participation in the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) process to determine conservation requirements if the development project occurs within a Criteria Cell.
- Implementation of Guidelines Pertaining to the Urban/Wildlands Interface for projects located in or adjacent to Conservation Areas.
- ~~The completion~~ Implementation of any ~~required~~ applicable mitigation and Best Management Practice (BMP) to offset impacts to any MSHCP-protected resources.

### **Page 3.4-37–38**

#### **Mitigation Measures**

##### **MM BIO-7(b) Completion of a Biological Study**

For all future development plans within the planning area that could contain special-status species that are ~~listed but~~ not covered by the Multiple Species Habitat Conservation Plan (MSHCP) or Stephens' Kangaroo Rat Habitat Conservation Plan (SKR HCP), or habitat conducive to hosting such species, inclusive of foraging, breeding, or dispersal habitats for wildlife, the project applicant shall employ a qualified Biologist approved by the County to prepare a Biological Study to evaluate potential impacts to sensitive biological resources regulated by the United States Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), or other local, regional plans or policies that may result from the development of the specific project. The qualified Biologist shall conduct, at a minimum, a site-specific literature review, which shall consider the future development project, site location, Geographic Information System (GIS) information and known sensitive biological resources. The qualified Biologist shall, if the project site has potential support habitat for special-status species or other species protected by federal, State, or local laws or policies, conduct a site visit as part of project review. The review shall assess the site for State or federally listed plants and/or wildlife or other special-status species, aquatic resources, riparian or sensitive natural communities, wildlife movement corridors, ~~or~~ nurseries, or potential nesting or roosting sites, or other regulated biological resources covered by the Endangered Species Act, or California Endangered Species Act (CESA) that could be affected by the proposed project. In some cases, such as a project site that is previously completely developed and contains no potential habitat for protected species, a literature review would be sufficient for the Biologist to make a no impact and/or a less than significant impact determination for all six of the thresholds of significance for biological resources. In other cases, such as project sites that are all or partially undeveloped or contain features that could provide soil substrates for special-status plants or foraging, breeding, nesting, roosting, or dispersal habitats for special-status wildlife, a site survey may be needed to assess the biological conditions on-site. The qualified Biologist employed by each project applicant shall assess potential project impacts

to non-listed, non-covered, special-status species, identify threshold of significance with a significance conclusion, and document the findings in a report. Additionally, future implementing projects may be required to incorporate additional mitigation depending on results of such future biological studies.

**Page 3.4-41****MM BIO-7(c) Protection of Nesting Birds**

For all future development plans within the planning area that contain habitats or features that could provide nesting habitat for bird species protected under the Migratory Bird Treaty Act (MBTA) and Fish and Game Code, the following measures shall apply:

1. Removal of native vegetation shall be limited to only those necessary to construct a proposed future project as reflected in the relevant project approval documents.
2. To the extent possible, vegetation shall be removed outside of the avian nesting season, or from October 1 through January 31.
- ~~3.2-~~ If a proposed future project requires vegetation to be removed during the nesting season, or between February 1 and September 30, pre-construction surveys shall be conducted 7 days prior to tree removal to determine whether or not active nests are present.
- ~~4.3-~~ If an active nest is located during a pre-construction survey, a qualified Biologist shall determine an appropriately sized avoidance buffer based on the species and anticipated disturbance level. A qualified Biologist shall delineate the avoidance buffer using Environmentally Sensitive Area (ESA) fencing, pin flags, and or yellow caution tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently. No construction activities or construction foot traffic is allowed to occur within the avoidance buffer(s).
- ~~5.4-~~ The qualified Biologist shall monitor the active nest during construction activities to prevent any potential impacts that may result from the construction of the proposed project until the young have fledged.

**Page 3.4-43****Mitigation Measures****MM BIO-7(d) Determination of the Extent of Impacts to Jurisdictional Waters and Wetlands**

Any proposed development within the planning area that could impact any potentially jurisdictional waters or wetlands shall prepare a separate jurisdictional delineation report to establish the jurisdictional limits of any potentially regulated waters/wetlands.

**MM BIO-7(e) Apply for Permits from Regulatory Agencies**

Any project proponent that proposes impacts to jurisdictional waters or wetlands within the planning area shall consult with the California Department of Fish and Wildlife (CDFW) regarding a Section 1602 Streambed Alteration Agreement Permit, the United States Army Corps of Engineers (USACE) regarding a Clean Water Act (CWA) Section 404 Permit, and the Regional Water Quality Control Board (RWQCB) regarding a CWA Section 401 Certification. Any project proponent that proposes take of federal or State listed or candidate species that are not covered under the Multiple Species Habitat Conservation Plan (MSHCP) shall consult with the CDFW and/or the United States Fish and Wildlife Service (USFWS), as applicable, regarding an Incidental Take Permit pursuant to Section 2081 of the California Endangered Species Act (CESA) or Sections 7 or 10 of the federal Endangered Species Act. The project applicant shall be required to obtain these permits as a condition of approval and prior to the issuance of any grading, construction, or building permits from the County and prior to the commencement of any grading or construction activities. The project applicant shall implement the mitigation measures as prescribed in the permits.

### Section 3.5—Cultural Resources

The following summary statements are revised to accurately reflect the level of impacts as analyzed in the discussion in Section 3.5, Cultural Resources.

#### ***Page 3.5-20***

#### **Historic Resources**

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**Impact CUL-8(a)**    **The proposed project ~~may~~ would not alter or destroy a historic site.**

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and

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**Impact CUL-8(b)**    **The proposed project ~~may~~ would not cause a substantial adverse change in the significance of a historical resource, pursuant to California Code of Regulations, Section 15064.**

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#### ***Impact Analysis***

A substantial adverse change in the significance of a historical resource is defined at Section 15064.5(b)(1) of the CEQA Guidelines as the “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired.” Known historic buildings, districts and resource sites are located throughout the planning area, such as the Pinacate Mining District, as discussed in Section 3.5.2. Additional undesignated sites, and potentially unidentified sites, exist within the planning area as well.

**Page 3.5-21****Archaeological Resources**


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**Impact CUL-9(a)**    **The proposed project ~~may~~ would not alter or destroy an archaeological site.**

---

and

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**Impact CUL-9(b)**    **The proposed project ~~may~~ would not cause a substantial adverse change in the significance of an archaeological resource, pursuant to California Code of Regulations, Section 15064.5.**

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**Impact Analysis**

Known archaeological resource sites are located within the planning area, and it is expected that additional undiscovered sites may exist in the planning area as well. Based on a review of information available at the EIC, only a small portion of the planning area has been previously surveyed for archaeological resources.

**Page 3.5-23**


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**Impact CUL-9(c):**    **The proposed project ~~may~~ would not disturb any human remains, including those interred outside of formal cemeteries.**

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**Impact Analysis**

Excavation and construction activities allowed under the proposed project may uncover human remains that may not be marked in formal burial locations. Therefore, as future development and infrastructure projects are reviewed by the County, each project will be evaluated for conformance with the General Plan, Municipal Code, and other applicable State regulations. Under CEQA, human remains are protected under the definition of archaeological materials as being “any evidence of human activity.”

**Section 3.7—Geology and Soils**

The following is revised to accurately reflect the mitigation measure number.

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**Impact GEO-17(c)**    **The proposed project may result in grading that affects or negates subsurface sewage disposal systems.**

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**Impact Analysis**

Impacts associated with subsurface sewage disposal systems may occur if the grading were not considered in the design and construction of development in the planning area. Implementation of MM ~~GEO-1~~ MM GEO-12a would reduce this potential impact related to subsurface sewage disposal systems to a less than significant level by requiring geotechnical investigations to identify potential hazards for new development and by requiring that the recommendations from a licensed professional be implemented to reduce the identified hazard.

## Page 3.5-20

### Section 3.13–Noise

The following are revised to reflect the correct mitigation measure numbers.

#### ***Page 3.13-21, Third Paragraph***

There are no site-specific development plans, however future project development in the planning area could result in a relatively high single event noise exposure potential causing an intermittent noise nuisance that could result in annoyance or sleep disturbances at nearby sensitive receptors. Therefore, mitigation is required to reduce this potential impact. Implementation of mitigation requiring use of best management noise reduction techniques and practices and other site-specific noise reduction measures would ensure that construction noise would not result in sleep disturbances at nearby off-site sensitive receptors or expose persons to excessive noise levels. Therefore, with implementation of ~~MM NOI-1~~ MM NOI-27a, the potential short-term construction noise impacts to noise-sensitive receptors in the project vicinity would be reduced to a less than significant level.

#### ***Page 3.13-25, Second Paragraph***

Therefore, any proposed development project that would include noise-sensitive land use development along noise impacted roadway segments identified in Table 3.13-7 shall demonstrate compliance with Noise Policies N 1.3, N 1.7, and N 2.2 of the County's Noise Element by implementing Mitigation Measure ~~(MM) NOI-2~~ MM NOI-27a, which requires preparation of a noise study to identify appropriate design measures, where required, to reduce the potential effect of traffic noise. With implementation of ~~MM NOI-2~~ MM NOI-27a, impacts would be reduced to less than significant.

#### ***Page 3.13-26***

These stationary source operational noise levels could exceed the County's thresholds if they were to occur in areas adjacent to sensitive receptor land uses. Therefore, mitigation would be required to reduce this potential impact. Parking activity noise can be mitigated either at the source or at the receiving land use using setbacks, block walls, acoustic-rated windows, or by siting parking areas on sides of buildings opposite sensitive receptors (using buildings as shielding). For example, at a distance of 300 feet, unobstructed parking lot activity noise levels would attenuate to below 55 dBA  $L_{max}$ ; while properly sited structural (building or sound wall) shielding can provide a minimum of 15 dBA reduction.

Noise Policy N 4.8 of the County's Noise Element requires that any proposed parking structures, terminals, and loading docks of commercial or industrial land uses be designed to minimize the potential noise impacts of vehicles on the site as well as on adjacent land uses. Therefore, with implementation of ~~MM NOI-2~~ MM NOI-27a, which requires preparation of a noise study to identify appropriate design measures, where required, to reduce the potential effect of parking lot noise, impacts generated by future development projects would be reduced to less than significant.

*Mechanical Equipment Operations*

At the time of preparation of this analysis, details were not available pertaining to proposed mechanical ventilation systems for future development projects. Therefore, a reference noise level for typical mechanical ventilation systems was used for this analysis. Noise levels from typical residential mechanical ventilation equipment are anticipated to range up to approximately 60 dBA  $L_{eq}$  at a distance of 25 feet.

These stationary source operational noise levels could exceed the County's thresholds if they were to occur in areas adjacent to sensitive receptor land uses. Therefore, mitigation would be required to reduce this potential impact. Mechanical equipment operational noise can be mitigated either at the source or at the receiving land use using setbacks, shielding, acoustic-rated windows, or by locating such equipment on rooftops or sides of buildings opposite sensitive receptors (using buildings as shielding). For example, at a distance of 50-feet, unobstructed mechanical ventilation equipment operational noise levels would attenuate to below 55 dBA  $L_{max}$ ; while properly sited structural (building or sound wall) shielding can provide a minimum of 15 dBA reduction.

Therefore, with implementation of ~~MM NOI-2~~ MM NOI-27a, which requires preparation of a noise study to identify appropriate design measures, where required, to reduce the potential effect of mechanical ventilation noise, impacts generated by future development projects would be reduced to less than significant.

***Level of Significance Before Mitigation***

Potentially significant impact.

***Mitigation Measures***

~~MM NOI-1~~ MM NOI-27a

**Construction Noise Mitigation Plan**

Prior to issuance of grading and/or building permits, a note shall be provided on grading and building plans indicating that during grading and construction, the

***Page 3.13-26***

~~MM NOI-2~~

**Operational Noise Reduction Plan**

Prior to issuance of building permits, the property owner/developer shall be responsible to implement the following measures to limit on-site operational stationary noise source impacts:

***Page 3.13-26***

Construction vibration levels from future development projects could exceed the FTA's damage threshold criteria of 0.12 in/sec PPV. Therefore, mitigation would be required to reduce this potential impact. Construction vibration sources can be mitigated to acceptable levels either at the source or on the adjacent property using alternate equipment, adequate setbacks, or by digging temporary trenches between the source and the receptor. For example, at a distance of 200 feet, vibration levels from an impact pile driver would attenuate to 0.02 in/sec PPV.

Therefore, implementation of ~~MM NOI-3~~ MM NOI-27b, which requires preparation of a Construction Vibration Reduction Plan, would ensure that these vibration level impacts generated by future development projects would be reduced to a less than significant impact.

*Operational Vibration Impacts*

Based on the proposed types of land uses as part of the proposed project, future related development projects are not anticipated to include any permanent sources of vibration that would expose persons in the project vicinity to excessive groundborne vibration levels. In addition, there are no existing significant permanent sources of groundborne vibration located within the planning area to which future development projects would be exposed. Therefore, project operational groundborne vibration level impacts would be considered less than significant.

**Page 3.13-30**

***Mitigation Measures***

**~~MM NOI-3~~ MM NOI-27b**

**Construction Vibration Reduction Plan**

Prior to issuance of grading and/or building permits, a note shall be provided on grading and building plans indicating that during grading and construction, the property owner/developer shall be responsible for requiring contractors to implement the following measures to limit construction-related vibration impacts:

- For any future development projects that would necessitate the use of pile driving within 200 feet of an off-site structure, shall submit a Construction Vibration Reduction Plan that identifies specific techniques, such as the depth and location of temporary trenching, that would reduce potential vibration impacts to less than significant for the impacted structure.
- For any future development projects that would necessitate the use of large vibratory rollers within 30-feet of an off-site structure, or the use of other heavy construction equipment within 15-feet of an off-site structure, shall submit a Construction Vibration Reduction Plan that identifies specific techniques, such as the depth and location of temporary trenching, that would reduce potential vibration impacts to less than significant for the impacted structure.
- The individual project owner/developer shall submit the Construction Vibration Reduction Plan to the Planning Director for review and approval. Upon approval by the County, the construction vibration reduction measures shall be incorporated into the construction documents.

**Section 3.18—Transportation****Page 3.18-15**

The following are revised to reflect the correct mitigation measure numbers.

***Mitigation Measures***

- |   |   |
|---|---|
| <b>MM <del>TRANS-1</del> <u>TRANS-37b-1</u></b> | Future implementing projects shall provide more options for shorter trips by locating residential uses within walking distance to retail, office, and service-oriented uses.  |
| <b>MM <del>TRANS-2</del> <u>TRANS-37b-2</u></b> | Future implementing projects shall provide pedestrian and bicycle network improvements within the development connecting complementary uses (i.e., residential, employment and retail) internally and to existing off-site facilities.  |
| <b>MM <del>TRANS-3</del> <u>TRANS-37b-3</u></b> | Where applicable, future implementing projects shall ensure that design of key intersections and roadways encourage the use of walking, biking and transit.   |
| <b>MM <del>TRANS-4</del> <u>TRANS-37b-4</u></b> | Future implementing projects shall collaborate with the RTA to determine the feasibility of providing new or re-route existing transit services to the proposed project.  |
| <b>MM <del>TRANS-5</del> <u>TRANS-37b-5</u></b> | <p>In addition, the following TDM strategies may be applicable at the implementing project level:</p> <ul style="list-style-type: none"> <li>• Reduce Parking Supply for Retail Uses</li> <li>• Transit Rerouting and Transit Stops</li> <li>• Implementation of Local Shuttle Service</li> <li>• Mandatory Travel Behavior Change Program, Promotions and Marketing</li> <li>• Promotions and Marketing</li> <li>• Emergency Ride Home (ERH) Program</li> <li>• School Carpool Program</li> <li>• Bike Share</li> <li>• Implement/Improve On-street Bicycle Facility</li> <li>• Traffic Calming Improvements</li> <li>• Pedestrian Network Improvements</li> </ul> |

**Page 3.18-17**

The following are revised to reflect the correct mitigation measure numbers.

***Mitigation Measures***

- |   |   |
|---|---|
| <b>MM <del>TRANS-6</del> <u>TRANS-37e</u></b> | Prior to commencement of construction, the project applicant of future implementing projects shall prepare a traffic management plan that will specify traffic controls |
|---|---|

required to maintain adequate circulation and access along Highway 74. At least one lane shall remain open in each direction during construction and access to all existing businesses shall be maintained.

***Level of Significance After Mitigation***

Less than significant impact.

**Impact TRANS-37(f)     The proposed project could result in inadequate emergency access or access to nearby uses.**

***Impact Analysis***

As noted, all future implementing development will be required to prepare a traffic management plan to demonstrate to the County and the associated sheriff and fire departments that emergency access would be maintained at all times during construction. Preparation of a traffic management plan, as required by MM ~~TRANS-6~~ TRANS-37e, would reduce any impact of temporary lane closures or detours to less than significant.

***Level of Significance Before Mitigation***

Potentially significant impact.

***Mitigation Measures***

Implement MM ~~TRANS-6~~ TRANS-37e.

***Level of Significance After Mitigation***

Less than significant impact.

**Section 4.2.18—Transportation and Traffic**

***Page 4-19, Final Paragraph***

The proposed project would implement MM ~~TRANS-37a-1~~ TRANS-37b-1 through -5 to reduce VMT impacts. Given the uncertainty in some components of the measure that influence VMT (such as the cost of fuel) combined with the County's inability to influence other measures that would have the largest effect on VMT (such as implementation of a VMT tax or an increase in the fuel tax), the effectiveness of these Transportation Demand Management (TDM) measures cannot be guaranteed to reduce impacts and the impact is considered significant and unavoidable. Implementation of mitigation measures would reduce this impact, but not to less than significant levels. As such, the proposed project, in conjunction with other projects, would have a significant and unavoidable impact with respect to VMT. And the proposed project's contribution would be cumulatively considerable.

## Section 5.2—Project Objectives

### Page 5-5

The following typo has been corrected in Project Objective 4. This minor correction does not represent a substantial change in the Draft EIR.

As stated in Section 2, Project Description, the planning area objectives were developed as a result of extensive community input and are designed to support the development of residential neighborhoods of varying densities, neighborhood servicing commercial uses, and local employment center areas clustered along the planning area. The underlying purpose of the proposed project is to stimulate economic development, provide housing opportunities, facilitate the development of infrastructure, and address environmental justice. The objectives are as follows:

1. Accommodate the development of a balance of land uses that maintain and enhance Riverside County’s fiscal viability, economic diversity, and environmental integrity.
2. Update policies to be consistent with current legal requirements and legislation.
3. Encourage consolidation of parcels to promote better land use development and project design and maximize density of residential, commercial, and industrial uses.
4. Facilitate access from Highway 74 to residential, commercial, and industrial sites. Where ~~where~~ feasible, the development of frontage/service roads should be encouraged to increase.
5. Support economic vitality by maximizing the availability of a wide variety of employment opportunities within the planning area.
6. Provide live-work spaces within the MUAs where appropriate.
7. Promote livable and resilient neighborhoods that provide housing, goods and services, open space, and multi-modal transportation options within proximity to each other and that reduce reliance on the automobile.
8. Promote healthy neighborhoods that incorporate best practices related to land use, mobility, air quality, housing, affordability, safety, environmental justice, community services, and design. Encourage complete streets, which include sidewalks, greenbelts, and trails to facilitate use by pedestrians and bicyclists where such facilities are well separated from parallel or cross through traffic to ensure pedestrian and cyclist safety.