

FINAL
Environmental Impact Report
Tracy Alliance Project
City of Tracy, San Joaquin County, California
State Clearinghouse Number 2020080524

Prepared for:
City of Tracy
Development Services Department
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Tracy, CA 95376
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Date: March 27, 2023
Updated: July 19, 2023

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SECTION 1: INTRODUCTION

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Tracy (Lead Agency) has evaluated the comments received on the Tracy Alliance Project 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) as well as late comments received after the close of the public comment period and responses thereto, all of which are included in this document, together with the Mitigation Monitoring and Reporting Program (MMRP), comprise the Final EIR for use by the City of Tracy 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. This includes late comments received after the close of the public comment period and responses thereto.
- **Section 4—Errata.** Includes an addendum listing refinements, amplifications and clarifications on the Draft EIR, which have been incorporated.

The Final EIR is comprised of the following contents:

- Draft EIR (provided under separate cover)
- Draft EIR Appendices (provided under separate cover)
- 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 City of Tracy (City).

2.1 - Master Responses

Master Response 1—Orderly development of industrial uses within or immediately adjacent to the Northeast Industrial Specific Plan

A number of comments stated that the proposed project would result in significant, unplanned growth within the City; loss of prime farmland; land use compatibility concerns relating to industrial development near sensitive receptors; and that the proposed project was not envisioned in the Northeast Industrial (NEI) Specific Plan.

Consistent with the long-term land use vision for the City and its planning area, the City adopted the NEI Specific Plan to implement a balanced growth strategy. The NEI Specific Plan directs growth as envisioned by the City in an efficient and cost-effective manner, and balances appropriate land uses with well-planned supporting infrastructure.¹ The NEI Specific Plan is intended to improve the jobs/housing balance by encouraging the development of industrial, retail, and service-related employment opportunities in proximity to existing freeway interchanges, while taking into appropriate account land use compatibility considerations.

As part of the NEI Specific Plan, the northeastern sector of the City has been identified for industrial growth. With direct access to Interstate 205 (I-205) and rail transportation, the NEI Specific Plan area is ideally situated to attract and support business without the need for major infrastructure expenditures, and directing industrial uses to be sited in proximity to other similar uses and appropriately distanced from sensitive receptors. This enables the City to facilitate goals of economic development and employment generation, while also helping to ensure the availability of lands in other locations in the City (and its Sphere of Influence [SOI]) for non-industrial uses; this encourages an appropriately diverse and balanced approach to land use consistent with the City of Tracy General Plan (General Plan).

The NEI Specific Plan area is intended for high-quality industrial and commercial sites that would attract businesses to the City. It provides a flexible phasing program that allows market forces to dictate reasonable growth increments, while ensuring that agricultural properties remain devoted to agricultural uses until ready to develop.²

The project site is immediately adjacent to the NEI Specific Plan area, which boundary runs along Paradise Road and Grant Line Road, as shown in Exhibit 2-2 of the Draft EIR. The proposed project is consistent with its existing General Plan land use designation of Industrial; this reflects the long-planned urban development vision for the project site, which contemplates a variety of light

¹ City of Tracy. Amended 2012. Northeast Industrial Specific Plan.

² City of Tracy. 1996. Northeast Industrial Plan Draft EIR.

industrial uses including warehousing and distribution. The project site would be annexed into the NEI Specific Plan, representing a logical expansion of the NEI Specific Plan vision. The proposed project has been designed to incorporate applicable NEI development standards and design guidelines; accordingly, the proposed project would be consistent with the urban, industrial character of the NEI Specific Plan area.

Master Response 2—Incorporation of Suggested Measures to Further Reduce Impacts

A number of comments requested additional measures that aim to reduce the project’s air quality and greenhouse gas (GHG) emissions impacts. A response to each suggested measure is provided in Section 3, Responses to Comments.

The Draft EIR and Final EIR for the proposed project (1) properly assume compliance with a robust regulatory framework (including, without limitation, citing relevant General Plan policies as well as guidance from the California Air Resources Board (ARB) and the San Joaquin Valley Air Pollution Control District (Valley Air District) and set forth a thoughtful consistency analysis related thereto; (2) fully disclose all significant impacts; (3) identify all feasible mitigation measures to mitigate, avoid or reduce the identified significant impacts; and (4) include a summary of all such measures that will be incorporated into the MMRP that will be adopted by the City Council in connection with its certification of the EIR and thereafter imposed as enforceable conditions of approval.

In addition, the project applicants have voluntarily agreed to implement additional measures as well as other enforceable conditions of approval to further reduce impacts related to air quality and GHG emissions, to the extent feasible. Collectively, these measures are consistent with many of the suggested measures and are included in the updated MMRP and discussed in Section 3, Responses to Comments, and Section 4, Errata. These conditions of approval will implement the requirements of the Draft EIR, including both the Draft EIR mitigation measures and the additional, voluntary measures agreed to by the project applicants.

SECTION 3: RESPONSES TO WRITTEN COMMENTS

3.1 - List of Authors

A list of public agencies, organizations, and individuals that provided comments during the public review period, which ran from April 20, 2022, to June 3, 2022, on the Tracy Alliance Project Draft Environmental Impact Report (Draft EIR) is presented below. Each comment has been assigned a code. Individual comments within each communication 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.

After the close of the public comment period, five additional comment letters were received. The letter from Advocates for the Environment was received by the City on August 16, 2022. The letter from Genna McIntosh (shown as MCINTOSH-3, below) was received by the City of Tracy (City) on August 29, 2022. The letters from Sierra Club were received by the City on February 8 and February 22, 2023. The letter from Shute, Mihaly, and Weinberger LLP was received by the City on April 13, 2023. Although not required to do so under CEQA, the City provided responses to all of these late comment letters as though they had been submitted during the regular public comment period.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Public Resources Code [PRC] § 21091(d); CEQA Guidelines § 15088). When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (PRC § 21091(d)(1); PRC § 21092.5(c)). Accordingly, although the City is not required to provide a written response to late comment letters, the City has elected to respond to these late letters, but without waiving its position that written responses to late comment letters are not required by law.

Author	Author Code
State Agencies	
California Department of Transportation	CALTRANS
Local Agencies	
Central Valley Regional Water Quality Control Board	CVRWQCB
San Joaquin Council of Governments, Laurel Boyd	SJCOG
San Joaquin Valley Air Pollution Control District	Valley Air District-1
San Joaquin Valley Air Pollution Control District	Valley Air District-2
Organizations	
Blum Collins and Ho, Attorneys at Law	GSEJ Individuals
McIntosh, Genna	MCINTOSH-1

Comments received at the public hearing held May 25, 2022

McIntosh, Genna MCINTOSH-2

Late Comments

Advocates for the Environment..... AENV
Sierra ClubSIERRA-1
Sierra ClubSIERRA-2
Shute, Mihaly, and Weinberger LLP SHUTE
McIntosh, Genna MCINTOSH-3

3.2 - Responses to Comments

3.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Tracy, as the Lead Agency, evaluated the comments received on the Draft EIR (State Clearinghouse [SCH] No. 2020080524) for the Tracy Alliance Project (proposed project), and has prepared the following responses to the comments received. This Response to Comments document is part of the Final EIR for the proposed 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 a Draft EIR when the lead agency adds “significant new information” to an EIR after public notice is given of the availability of a Draft 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 for 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.

California Department of Transportation

OFFICE OF THE DISTRICT 10 DIRECTOR
 P.O. BOX 2048 | STOCKTON, CA 95201
 (209) 948-7943 | FAX (209) 948-7179 TTY 711
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June 2, 2022

10-SJ-205-PM R009.500
Tracy Alliance Project
Suvik, Zuriakat
SCH#2020080524

Victoria Lombardo
 City of Tracy
 333 Civic Center Plaza
 Tracy, CA 95376

Dear Ms. Lombardo:

The California Department of Transportation appreciates the opportunity to review the proposed Mountain House Apartments. The project is located south of Interstate 205, east of Paradise Road, and north of Grant Line Road. The proposed project consists of the development of up to 3,352,320 square feet of warehouse and distribution and related uses on a total of approximately 191.18 acres. The site consists of six parcels under ownership by three separate parties: the Tracy Alliance Group owns two parcels (totaling approx. 122.44 acres), Suvik Farms, LLC owns three parcels (totaling approx. 46.61 acres), and Zuriakat owns one parcel (approx. 22.17 acres). The Department has the following comments:

1. There is a future project 205/Chrisman Road interchange currently in PA&ED. Please continue to work with Caltrans to ensure this warehouse proposal will not conflict with the ultimate build out of the 205/Chrisman Road interchange footprint.
2. Please submit a revised Traffic Impact Study (TIS) report with the following changes to Caltrans for review and comment prior to project approval.
 - a. The TIS should include the following Analysis Scenarios.
 - i. Existing Conditions.
 - ii. Project Only Condition.
 - iii. Existing Conditions plus Project.
 - iv. Cumulative Conditions (Existing Conditions plus Other Approval and Pending Project without this project).
 - v. Cumulative Conditions with this project.

- vi. Synchro/Simtraffic version 10 electronic files should be included with the submittal. 3 CONT
 - b. The TIS shows I-205/MacArthur interchange is the only access from freeway to this facility. At this time the south site of the interchanges is signed for STAA however, with the significant truck use of this facility, the 95th Percentile queue length analysis using Simtraffic (Simtraffic 5 runs, four 15-minute intervals with 10-minute seeding period) is required to review for all scenarios above to ensure no traffic spillback to the mainline. It is the project proponent's responsibility to provide mitigations to avoid negative impacts to the mainline operation. 4
 - c. Please ensure the revised study clearly explains how the City's draft VMT per employee threshold is developed and is being met. 5
 - d. The study should explain how all the project trip distributions are derived. 6
 - e. The study should provide the supporting analysis documenting how the project's VMT per employee is derived. 7
 - f. Please clarify how the City's travel demand model is utilized in developing the cumulative volumes. 8
 - g. The revised study should cite the source of the Office of Planning and Research (OPR) guidance which allows the exclusion of truck trips from VMT impact analysis for clarification. 9
3. From the perspective of goods movement there exists concern with the access to the proposed project. The traffic study identifies a daily truck traffic volume of 1510 vehicles to and from the proposed project. This volume is anticipated to access the proposed project by the MacArthur Road / I-205 interchange, then travel south on MacArthur Road to Grant Line Road to the project. MacArthur Road is a terminal access route consistent with the standards of the Surface Transportation Assistance Act (STAA) of 1984. However, Grant Line Road is not, according to a 2019 map of truck routes in Tracy. As the proposed project is a warehouse, it will likely require access by STAA class truck, and the City of Tracy and the project proponent must address this. The applicant will be responsible for making the needed improvements to the highway and acquiring the appropriate STAA Terminal Access approvals. Terminal Access application procedures can be found at the following link:
<https://dot.ca.gov/programs/traffic-operations/legal-truck-access/ta-process> 10
4. Since on-site mitigation measures are not able to significantly reduce the Vehicle Miles Traveled (VMT) impacts, off-site mitigation measures should be considered and implemented as these may be acceptable as an exchange. The City could collect fees and use toward offsite mitigations such as public transit, bicycle, and pedestrian improvements to help reduce VMT impacts. 11

Ms. Lombardo
June 2, 2022
Page 3

5. The developer needs to ensure that the existing State drainage facilities will not be significantly impacted by the project. If historical undeveloped topography shows drainage from this site flowed into the State Right-of-Way, it may continue to do so with the conditions that peak flows may not be increased from the pre-construction quantity and the site runoff be treated to meet present storm water quality standards. Please submit to Caltrans would for review and comment the pre and post construction runoff calculations, basin calculations, and drainage plans to understand flow patterns prior to project approval.

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6. An Encroachment Permit will be required for work (if any) done within Caltrans's right of way (ROW). This work is subject to the California Environmental Quality Act. Therefore, environmental studies may be required as part of the encroachment permits application. A qualified professional must conduct any such studies undertaken to satisfy Caltrans' environmental review responsibilities. Ground disturbing activities to the site prior to completion and/or approval of required environmental documents may affect Caltrans' ability to issue a permit for the project.

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If you have any questions, please contact me at 209-483-2582 or Nicholas Fung at (209) 986-1552.

Sincerely,



Tom Dumas
Chief, Office of Metropolitan Planning

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State Agencies

California Department of Transportation (CALTRANS)

Response to CALTRANS-1

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

Response to CALTRANS-2

The commenter notes there is a future Interstate 205 (I-205)/Chrisman Road interchange project currently in the California Department of Transportation (Caltrans) review process known as Project Approval and Environmental Document (PA&ED), and requests continued coordination with Caltrans to ensure the proposed project would not conflict with the ultimate buildout of the future I-205/Chrisman Road interchange footprint. The comment is noted and acknowledged. Because it does not raise any specific project-related environmental issues under CEQA, no further response is required.

Although the comment does not raise any environmental questions regarding the adequacy of the Draft EIR, the following response provides additional clarification and information. None of the additional information requires recirculation or revision of the Draft EIR.

The City of Tracy staff and the applicants met with the City's engineering consultant Dokken Engineering to discuss the proposed footprint of the aforementioned interchange project and to continue coordination per the email from Juann Ramos of Dokken Engineering on September 28, 2020, indicating the 2028 Geometric Approval Drawing for the I-205/Chrisman Road Interchange. The City of Tracy staff and the applicants also met with Caltrans' engineering consultant Kimley-Horn to discuss the preliminary footprint of the I-205 Managed Lanes project and to resolve potential conflicts (if any). See Appendix A.1 for an exhibit from those meetings, which shows that the project's proposed right-of-way boundary would accommodate the future footprint of the interchange.

Response to CALTRANS-3

The commenter requests that the project Traffic Impact Analysis (TIA) be updated to reflect the commenter's requested changes and to include the following analysis scenarios: (1) Existing Conditions, (2) Project Only Conditions, (3) Existing Conditions Plus Project, (4) Cumulative Conditions (Existing Conditions Plus Other Approval and Pending Projects without the proposed project), and (5) Cumulative Conditions with the proposed project. The commenter also requests that Synchro or SimTraffic Version 10 modeling files be included in the TIA.

The TIA was updated to reflect queueing conditions at the I-205/MacArthur Interchange for Existing and Existing Plus Project Conditions. See Responses to CALTRANS-4 through CALTRANS-9 that address each of the commenter's requested changes to the TIA.

Response to CALTRANS-4

The commenter requests that a 95th Percentile Ramp Queueing Analysis be prepared at the I-205/MacArthur interchange for all scenarios to ensure no traffic spillback to the mainline freeway. In accordance with CEQA, the Draft EIR and related TIA considered site design and off-site

improvements with respect to potential hazards that could be substantially increased as a result of the proposed project and concluded that there would be no significant impacts requiring mitigation.

However, for purposes of being responsive to this comment, the City elected to have a supplemental analysis conducted and included in the Errata. Ramp queues were analyzed at the off-ramps for the I-205 and MacArthur Interchange under Existing and Existing Plus Full Project Conditions. The Ramp Queueing Analysis is attached as Appendix A.2 of this Final EIR. All project trips at the I-205 and MacArthur Interchange under Existing Plus Full Project Conditions are anticipated to move to the future I-205 and Chrisman Interchange under Cumulative Conditions and are assumed to be included in the Final Traffic Operations Analysis Report (TOAR) published by Fehr and Peers. Therefore, the proposed project would not cause a queueing deficiency at the MacArthur interchange under Cumulative Conditions.

Consistent with the commenter's request, the analysis utilized SimTraffic 11 with a 10-minute seeding period, four 15-minute periods and 5 runs. The 95th-percentile queues for each of the five runs were averaged and are shown in Table 1 and Table 2 of the Ramp Queueing Analysis (Appendix A.2). The Existing Conditions queues were calibrated based on field-verified queueing. All ramp queueing under Existing Conditions and Existing Plus Full Project Conditions is within each ramp's storage capacity and would not extend to the freeway mainline. Therefore, no significant project impacts would occur in this regard and therefore no mitigation is required. The comment does not identify any additional mitigation measures or a significant impact that requires additional mitigation.

As such, this information merely provides clarification and amplification and does not affect the impact analyses and the environmental determination of the Draft EIR.

Response to CALTRANS-5

The commenter asks for explanation on how the City's draft Vehicle Miles Traveled (VMT) per employee threshold is developed and is being met. The commenter raises a general question with respect to a VMT threshold but does not raise any specific project-related environmental issues under CEQA; therefore, no further response is required.

For informational purposes, the following is noted. The VMT thresholds determination is thoroughly discussed in the City's 2022 Citywide Roadway and Transportation Master Plan (TMP) (Chapter 2.6).¹ The VMT analysis and thresholds remain unchanged between the 2020 TMP and the 2022 TMP Update.

Response to CALTRANS-6

The commenter requests that the updated TIA explain how all the project trip distributions were derived.

¹ City of Tracy. 2022. Citywide Roadway and Transportation Master Plan. Website: <https://www.cityoftracy.org/home/showpublisheddocument/13757>. Accessed September 6, 2022.

The project trip distribution was primarily based on existing traffic patterns and supplemented with the City of Tracy travel demand model. See the project TIA for a detailed discussion of trip distribution and assignment. Therefore, no update to the TIA is required.

Response to CALTRANS-7

The commenter requests that the updated TIA provide supporting analysis documenting how the project's VMT per employee was derived.

Section 3.14, Transportation, of the Draft EIR as well as the TIA, provide a detailed discussion in this regard. As explained more fully therein, the VMT per employee used for the transportation analysis is derived from Table 3.4: FARs and Employment Densities of the TMP, which includes floor area ratios and employee densities used in the Tracy Travel Demand Model.² For all uses other than retail and office uses, the proposed project is assumed to generate one employee per 1,000 square feet of use. No update to the TIA is required.

Response to CALTRANS-8

The commenter requests that the updated TIA clarify how the City's travel demand model was utilized in developing the cumulative volumes.

Section 3.14, Transportation, of the Draft EIR as well as the TIA, provide a detailed discussion in this regard. As explained more fully therein, Year 2035 turning movement volumes were extrapolated from the TMP 2035 Horizon Year turning movement figures. For intersections without 2035 data, volumes were estimated using the intersection turning movement volumes provided in the TMP. Adjustments to the 2035 Horizon Year turning movement figures were made for the new Northeast Industrial (NEI) Phase 3 project proposed along Grant Line Road. No update to the TIA is required.

Response to CALTRANS-9

The commenter requests the updated TIA cite the source of the Governor's Office of Planning and Research (OPR) guidance which allows the exclusion of truck trips from VMT impact analysis.

The comment is noted and acknowledged. The commenter makes a request to include a citation to OPR guidance with respect to the methodology used in conducting the VMT analysis, but does not raise any specific project-related environmental issues under CEQA; therefore, no further response is required.

For informational purposes, the Technical Advisory on Evaluating Transportation Impacts in CEQA published by the OPR in December 2018 provides the following methodology guidance for the exclusion of heavy trucks from VMT calculations:³

Proposed Section 15064.3, subdivision (a), states, "For the purposes of this section, 'vehicle miles traveled' refers to the amount and distance of automobile travel

² City of Tracy. 2022. Citywide Roadway and Transportation Master Plan. Website: <https://www.cityoftracy.org/home/showpublisheddocument/13757>. Accessed September 6, 2022.

³ Governor's Office of Planning and Research (OPR). 2018. Technical Advisory on Evaluating Transportation Impacts in CEQA. December. Website: https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf. Accessed September 6, 2022.

attributable to a project.” Here, the term “automobile” refers to on-road passenger vehicles, specifically cars and light trucks.

The TIA was prepared in accordance with the methodology guidance above.

Response to CALTRANS-10

The commenter raises issues concerning access to the proposed project; notes that while MacArthur Road is a terminal access road consistent with Surface Transportation Assistance Act (STAA) standards, Grant Line Road is not; and states that the project applicant would be responsible for making the needed improvements to the highway and acquiring the appropriate STAA Terminal Access approvals.

This comment is noted and acknowledged. The commenter indicates a potentially applicable approval process but does not raise any specific project-related environmental issues under CEQA; therefore, no further response is required.

For informational purposes, the following is noted. STAA truck routes are discussed in Impact Trans-2, Section 3.14, Transportation, of the Draft EIR. The City of Tracy is actively seeking approvals for additional STAA truck routes within the NEI Specific Plan area. See Figure 4.41: Future Truck Routes of the TMP for the proposed interim and future STAA routes.⁴ Grant Line Road between MacArthur Drive and the eastern boundary of the project site (Paradise Road) is a planned STAA truck route. The conversion of Grant Line Road to a STAA route, and the construction of new STAA routes in the project vicinity, would further improve both access and roadway safety. Since the City has already planned for improvement of Grant Line Road, the applicants would not be required to make further improvements.

Response to CALTRANS-11

The commenter states that since on-site mitigation measures are not able to significantly reduce VMT impacts, off-site mitigation measures should be considered and implemented as these may be acceptable as an exchange. The commenter suggests that the City could collect fees and use toward off-site mitigation such as public transit, bicycle, and pedestrian improvements to help reduce VMT impacts.

As discussed in detail in Section 3.14, Transportation, the proposed project would implement the following Transportation Demand Management (TDM) measures:

- Communication and Information Strategies—4 percent reduction
- Telecommuting for administrative staff (5 percent of staff population)—1 percent reduction
- Designated parking spaces for carpool vehicles—1 percent reduction
- Provide a transit stop along the project frontage on Grant Line Road (if agreed to by the City)—2 percent reduction

⁴ City of Tracy. 2022. Citywide Roadway and Transportation Master Plan. Website: <https://www.cityoftracy.org/home/showpublisheddocument/13757>. Accessed September 6, 2022.

- Provide bike lanes and sidewalks along the project frontage—1 percent reduction
- Provide on-site bike racks and showers—1 percent reduction

These include both on-site and off-site VMT mitigation measures for a total VMT reduction of 10 percent.

In addition, the proposed project would pay toward the City's VMT Mitigation Banking Fee Program (which is pending as of this writing) for a further VMT reduction of an additional 5 percent. The City's Draft Senate Bill (SB) 743 policy requires a minimum of 15 percent VMT reduction, and the proposed project would achieve this mitigation threshold. As noted in the VMT study, the VMT impact would remain significant and unavoidable even with the 15 percent minimum reduction because the VMT impact is only partially mitigated by the TDM measures identified for the proposed project.

If the City Council has not adopted the Mitigation Banking Fee Program such that it is effective and in place at the time an applicant for an individual development proposal seeks to obtain a building permit, then the relevant applicant shall implement additional VMT reduction measures in order to meet the minimum VMT reduction requirement of 15 percent. Mitigation Measure (MM) TRANS-1(b) is revised to reflect this clarification (see Section 4, Errata).

Response to CALTRANS-12

The commenter states that the applicants need to ensure that State drainage facilities will not be significantly impacted by the project. The commenter also notes that if historical undeveloped topography shows drainage from the project site flowed into the State Right-of-Way, it may continue to do so as long as the applicants ensure that drainage peak flows do not increase from the pre-construction condition and that the site runoff be treated in accordance with present stormwater quality standards. The commenter also requests to review the project's pre- and post-construction runoff calculations, basin calculations, and drainage plans.

Impacts related to stormwater runoff are discussed at length in Section 3.10, Hydrology, of the Draft EIR. The proposed project includes mitigation measures requiring preparation of a Storm Water Pollution Prevention Plan (SWPPP) (MM HYD-1-a), a Storm Water Management Plan (SWMP) (MM HYD-1-b), and final Drainage Plan (MM HYD-3), which would confirm that the proposed project's on-site stormwater detention basin and bioretention treatment areas could accommodate project flows to the satisfaction of the City and that post-development stormwater flow rates would not substantially exceed predevelopment rates pursuant to the applicable C.3 requirements and all other applicable laws and regulations. The aforementioned plans will be provided to Caltrans for review when available.

Response to CALTRANS-13

The commenter states that an Encroachment Permit will be required for work (if any) done within Caltrans' right-of-way, and that any such work would be subject to CEQA review. Therefore, environmental studies may be required as part of the Encroachment Permit application, which would need to be conducted to satisfy Caltrans' environmental review responsibilities. The commenter also notes that ground-disturbing activities on the project site prior to completion

and/or approval of the required environmental documents may affect Caltrans' ability to issue a permit for the proposed project.

The comment is noted and acknowledged. No work within Caltrans' right-of-way is anticipated in connection with the proposed project. However, the applicants would be required to comply with the Encroachment Permit process if any work within Caltrans' right-of-way was necessary to implement the proposed project. For informational purposes, while it is not anticipated that the proposed project would encroach onto any Caltrans right-of-way, the applicants have offered to set aside approximately 12.51 acres in the northwest corner of the project site, which would be sufficient to accommodate the future planned interchange.



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

3 June 2022

Victoria Lombardo
City of Tracy
33 Civic Center Plaza
Tracy, CA 95376
victoria.lombardo@cityoftracy.org

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, TRACY ALLIANCE PROJECT, SCH#2020080524, SAN JOAQUIN COUNTY

Pursuant to the State Clearinghouse’s 20 April 2022 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request Ofor Review for the Draft Environmental Impact Report* for the Tracy Alliance Project, located in San Joaquin County.

1

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State’s water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

2

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of

Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

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CONT

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Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

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For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

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http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

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Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic

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¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

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CONT

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

8

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

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For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

Tracy Alliance Project
San Joaquin County

- 5 -

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

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CONT

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

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https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

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If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

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Local Agencies

Central Valley Regional Water Quality Control Board (CVRWQCB)

Response to CVRWQCB-1

This comment is a brief 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 CVRWQCB-2

This comment provides a summary of the regulatory setting, including the Basin Plans, the federal requirements for each state to adopt water quality standards to protect the public health or welfare, and the State's water quality standards (including antidegradation considerations). The commenter also states that the potential impacts to both surface and groundwater quality should be evaluated.

These topics were fully evaluated in Section 3.10, Hydrology and Water Quality, of the Draft EIR. As detailed more fully in Section 3.10, the existing hydrology and water quality setting (both surface and groundwater) and potential effects from implementation of the proposed project on the project site and its surrounding area with respect to potential construction and operation-related impacts on both surface and water quality were fully evaluated. No further response is required.

Response to CVRWQCB-3

The commenter identifies the requirements for a Construction Storm Water General Permit and development and implementation of a SWPPP.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these requirements were included. As noted in Section 3.10 (e.g., Impact HYD-1, Impact HYD-3, Impact HYD-5, MM HYD-1a), along with other requirements and standards, to the extent applicable, each project applicant, as part of its individual development proposal, would be required to comply with these mandates. No further response is required.

Response to CVRWQCB-4

The commenter identifies the requirements of Phase I and II Municipal Separate Storm Sewer System (MS4) permits.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these requirements are included. As noted in Section 3.10, to the extent applicable, each project applicant as part of its individual development proposal would be required to comply with Phase I and II MS4 permit mandates (e.g., Impact HYD-1, Impact HYD-3, Impact HYD-5, MM HYD-1b, MM HYD-3), along with other requirements and standards. No further response is required.

Response to CVRWQCB-5

The commenter indicates that industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these

requirements were included. Along with other requirements and standards, to the extent applicable, each project applicant, as part of its individual development proposal, would be required to comply with the mandates of Industrial Storm Water General Permit Order No. 2014-0057-DWQ. No further response is required.

Response to CVRWQCB-6

The commenter describes the requirement for compliance with Section 404 of the Clean Water Act (CWA) if the project will involve the discharge of dredged or fill material in navigable waters or wetlands. The commenter also notes the requirements for a streambed alteration agreement if the project will involve surface water drainage realignment.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.3, Biological Resources, of the Draft EIR, where these requirements were included. As discussed in Section 3.3, a preliminary assessment of potentially jurisdictional features was conducted as part of the literature review and reconnaissance-level survey for the project site. As described in more detail therein, there is a ditch wetland/cattail marsh located on the Zuriakat parcel along California Avenue. Development details for the Zuriakat parcel are unknown at this time. In addition, there are several irrigation/drainage channels throughout the project site, which appear to have a potential hydrological connection to the San Joaquin River, a traditional navigable water of the United States. The man-made channels on the project site have all been excavated within upland habitat for the purpose of on-site agricultural irrigation and drainage, and as explained more in Section 3.3, these features are generally not considered jurisdictional. However, if the proposed project's construction would result in the placement of fill that would potentially result in impacts to any regulated aquatic resources, MM BIO-3 would be implemented, which requires delineation of potentially jurisdictional aquatic resources and obtaining permits pursuant to Sections 404 and 401 of the CWA as well as compliance with Section 1600 of the California Fish and Game Code (to the extent applicable). See also discussion in Impact BIO-3 for further information in this regard.

Response to CVRWQCB-7

The commenter describes the requirement for compliance with Section 401 – Water Quality certification of the CWA.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.3, Biological Resources, of the Draft EIR, and Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these requirements are included. As noted in the above response, to the extent required under applicable laws and regulations, each project applicant would be required to comply with Sections 404 and 401 of the CWA in connection with its individual development proposal. No further response is required.

Response to CVRWQCB-8

The commenter describes the requirement for a Waste Discharge Requirement permit.

The comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these requirements were noted. If applicable, each project applicant would be required to comply with

these mandates in connection with its individual development proposal. No further response is required.

Response to CVRWQCB-9

The commenter describes the permit requirements for dewatering projects.

This comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.10, Hydrology and Water Quality, of the Draft EIR, where these requirements are noted; however, the proposed project does not include groundwater dewatering. No further response is required.

Response to CVRWQCB-10

The commenter describes the general National Pollutant Discharge Elimination System (NPDES) permit requirements for dewatering projects that would discharge groundwater to waters of the United States but would be considered a low or limited threat to water quality (Limited Threat General Order).

This comment is noted and acknowledged; however, the proposed project does not include groundwater dewatering. No further response is required.

Response to CVRWQCB-11

The commenter describes the requirements for an NPDES permit.

The comment is noted and acknowledged. Each project applicant, in connection with its individual development proposal, would be required to comply with applicable NPDES mandates. No further response is required.

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S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

**SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ)
ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

To: Victoria Lombardo, City of Tracy, Development Services Department
From: Laurel Boyd, SJCOG, Inc. Phone: (209) 235-0574 Email: boyd@sjcog.org
Date: April 27, 2022

-Local Jurisdiction Project Title: Notice of Availability of Draft Environmental Impact Report for the Tracy Alliance Project
Assessor Parcel Number(s): 213-170-14, -24 to -27, -48
Local Jurisdiction Project Number: N/A
Total Acres to be converted from Open Space Use: Unknown
Habitat Types to be Disturbed: Agricultural Habitat Land
Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Ms. Lombardo:

SJCOG, Inc. has reviewed the project referral for the Notice of Availability of Draft Environmental Impact Report for the Tracy Alliance Project. This project consists of the development of up to 3,352,320 square feet of warehouse and distribution and related development. Development on the two Tracy Alliance parcels would consist of approximately 1,849,500 square feet of warehouse and distribution space located in three buildings, as well as an approximately 12.44 acre stormwater detention basin with pump station. Development plans for the Suvik Farms, LLC parcels and Zuriakat parcel are not specified at this time. For the purposes of analysis in the DEIR, buildout for these parcels was estimated to consist of a total of approximately 1,502,820 square feet of warehouse and distribution development.

The proposed project includes demolition of 11 existing residential and agricultural structures on approximately 4 acres located at the southwestern corner of the Tracy Alliance parcels, removal of all crops and some existing trees, grading of approximately 500,000 cubic yards, and the construction of the following primary components:

- Multiple warehouse buildings totaling up to 3,352,320 square feet that support industrial uses and associated offices;
- An approximately 12.44 acre City owned and managed stormwater detention basin with pump station;
- Ample landscaping consistent with all applicable City requirements; for example, in connection with the individual development proposal for the Tracy Alliance parcels, the relevant site plan reflects approximately 110,000 square feet of landscaped areas; and
- Sufficient on-site parking for both vehicles and trailer spaces consistent with all applicable City requirements; for example, in connection with the individual development proposal for the Tracy Alliance parcels, the relevant site plan reflects approximately 1,134 automobile parking spaces and approximately 572 trailer parking spaces.

The project site is located at the northeast corner of Grant Line Road and Paradise Road, Tracy (APN: 213-170-14, -24 to -27, -48).

The City of Tracy is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). **The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.** Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

This Project is subject to the SJMSCP. This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjcog.org>

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Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey **prior to any ground disturbance**
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.
- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

If you have any questions, please call (209) 235-0600.



S J C O G, Inc.

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department, Other: _____

FROM: Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: NOA of DEIR for the Tracy Alliance Project

Assessor Parcel #s: 213-170-14, -24 to -27, -48

T _____, R _____, Section(s): _____

Local Jurisdiction Contact: Victoria Lombardo

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.

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San Joaquin Council of Governments (SJCOG)

Response to SJCOG-1

The comment provides introductory remarks, including a summary of the project description.

It does not raise any specific project-related environmental issues under CEQA and therefore no further response is required.

Response to SJCOG-2

The commenter notes that the proposed project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP); summarizes the local jurisdiction's compliance obligations; and recommends that the project applicant contact SJMSCP staff as early as possible. The commenter also notes the steps required to satisfy SJMSCP requirements, including a pre-construction survey by a qualified Biologist and implementation of incidental take minimization measures. It also notes that Section 404 requirements would apply if the proposed project would impact any waters of the United States.

SJMSCP requirements are detailed in Section 3.3, Biological Resources, of the Draft EIR (e.g., Section 3.4.4 (Regulatory Framework), Impact BIO-6, MM BIO-1). As analyzed more fully therein, each applicant, in connection with its individual development proposal, would be required to implement mitigation mandated under the SJMSCP and minimization measures (as identified above in Impact BIO-1) in conjunction with required compliance with the SJMSCP, which would reduce specific impacts to listed species to a less than significant level under CEQA. Pursuant to the foregoing, no permit for site clearance, grading, or construction would be issued until all requirements under applicable laws and regulations, including those of the SJMSCP, have been satisfied. See also discussion in Section 3.3 (e.g., Impact BIO-3) with respect to potential impacts to jurisdictional features.

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From: Diana Walker <Diana.Walker@valleyair.org>
Sent: Wednesday, May 4, 2022 2:14 PM
To: Victoria Lombardo <Victoria.Lombardo@cityoftracy.org>
Subject: SJVAPCD Information Request for DEIR Tracy Alliance Project

Hello Victoria,

The District is currently reviewing the DEIR for the Tracy Alliance Project. I noticed that an ambient air quality analysis and health risk assessment was completed for the project. May you please request the electronic modeling (AERMOD) and HARP2 files for both analyses from the consultant/applicant and submit them to the District as soon as possible. We will need them in order to complete our review of the DEIR.

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Best regards,

Diana Walker

San Joaquin Valley Air Pollution Control District
Air Quality Specialist II
(559) 230- 5820
Diana.Walker@valleyair.org



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San Joaquin Valley Air Pollution Control District (Valley Air District-1)

Response to Valley Air District-1-1

The commenter states that they are reviewing the Draft EIR and requests the American Meteorological Society/United States Environmental Protection Agency (EPA) Regulatory Model (AERMOD) and Hotspots Analysis and Reporting Program (HARP2) files be sent to the Valley Air District in order to complete their review.

This comment is noted and acknowledged. FirstCarbon Solutions (FCS), on behalf of the City, submitted the requested files to the Valley Air District on May 10, 2022.

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June 2, 2022

Victoria Lombardo
City of Tracy
Development Services Department
333 Civic Center Plaza
Tracy, CA 95376

Project: Draft Environmental Impact Report for Tracy Alliance Project

District CEQA Reference No: 20220531

Dear Ms. Lombardo:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the Tracy Alliance Project for City of Tracy (City). Per the DEIR, the proposed project consists of the construction and operation of approximately 3,352,320 square feet of warehouse and distribution development (Project), located at the northeast corner of Grant Line Road and Paradise Road in Tracy CA.

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The District offers the following comments regarding the Project:

1) Project Related Emissions

1a) Project Trip Length Assumption for Operational Off-Site Heavy Heavy-Duty Truck Travel

Per Appendix B (*Air Quality and Greenhouse Gas Emissions Supporting Information*) of the DEIR, the California Emissions Estimator Model (CalEEMod) analysis includes a 6.9-mile trip length for quantifying Project operational emissions from heavy heavy-duty (HHD) truck travel. However, warehouse development projects typically result in a high volume of HHD truck trips that generally travel further distances (e.g. trip length) for distribution. Without sufficient justification in the DEIR to support the 6.9-mile trip length, the analysis may be underestimating the Project’s operational emissions. Therefore, the District recommends the DEIR be revised to either justify the use of a 6.9-mile trip length for this Project or reflect an appropriate trip length distance that is supported

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Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

by project-specific factors and include a qualitative discussion in the DEIR for consistency.

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1b) Recommended Mitigation to Reduce Operational Air Quality Impacts

Per the DEIR, specifically Table 3.3-12 (*Unmitigated Annual Operational Emissions*) demonstrates Project operational emissions are expected to exceed the District's significance thresholds. Therefore, the District recommends the DEIR be revised to include a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

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In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

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2) Health Risk Assessment

Per the DEIR, the Project-related health impacts are expected to exceed the District's significance threshold of 20 in a million for cancer risk for new developments under CEQA. Therefore, the District recommends that the Project not be approved unless the DEIR is revised to include additional mitigation measures to reduce the Project-level health impacts to below the District's significance thresholds.

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3) District Rule 9510 - Indirect Source Review

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 25,000 square feet of light industrial space.

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee to fund projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510. One AIA application should be submitted for the entire Project. It is preferable for the applicant to submit an AIA application as early as possible in the public agency's (City of Tracy) approval process so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

Information about how to comply with District Rule 9510 can be found online at:
<http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at:
<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

District staff is available to provide assistance, and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

4) Recommended Emissions Reductions Strategies to Reduce Project Air Quality Impacts

4a) Industrial/Warehouse Emission Reduction Strategies

The District recommends the City consider the feasibility of incorporating emission reduction strategies that also reduce potential harmful health impacts, such as those listed below:

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- Ensure solid screen buffering trees, solid decorative walls, and/or other natural ground landscaping techniques are implemented along the property line of adjacent sensitive receptors
- Ensure all landscaping be drought tolerant
- Orient loading docks away from sensitive receptors unless physically impossible
- Locate loading docks a minimum of 300 feet away from the property line of sensitive receptor unless dock is exclusively used for electric trucks
- Incorporate signage and “pavement markings” to clearly identify on-site circulation patterns to minimize unnecessary on-site vehicle travel
- Locate truck entries on streets of a higher commercial classification.
- Ensure all building roofs be solar-ready
- Ensure all portions of roof tops that are not covered with solar panels are constructed to have light colored roofing material with a solar reflective index of greater than 78
- Ensure rooftop solar panels are installed and operated to supply 100% of the power needed to operate all non-refrigerated portions of the development project
- Ensure power sources at loading docks for all refrigerated trucks have “plugin” capacity, which will eliminate prolonged idling while loading and unloading goods
- Incorporate bicycle racks and electric bike plug-ins
- Require the use of super-compliant volatile organic compounds (VOC) architectural and industrial maintenance coatings
- Prohibit the use of non-emergency diesel-powered generators during construction
- Inform the project proponent of the incentive programs (e.g., Carl Moyer Program and Voucher Incentive Program) offered to reduce air emissions from the Project

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4b) Truck Routing

Truck routing involves the assessment of which roads HHD trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

Per the DEIR, the Project will result in increased HHD truck trips. Therefore, the District recommends the City evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

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4c) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project is expected to result in HHD truck trips, the District recommends the DEIR be revised to include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors. In addition, the District recommends the City consider the feasibility of implementing a more stringent 3-minute idling restriction and requiring appropriate signage and enforcement of idling restrictions.

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4d) Electric On-Site Off-Road and On-Road Equipment

Since the Project will result in industrial development, it has the potential to result in increased use of off-road equipment (e.g., forklifts) and on-road equipment (e.g., mobile yard trucks with the ability to move materials). The District recommends that the DEIR include requirements for project proponents to utilize electric or zero emission off-road and on-road equipment.

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4e) Vegetative Barriers and Urban Greening

There are residential units located northeast and southeast of the Project. The District suggests the City consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residential units).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

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4f) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for the Project.

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4g) Electric Vehicle Chargers

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the City and project proponents install electric vehicle chargers at project sites, and at strategic locations.

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Please visit www.valleyair.org/grants/chargeup.htm for more information.

5) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

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The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

5a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission.

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District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (209) 557-6446.

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CONT

5b) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

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Information about District Rule 9410 can be found online at:
www.valleyair.org/tripreduction.htm.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

5c) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

The Project will be subject to District Rule 4002 since the Project will include demolition of existing structures. To protect the public from uncontrolled emissions of asbestos, this rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Any asbestos present must be handled in accordance with established work practice standards and disposal requirements.

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Information on how to comply with District Rule 4002 can be found online at:
<http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

5d) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<http://www.valleyair.org/rules/currentrules/r4601.pdf> .

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5e) District Regulation VIII (Fugitive PM10 Prohibitions)

The Project will be required to submit a Construction Notification Form and submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Since the Project will result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

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The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

5f) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

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6) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

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If you have any questions or require further information, please contact Diana Walker by e-mail at Diana.Walker@valleyair.org or by phone at (559) 230-5820.

Sincerely,

Brian Clements
Director of Permit Services



Mark Montelongo
Program Manager

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San Joaquin Valley Air Pollution Control District (Valley Air District-2)

The following responses include discussion of new mitigation measures that the City and the property owners have agreed to adopt and implement to address comments from the Valley Air District. The mitigation measures are appropriately discussed in this Final EIR and are incorporated into the Mitigation Monitoring and Reporting Program (MMRP) because the new mitigation measures would result in further emission reductions; they would not themselves involve new significant effects or substantially increase the severity of previously analyzed significant effects that would require the recirculation of the Draft EIR.

Under *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1993) 6 C4th 1112 and CEQA Guidelines Section 15088.5(a)(3)), when information added to the Final EIR consists of a suggested new mitigation measure, recirculation is only required if the mitigation measure meets each of the following criteria (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330):

- It is feasible;
- It is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR;
- It would clearly lessen the project's significant environmental impacts; and
- It is not adopted.

These new mitigation measures are accepted by the applicants and will be adopted and implemented with the construction of the proposed project, as applicable. Therefore, recirculation is not required.

Response to Valley Air District-2-1

The commenter states that the Valley Air District has reviewed the Draft EIR for the proposed project and notes that the proposed project consists of the construction and operation of approximately 3,352,320 square feet of warehouse and distribution development.

This comment is noted and acknowledged. Because it does not raise any specific project-related environmental issues under CEQA, no further response is required.

Response to Valley Air District-2-2

The commenter identifies that Appendix B of the Draft EIR includes a 6.9-mile trip length for quantifying heavy heavy-duty (HHD) truck traffic, but notes that warehouse development projects typically result in a high volume of HHD truck trips that generally travel distances further than 6.9 miles. Therefore, the commenter requests either (1) justification for the use of this metric, or (2) revisions to the analysis that reflect an appropriate trip length distance that is supported by project-specific factors and include a qualitative discussion for consistency.

The average HHD truck travel distance utilized in the CalEEMod modeling to support the Air Quality Analysis of the Draft EIR is 11.35 miles rather than the 6.9-mile distance referred to by the commenter. As shown in Appendix B of the Draft EIR, the California Emissions Estimator Model

(CalEEMod) utilizes three separate travel distance metrics by default. In this case, the model's truck trips were divided, with 41 percent assigned to a "H-O or C-NW" trip type with a default distance of 6.6 miles per trip and 59 percent assigned to a "H-W or C-W" trip type with a default distance of 14.7 miles per trip. Therefore, the model's default truck travel distance would be an average 11.35 miles per trip $((14.7 \times 0.59) + (6.6 \times 0.41) = 11.35)$.

Based on available information, the proposed project's co-applicants (the three owners of the six parcels that comprise the project site; see Draft EIR, Chapter 1, Introduction (page 1-1); hereafter, the "applicants") have identified three regionally located intermodal facilities as the most likely origins and destinations for much of their operations: an intermodal facility located at 1000 East Roth Road, Lathrop, California 95231, approximately 12.1 miles from the project site; an Amazon distribution center, located along East Paradise Road approximately 1 mile from the project site; and a UPS distribution center, located along West Shulte Road approximately 10.9 miles from the project site. Considering an even distribution between the three listed product origins and destinations, trucks traveling to and from the project site during operation would travel an average of 8 miles per trip. As the CalEEMod default results in an average truck travel distance of 11.35 miles, as shown in Appendix B of the Draft EIR, the proposed project's trucking activity was conservatively captured in the modeling contained in Appendix B of the Draft EIR and no revisions to the analysis are necessary in order to comply with CEQA.

Response to Valley Air District-2-3

The commenter recommends that the Draft EIR be revised to include a Voluntary Emission Reduction Agreement (VERA) for the project and describes that a VERA is a contractual agreement between the project proponent and the Valley Air District.

A VERA is a voluntary recommendation, it is not a requirement. In addition, because the project would result in the development of greater than 25,000 square feet of light industrial building space, the project would be required to pay emission reduction fees associated with its Indirect Source Review application, consistent with the requirements contained in District Rule 9510. The Indirect Source Review application and fees to the Valley Air District would reduce project emissions since the Air District would direct the fees to fund other air quality improvement measures throughout the District. Although the proposed project would not include a VERA, the incorporation of Indirect Source Review application measures and payment of fees would further offset proposed project air pollutant emissions. No further response is required.

Response to Valley Air District-2-4

The commenter describes that through a VERA, the Valley Air District verifies emission reductions achieved by complete grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions.

No further response is required.

Response to Valley Air District-2-5

The commenter states that the project-related health impacts are anticipated to exceed the Valley Air District's significance threshold of 20 in one million for cancer risk for new developments under CEQA. The commenter recommends that the proposed project not be approved unless the Draft EIR

is revised to include additional mitigation measures to reduce the project-level health impacts to below the Valley Air District's significance thresholds.

To the extent the commenter is expressing an opinion on the merits of the proposed project, the comment will be noted and included in the administrative record for consideration by the City's decision-makers. The City, as Lead Agency, has the authority to approve the proposed project even if significant and unavoidable impacts would occur so long as the City's basis for doing so is supported by the required CEQA findings, including, if necessary, a Statement of Overriding Considerations. As noted in Section 3.3, Air Quality, of the Draft EIR, while the final determination of whether a project would have a significant impact is within the purview of the Lead Agency pursuant to Section 15064(b) of the CEQA Guidelines, the City, in its discretion, has acted in accordance with Valley Air District's recommendation that its quantitative air pollution thresholds be used to determine the significance of project emissions. The applicable Valley Air District thresholds and methodologies are contained under each impact statement in Section 3.3, as the City, in its discretion, has determined to utilize these thresholds and methodologies, which are based on robust scientific and factual data appropriately considered and incorporated therein by the Valley Air District, as the expert public agency charged with addressing air quality and greenhouse gas (GHG) emissions within Valley Air District boundaries, which include the project site.

For purposes of conducting the health risk impact analysis, the Draft EIR's analysis properly identified the closest sensitive receptors to the proposed project; it also noted that the Maximally Impacted Sensitive Receptor (MIR) during each construction phase of the proposed project may be different since the MIR during pollutant-generating activity is influenced by the distance of that receptor to the pollutant source(s), the amount and type of pollutants generated by each source, the topography and direction of the MIR as it relates to the pollutant source(s), and the prevailing meteorological conditions. As discussed under Impact AIR-3 in Section 3.3, Air Quality, the Draft EIR analyzed the health risk impacts during operation of Phase 1 of the proposed project as that is the only phase for which project-specific information was available, such as specific local truck travel routes, possible locations of on-site vehicle and equipment idling, and general building design and orientation on the project site. Nevertheless, it is reasonable to conclude that the health risk impacts resulting from operation of Phase 1 would be generally representative of and thus adequately identify and disclose operational impacts at full buildout. As discussed under Impact AIR-3 in Section 3.3, Air Quality, Phase 1 of the proposed project would constitute approximately 55 percent of total trucking activities for the proposed project and operation of Phase 1 would result in approximately 13.13 excess cancer cases per one million people, which is less than the 20 in a million threshold. However, because Phase 1 of the proposed project would represent 55 percent of potential trucking activities, the Draft EIR determined that Phases 2 and 3 could result in operational trucking activity that would generate significant toxic air contaminant (TAC) emissions and the overall project could exceed the 20 in a million threshold. MM AIR-1d would result in reductions of diesel particulate matter (DPM) from the operation of a clean truck fleet to the maximum extent feasible during operation of all phases of the proposed project; however, the potential DPM emission reductions resulting from implementation of MM AIR-1d cannot be quantified at this time due to unknown engine emission factors for trucks meeting the California Air Resources Board (ARB) low oxides of nitrogen (NO_x) emission standards. Furthermore, the Draft EIR could not reasonably quantify the

health risk impacts from the operation of Phases 2 and 3 because no information about those phases was available at the time the analysis was prepared and no further information is currently available. Because the health risk impacts analyzed conclude that the proposed project could result in potentially significant health impacts and the efficacy of implementation of MM AIR-1d for DPM emission reductions cannot be quantified, the Draft EIR's analysis conservatively concluded that Impact AIR-3 would be significant and unavoidable.

Nonetheless (and although not required as mitigation for any impact) to further reduce potential health risk impacts to the nearest sensitive receptors to the project site (the residences and school along Grant Line Road and El Rancho Road), the City has agreed to adopt and the project applicants have agreed to implement MM AIR-1e, which has been added to Section 3.3, Air Quality, of the Draft EIR to require that trucks accessing the project site are prohibited from using Grant Line Road east of the project site. These changes can be seen in Section 3.1 of the Errata and have been incorporated into the updated MMRP. In addition, the project applicants are willing to voluntarily implement signage along project frontage on Grant Line Road to prohibit trucks from traveling on Grant Line Road east of the project site and would agree to voluntarily implement routine communications between property managers and tenants to ensure tenant understanding that trucks accessing the project site are prohibited from using Grant Line Road east of the project site. These measures would be incorporated as enforceable conditions of approval into any development review permit issued for development on the project site. In addition, the project applicants have also voluntarily agreed to the incorporation of additional enforceable conditions of approval to further address air quality and health risk issues (see updated MMRP). See also multiple Responses to SHUTE.

When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of additional mitigation measures (as well as the incorporation of additional conditions of approval); therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-6

The commenter notes that the proposed project is subject to District Rule 9510 Indirect Source Review. The commenter also summarizes the purposes and requirements under District Rule 9510, including the need to prepare an Air Impact Assessment (AIA).

This comment is noted and acknowledged, and the commenter is referred to the Regulatory Framework of Section 3.3, Air Quality, of the Draft EIR, where these requirements were noted. Specifically, the Valley Air District's rules and regulations that could apply to the proposed project, including District Rule 9510—Indirect Source Review, are listed in Section 3.3, Air Quality, on page 3.3-20 through 3.3-21 of the Draft EIR. Page 3.3-21 of the Draft EIR states that the proposed project would be required to comply with Rule 9510 because it would develop more than 25,000 square feet of light industrial uses, including submittal of the required AIA application. See also the Impact Discussion in Impact AIR-1. No further response is required.

Response to Valley Air District-2-7

The commenter states that the City should consider the feasibility of a list of provided measures to reduce emissions and health impacts.

As identified in Section 3.3, Air Quality, and in accordance with the requirements under CEQA, a series of feasible mitigation measures have been identified, which would be imposed on the proposed project to reduce emissions and health risk impacts to the extent practicable. As requested by the commenter, the City and its consultants have considered the feasibility of incorporating the suggested additional measures. As detailed more fully in multiple Responses to SHUTE, those listed by the commenter, such as the inclusion of a screen buffer of trees, solid decorative walls, and/or other natural ground landscaping techniques around the project site eastern property line adjacent to sensitive receptors; ensuring all landscaping is drought tolerant; or signage/pavement markings identifying on-site circulation, would not result in sufficient reductions in emissions to ensure that emissions and subsequent health risk impacts would not exceed the District's significance thresholds. The reason these additional mitigation measures would not reduce emissions below the Valley Air District thresholds is because the majority of operational emissions are due to the use of HHD truck fleets. Signage/pavement marking identifying on-site circulation would not reduce the number of trucks visiting the project site on any given day or substantially change or reduce the amount of time trucks would spend idling or traveling on or near the project site. However, additional mitigation measures were included in the Final EIR that would reduce the project's potential to expose sensitive receptors to elevated levels of TACs. These measures include MM AIR-1f (idling limitation), MM AIR-1g (electric on-site off-road and on-road equipment), and MM AIR-1h (vegetated project site buffer). These mitigation measures align with the intent of the mitigation measures suggested by the commentor. Specifically, MM AIR-1-h requires each individual development proposal within the project site to demonstrate inclusion of a vegetative buffer. See also additional enforceable conditions of approval that the project applicants have voluntarily agreed to implement and/or otherwise incorporate to further address air quality, health risk and buffer issues (see updated MMRP).

Furthermore, a number of the measures listed by the commenter are already incorporated into the project as design features, such as providing bicycle parking consistent with City requirements, or have already been identified as mitigation; i.e., MM AIR-1b and -1c, which require low volatile organic compound (VOC) architectural coating and paints during construction which do not exceed 10 grams of reactive organic gas (ROG) per liter of paint and Zero VOC consumer products during operation.

Nevertheless, as described further below, although not required to do so, the City has agreed to adopt and the project applicants have agreed to incorporate the following additional measures: MM AIR-1e (operational truck fleet routing), MM AIR-1f (idling limitation), MM AIR-1g (electric on-site off-road and on-road equipment), MM AIR-1h (vegetated project site buffer), and MM AIR-1i (Tier 2 CALGreen electric vehicle charging infrastructure). These mitigation measures have been included in this Final EIR (as shown in Section 3.1 of the Errata) as well as in the updated MMRP and would result in additional emission reductions during project operation beyond what was identified in the Draft EIR. Furthermore, the project applicants have voluntarily agreed to incorporate additional measures/design features as conditions of approval to address the foregoing issues (see updated

MMRP). Nonetheless, the quantified emission reductions that would result from implementation of these new mitigation measures (as well as other identified conditions of approval) cannot be identified at this time due to the limitations of emissions modeling, such as CalEEMod. However, such quantification is not required because as mentioned previously, the vast majority of emissions would be due to HDD truck use during operation and impacts would remain significant and unavoidable.

Response to Valley Air District-2-8

The commenter notes that truck routing involves the assessment of which roads HDD trucks will use during project operation. The commenter indicates that the truck routing patterns can result in impacts to nearby residential communities and sensitive receptors and states that truck routing for the project should be identified, with the aim of limiting exposure to emissions. The commenter then notes the recommended methodology in conducting this assessment.

As identified in Chapter 2, Project Description, of the Draft EIR, approximately 12.51 acres of the Tracy Alliance parcel would be reserved to accommodate a portion of a planned interchange at Paradise Road and Interstate 205 (I-205) where future trucks would access the project site once built. This future interchange has been identified by the project applicants as the primary truck route for trucks accessing the project site during operation once it is constructed and the interchange is assumed to be in place as part of the cumulative conditions within the Transportation Impact Analysis prepared by Kimley-Horn. As illustrated in Appendix B of the Draft EIR, the operational Health Risk Assessment (HRA) prepared for the proposed project to support the analysis under Impact AIR-3 in Section 3.3, Air Quality, accounted for all possible local arterials that could support the future trucking activities of the proposed project. This consideration in the HRA accounted for known trucking information including the possible local route network (i.e., current and future truck routes), the quantity, type, and volume of truck trips and VMT, and associated exhaust emissions. For example, the CalEEMod operational scenarios used project-specific truck trip lengths based on applicant information of three points of origin for truck trips, which provided an accurate representation of the potential exhaust emissions associated with operations. Nonetheless, and although not required as mitigation for any impact, the City has agreed to adopt and the project applicants have agreed to implement MM AIR-1e, which has been added to this Final EIR to prohibit trucks that are accessing the project site from using Grant Line Road east of the project site. See also additional enforceable conditions of approval that the project applicants have voluntarily agreed to implement and/or otherwise incorporate to further address signage and traffic pattern issues (see updated MMRP).

When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of this mitigation measure (as well as other identified conditions of approval); therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-9

The commenter summarizes the goal of the idling reduction strategy. Because of the volume of truck traffic anticipated for the proposed project the commenter recommends that the Draft EIR be revised to include measures to ensure compliance with the State anti-idling regulation; to discuss the importance of limiting idling near sensitive receptors; and to include a more stringent 3-minute idling restriction for on-site trucks accessing the site (along with related signage and enforcement) to reduce associated exhaust emissions.

Consistent with the comment, Section 3.3, Air Quality, of the Draft EIR addresses the State anti-idling regulation as well as the impacts of idling on sensitive receptors absent restrictions (see, e.g., pages 3.3-16 and 3.3-47 through -49).

In addition, although not required as mitigation for any impact, in response to this comment, the City has agreed to adopt and the project applicants have agreed to implement MM AIR-1f, which would restrict on-site vehicle idling to no greater than 3 minutes. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP. When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of this mitigation measure; therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-10

Because of the industrial nature of the proposed project, the commenter notes that it has the potential to result in increased use of on-site and off-road equipment. Therefore, the commenter recommends the use of on-site on- and off-road equipment (e.g., forklifts, pallet jacks) be limited to only electric equipment and vehicles.

Consistent with the comment, Section 3.3, Air Quality, of the Draft EIR evaluates the potential impact of project operations in terms of DPM emissions due to HHD trucks and passenger vehicles. Although the Draft EIR did not specifically evaluate the impacts of the use of on-site and off-road equipment, the Draft EIR discusses the primary source of DPM and TAC emissions from the project operation, which is the use of HHD trucks.

In addition, although not required as mitigation for any impact, in response to this comment, the City has agreed to adopt and the project applicants have agreed to implement MM AIR-1g, which would require the use of electric on-site and on- and off-road equipment in place of non-electric alternatives. Furthermore, the project applicants have voluntarily agreed to a condition of approval that would prohibit the use of diesel-powered generators during project operation. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP. When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental

impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of this mitigation measure (as well as other identified conditions of approval); therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-11

Because of the industrial nature of the proposed project and its proximity to nearby sensitive receptors, the commenter suggests that the City consider the feasibility of incorporating vegetative barriers and urban greening around the project site to further reduce air pollution exposure to sensitive receptors. The commenter also notes the purpose of these measures.

Consistent with the comment, Section 3.3, Air Quality, of the Draft EIR evaluates the potential impact of project operations on sensitive receptors; see page 3.3-47.

In addition, although not required as mitigation for any impact, in response to this comment, MM AIR-1h has been added to Section 3.3, Air Quality, of the Draft EIR to require the installation of a vegetative barrier at the eastern boundary of the project site, between I-205 and Grant Line Road. See also additional enforceable conditions of approval that the project applicants have voluntarily agreed to implement and/or otherwise incorporate to further address air quality, health risk and buffer issues (see updated MMRP). These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP. When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of additional mitigation measures (as well as other identified conditions of approval); therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-12

The commenter states that it is the policy of the State of California to increase renewable and zero-carbon energy resources in the procurement of electricity sold in-state to reach 100 percent by December 31, 2045, and notes that the production of solar energy is contributing to improving air quality and public health. The commenter suggests that the City consider incorporating solar power systems as an emission reduction strategy for the proposed project.

Consistent with the comment, as discussed in the Draft EIR (see Chapter 3-6 Energy and 3-8 Greenhouse Gas Emissions), the proposed project would be required to be designed in compliance with the applicable California Building Standards Code (CBC), which reflect some of the most stringent requirements in the nation. Currently, the CBC requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels. The proposed project would be required to comply with the foregoing, thereby contributing to improved air quality and public health through facilitating the production of solar energy.

Response to Valley Air District-2-13

The commenter states that the Valley Air District offers a Charge Up! Incentive program to public agencies, businesses, and property owners to install electric vehicle (EV) charging infrastructure and recommends that the City and project proponents install EV chargers at the project site and at strategic locations.

Although not required as mitigation for any impact, in response to this comment, the City has agreed to adopt and the project applicants have agreed to implement MM AIR-1i, which would require the installation of EV charging stations which meet the Tier 2 standards set forth in Section A5.106.5.3 of Appendix A5–Nonresidential Voluntary Measures of the California Green Building Standards Code (CALGreen) of the 2019 CBC. The inclusion, and acceptance of this additional measure by the project applicants, would further reduce emissions through support for the use of electric vehicles. See also additional enforceable conditions of approval that the project applicants have voluntarily agreed to implement and/or otherwise incorporate to further address air quality, GHG emissions and energy issues (see updated MMRP). When information added to the Final EIR consists of an additional mitigation measure, recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330). Here, the applicants have voluntarily accepted the inclusion of additional mitigation measures (as well as other identified conditions of approval); therefore, recirculation is not required. These changes can be seen in Section 3.1 of the Errata as well as the updated MMRP.

Response to Valley Air District-2-14

The commenter notes that the District issues permits for many different types of air pollution sources and indicates that such projects may be subject to a variety of District rules and regulations including, for example, Regulation II, Rules 2010, 2201, and 2520.

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

Response to Valley Air District-2-15

The commenter summarizes the definition of stationary source emissions, notes relevant District Rules 2010 and 2201, and states that the proposed project may be subject to these rules; the commenter also recommends that the project applicant apply for an Authority to Construct (ATC) prior to construction.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources and confirms that the proposed project would be required to comply with all applicable District rules and regulations. See, e.g., page 3.3-25; see also discussion for Impact AIR-1. For purposes of further clarifying and amplifying the analysis, the Valley Air District's Regulation II, Rules 2010 and 2201 have been added to Section 3.3, Air Quality, page 3.3-20 of the Draft EIR, and corresponding edits are reflected in Section 3.1 of the Errata.

Response to Valley Air District-2-16

The commenter states that the proposed project may be subject to Valley Air District Rule 9410.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources and confirms that the proposed project would be required to comply with all applicable District rules and regulations. See, e.g., page 3.3-20; see also discussion for Impact AIR-1. For purposes of further clarifying and amplifying the analysis, the Valley Air District's Rule 9410 has been added to Section 3.3, Air Quality, page 3.3-21 of the Draft EIR, and corresponding edits are reflected in Section 3.1 of the Errata.

Response to Valley Air District-2-17

The commenter states that the proposed project will be subject to Valley Air District's Rule 4002.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources and confirms that the proposed project would be required to comply with all applicable District rules and regulations. In particular, the analysis considers impacts associated with the proposed demolition. See the discussion for Impact AIR-1 and -2. For purposes of further clarifying and amplifying the analysis, the Valley Air District's Rule 4002 has been added to Section 3.3, Air Quality, page 3.3-20 of the Draft EIR, and corresponding edits are reflected in Section 3.1 of the Errata.

Response to Valley Air District-2-18

The commenter notes that the proposed project would be subject to Valley Air District Rule 4601 Architectural Coatings.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources and confirms that the proposed project would be required to comply with all applicable District rules and regulations, including, among others, District Rule 4601. See, e.g., pages 3.3-20 through 3.3-21 of the Draft EIR; see also discussion for Impact AIR-1.

Response to Valley Air District-2-19

The commenter notes that the proposed project would be subject to Valley Air District Regulation VIII, specifically Rule 8021 (Fugitive PM₁₀ Prohibitions), and summarizes the requirements for same.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources, and confirms that the proposed project would be required to comply with all applicable District rules and regulations, including, among others, Regulation VIII. See, e.g., pages 3.3-20 through 3.3-21 of the Draft EIR; see also discussion for Impact AIR-1.

Response to Valley Air District-2-20

The commenter notes that the proposed project may be subject to Valley Air District Rules 4102 (Nuisance) and 4641 (Cutback, Slow Cure, and Emulsified Asphalt). This comment is noted.

Section 3.3, Air Quality, of the Draft EIR discusses at length the Valley Air District's authority to regulate air pollution sources and confirms that the proposed project would be required to comply with all applicable District rules and regulations, including, among others, Rules 4102 and 4641. See, e.g., pages 3.3-20 through 3.3-21 of the Draft EIR; see also discussion for Impact AIR-1.

Response to Valley Air District-2-21

The commenter states that the Valley Air District recommends that a copy of the District's comments be provided to the project proponent.

The Valley Air District's comments have been provided to the project applicants.

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June 3, 2022

Victoria Lombardo, Senior Planner
City of Tracy Development Services
333 Civic Center Plaza
Tracy, CA 95376

VIA EMAIL TO:
victoria.lombardo@cityoftracy.org

Subject: Comments on Tracy Alliance EIR (SCH NO. 2020080524)

Dear Ms. Lombardo,

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

1

1.0 Summary

The project proposes the construction and operation of 3,352,320 square feet of warehouse and distribution and related development on a total of approximately 191.18 acres. The project site is within unincorporated San Joaquin County adjacent to the City of Tracy's northeastern city limits and adjacent to the City of Tracy Northeast Industrial (NEI) Specific Plan area. The proposed project would require approval of annexation into the City of Tracy, pre-zoning, an amendment to the NEI Specific Plan, and a Tentative Parcel Maps or Lot Line Adjustment(s) to create final development lots. Development on the two Tracy Alliance parcels, as proposed by co-applicant Tracy Alliance Group, would consist of approximately 1,849,500 square feet of warehouse and distribution space located in three buildings. The proposed site plan includes approximately 1,134 automobile parking spaces and approximately 572 truck/trailer parking spaces. Approximately 12.51 acres of the Tracy Alliance land would be reserved to accommodate a portion of a planned interchange at Paradise Road and Interstate 205 (I-205).

2

The San Joaquin County General Plan (County General Plan) designates the site as Agriculture-Urban Reserve (A/UR) and the County Zoning designation is Agriculture-minimum 40 acre lot (AG-40). The City of Tracy General Plan (General Plan) designates the project site as Industrial (I). The City does not have a Zoning designation for the project site because it is not currently within city limits. The project requests approval of a boundary reorganization (to annex the project site into the City of Tracy and detach the project site from the Tracy Rural Fire District), pre-zoning of the project site to a designation of NEI Specific Plan, and an amendment to the boundaries of the NEI Specific Plan to incorporate the project site (as well as any conforming amendments to the NEI Specific Plan to ensure consistency).

2
CONT

3.3 Air Quality, 3.6 Energy, and 3.8 Greenhouse Gas Emissions

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6077005202) ranks worse than 97% of the rest of the state overall in pollution burden. The surrounding community, including Banta Elementary School, residences to the south and east, and adjacent SB 535 Census Tracts 6077005119 (east), 6077005122 (east), 6077005302 (west), 6077005206 (west), and 6077003900 (north), bears the impact of multiple sources of pollution and is more polluted than average on every pollution indicator measured by CalEnviroScreen. For example, the project census tract ranks in the 97th percentile for drinking water impacts, 99th percentile for groundwater threats, 97th percentile for hazardous waste impacts, and 87th percentile for impaired waters. The project census tract also ranks in the 60th percentile for ozone burden, the 46th percentile for particulate matter (PM) 2.5 burden, 50th percentile for diesel PM burden, and the 68th percentile for traffic related impacts, which are all typically attributed to heavy vehicular activity in the area. The census tract also bears more impacts from cleanup sites than 89% of the state. Chemicals in the buildings, soil, or water at cleanup sites can move into nearby communities through the air or movement of water.

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Further, the census tract is a diverse community including 33% Hispanic, 4% African-American, and 14% Asian-American residents, which are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 60% of the census tract over age 25 has not attained a high school diploma, which is an indication that they may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 59th percentile for incidence of cardiovascular disease and 58th percentile for incidence of low birth weights.

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Additionally, the project's census tract (6077005202) and the census tracts adjacent to the project site (6077005119 (east), 6077005122 (east), 6077005302 (west), 6077005206 (west), and 6077003900 (north)) are identified as SB 535 Disadvantaged Communities, which is not discussed or presented for analysis in the EIR.

3
CONT

The State of California lists three approved energy compliance modeling softwares for non-residential buildings: CBECC-Com, EnergyPro, and IES VE. CalEEMod is not listed as an approved software. The spreadsheet-based and CalEEMod modeling in Appendix E does not comply with the 2019 Building Energy Efficiency Standards and under reports the project's potentially significant GHG and Energy impacts to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made. A revised EIR with modeling in one of the approved software types must be circulated for public review in order to adequately analyze the project's potentially significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not one of the approved softwares. Additionally, the Energy Use Summary within Appendix E is titled "Sunnyvale FCII Project Energy Use Summary," which does not correspond to the proposed project and further renders the EIR inadequate as an informational document.

4

It must also be noted that the City is not listed as a jurisdiction with local energy standards approved by the CA Energy Commission. According to the CA Energy Commission, "Local jurisdictions are required to apply to the Energy Commission for approval, documenting the supporting analysis for how the local government has determined that their proposed Standards will save more energy than the current statewide Standards and the basis of the local government's determination that the local standards are cost-effective." Therefore, compliance with the City's General Plan and/or Sustainability Action Plan does not comply with CA Energy Commission standards or AB 32/SB 32. The EIR is misleading to the public and decision makers by stating compliance with these standards when the local jurisdiction standards have not been approved by the CA Energy Commission. A revised EIR must be prepared with adequate analysis of project impacts utilizing an approved modeling software in order to be a reliable informational document in compliance with CEQA.

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3.11 Land Use and Planning

The EIR does not provide any consistency analysis with the San Joaquin County Council of Governments (SJCOG) adopted 2018 RTP/SCS¹. Due to errors in modeling and modeling without

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¹ SJCOG 2018 RTP/SCS <https://www.sjcog.org/DocumentCenter/View/4156/Final-Compiled-RTPSCS-2018>

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supporting evidence, as noted throughout this comment letter and attachments, and the project's significant and unavoidable cumulatively considerable Air Quality and Transportation (VMT) impacts, the proposed project has significant potential for inconsistency with Policy 1 to enhance the environment for existing and future generations and conserve energy, Strategy 3 to improve air quality by reducing transportation-related emissions, Strategy 4 to improve regional transportation system efficiency, and Strategy 8 to improve major transportation corridors to minimize impacts on rural roads. The EIR must be revised to include accurate Air Quality/HRA, Energy, and GHG modeling and provide an analysis of potential inconsistency with the 2018 RTP/SCS document.

6
CONT

Additionally, the EIR notes that the "City of Tracy prepared a Municipal Services Review (MSR) for the San Joaquin LAFCo in 2019. The MSR provides the required information for project annexation." However, the MSR is not included for public review. CEQA § 15150 (f) states that incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand. The MSR contributes directly to the analysis of the problem at hand. Not including the MSR as an attachment for public review is in violation of CEQA § 15150 (f). The EIR must be revised and recirculated for public review including the MSR as an attachment. This is especially vital because the project's employment growth will exceed the MSR 10-Year horizon growth forecast as discussed below in the Population and Housing analysis. The EIR includes a footnote reference with a weblink to the MSR, but the weblink is not functional and a 404 error is returned when the link is entered into a web browser.

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Table 3.11-3: General Plan Consistency Analysis provides misleading consistency analysis with General Plan goals, policies and objectives adopted with the purpose of avoiding or mitigating an environmental effect, including the following:

Objective LU-8.1 Policy 3: The City shall support existing San Joaquin County agricultural land use designations in the Planning Area and strongly oppose changes that result in increased urbanization.

EIR Analysis

Consistent: The project site would be annexed into the City of Tracy upon approval by LAFCo, and is designated in the City General Plan for industrial uses. Further, the County land use designation for the site of A/UR identifies and reserves this agricultural land for future urban development.

8

The EIR's analysis is misleading as the project site's existing San Joaquin County agricultural land use designations are proposed to be changed to non-agricultural designations. Additionally, the project will result in significant and unavoidable cumulatively considerable impact to agricultural resources due to the conversion of Prime Farmland. This information must be included for analysis as part of a revised EIR.

Goal AQ1 Improved air quality and reduced greenhouse gas emissions.

EIR Analysis

Consistent: The proposed project would be subject to various regulatory measures adopted to ensure ambient air quality standards are met to the extent feasible. The proposed project would not be a source of significant toxic or hazardous air pollutants and odors, and was not found to have a significant impact with respect to GHG. Refer to Section 3.3, Air Quality and Section 3.8,

9

The EIR's analysis is erroneous and misleading as the project will result in significant and unavoidable cumulatively considerable Air Quality impacts related to 1) Cumulatively Considerable Net Increase of reactive organic gases (ROG) and carbon monoxide (CO) During Construction and 2) Exposing Sensitive Receptors to Substantial Pollutant Concentrations. The EIR must be revised to include this information for analysis and include a finding of significance due to the inconsistency.

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Additionally, the EIR excludes analysis of the following General Plan goals, policies and objectives adopted with the purpose of avoiding or mitigating an environmental effect, including the following:

1. Goal LU-9 Leadership in environmental, economic and social sustainability.
2. Objective LU-9.1 Undertake measures to reduce greenhouse gas emissions and improve the sustainability of actions by City government, residents and businesses in Tracy.
3. Objective AQ-1.1 Improve air quality and reduce greenhouse gas emissions through land use planning decisions.
4. AQ-1.1 P1. The City shall promote land use patterns that reduce the number and length of motor vehicle trips.
5. AQ-1.1 P2. To the extent feasible, the City shall maintain a balance and match between jobs and housing.
6. AQ-1.1 P4. Employment areas should include a mix of support services to minimize the number of trips.
7. Objective AQ-1.2 Promote development that minimizes air pollutant and greenhouse gas emissions and their impact on sensitive receptors as a result of indirect and stationary sources.
8. AQ-1.2 P2. The City shall assess through the CEQA process any air quality impacts of development projects that may be insignificant by themselves, but cumulatively significant.
9. AQ-1.2 P3. Developers shall implement best management practices to reduce air pollutant emissions associated with the construction and operation of development projects.
10. AQ-1.2 P6. Installation of solar voltaic panels on new homes and businesses shall be encouraged.
11. AQ-1.2 P12. New sources of toxic air pollutants shall prepare a Health Risk Assessment as required under the Air Toxics "Hot Spots" Act and, based on the results of the Assessment, establish appropriate land use buffer zones around those areas posing substantial health risks. AQ-1.2 P13. Dust control measures consistent with San Joaquin Valley Air Pollution Control District rules shall be required as a condition of approval for subdivision maps, site plans, and all grading permits.

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- 12. AQ-1.2 P14. Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented.
- 13. AQ-1.2 P15. Encourage businesses to electrify loading docks or implement idling-reduction systems so that trucks transporting refrigerated goods can continue to power cab cooling elements during loading, layovers, and rest periods.
- 14. Objective AQ-1.4 Support local and regional air quality improvement efforts.

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CONT

Due to errors in modeling and modeling without supporting evidence, as noted throughout this comment letter and attachments, and the project’s significant and unavoidable cumulatively considerable Air Quality and Transportation (VMT) impacts, the proposed project is directly inconsistent with the goals, policies and objectives listed above adopted with the purpose of avoiding or mitigating an environmental effect. The EIR must be revised to include a consistency analysis with all General Plan goals, policies and objectives in order to provide an adequate and accurate environmental analysis.

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Further, the NEI SP analysis does not analyze the Project Description’s statement that the project requires an amendment to the boundaries of the NEI Specific Plan to incorporate the project site and any conforming amendments to the NEI Specific Plan to ensure consistency, which indicates that the project does not comply with the NEI SP. The EIR must be revised to detail the project’s proposed development standards, the applicable standards within the NEI SP, and amendments proposed to the NEI SP in order to accommodate the proposed project.

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4.0 Effects Found Not to be Significant

4.2.2 Population and Housing

The EIR concludes that “based on the light industrial nature of the proposed project, it is expected that approximately 1,871 employees would work on-site at full buildout.” Footnote 5 states that the quantity of employees was generated via “Conversation with Barbara Harb, Economic Development Analyst, City of Tracy-employment data collected by conversations with business owners for various industrial businesses, including warehousing, manufacturing, and employee-intensive warehousing, and existing building square footage data, averaged.” The methodology for determining the number of employees generated by the proposed project is not adequate, accurate, or reliable. Further, none of the “conversations” are provided for public review as part of the EIR’s methodology and does not comply with CEQA’s requirements for incorporation by reference as the “conversations” that created the methodology contribute directly to analysis of the problem at hand (CEQA § 15150 (f)). Appendix J: Transportation utilizes a calculation of 1,000 square feet per employee to conclude that the project will generate 3,354 employees during project operations. All sections of the EIR must be revised to utilize this methodology for analysis in order for the EIR to be an internally consistent document.

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Table 2-7: Development Anticipated Within Years 1-10 and Within Years 11-30 of the City’s 2019 Municipal Services Review² (MSR) states that Planning Subarea 16 (which encompasses the proposed project site) will generate 450 jobs during years 1-10 and 3,285 jobs during years 11-30. The 10-Year Horizon of the MSR spans from 2019 to 2029 and the 30-Year Horizon addresses 2029 to 2049. Table 3.3-6: Anticipated Construction Schedule within the EIR states that all phases of the project will be constructed by 2025. Appendix J’s calculation of 3,354 employees generated by the proposed project demonstrates that the project vastly exceeds the employment growth anticipated and planned during the 10-Year Horizon. This information is not discussed or presented for analysis in the EIR and must be included as part of a revised and recirculated EIR for public review. A finding of significance must be made as the employment growth generated by the proposed project exceeds the growth capacity of the 2019 Municipal Services Review.

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The EIR states that “industrial uses on the project site were anticipated by the City in the General Plan, and thus, the City anticipated this number of employees needed for such a project.” The EIR concludes “the proposed project would not result in a significant, unplanned change to the population of the City, and impacts would be less than significant.” The EIR does not provide any meaningful evidence to support the conclusion that the project will have less than significant impacts. As stated above, the 3,354 employees generated by the proposed project exceeds the growth capacity of the 2019 Municipal Services Review. Therefore, the proposed project will result in a significant, unplanned change to the population of the City, and impacts will be significant and potentially cumulatively considerable. The EIR must be revised to include this information for discuss and analysis in addition to a finding of significance.

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The EIR must also provide a cumulative analysis discussion of projects approved since 2020 and projects “in the pipeline” to determine if the project will exceed SJCOG’s employment growth forecast for the City. The revised EIR must also provide demographic and geographic information on the location of qualified workers to fill these positions in order to provide an accurate environmental analysis. The City’s May 2022 Industrial and Commercial Pipeline Report³ provides updated information on current industrial activity:

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Under construction

Total NEI: 1,859,000 sf

Overall Total: 3,360,778 sf

² City of Tracy 2019 Municipal Services Review https://www.sjgov.org/docs/default-source/local-agency-formation-commission-documents/municipal-services-and-spheres-of-influence/cities/tracy---july-2019.pdf?sfvrsn=aa988a63_2

³ City of Tracy May 2022 Industrial and Commercial Pipeline Report <https://www.cityoftracy.org/home/showpublisheddocument/13056/637882942906530000>

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Approved, Construction Not Started

Total NEI: 696,343 sf

Overall Total: 702,343 sf

Under Review

Total NEI: 1,574,180 sf

Overall Total: 6,931,854 sf

Cumulative Total NEI: 4,129,523 sf

Cumulative Overall Total: 10,994,975 sf

Utilizing a calculation of 1,000 square feet per employee and the development information provided by the May 2022 report, industrial development in the current pipeline will generate approximately 10,995 employees and approximately 4,130 employees (37.5% of pipeline industrial employees) will be within the NEI Specific Plan. A revised EIR must be prepared to include analysis that demonstrates if the employees generated by the proposed project, current industrial development pipeline, and any industrial projects completed from the date of the City's General Plan adoption that are not listed on the May 2022 pipeline list will exceed the growth forecasts of the General Plan or NEI Specific Plan. This is vital as the Project Description states that the project requires an amendment to the boundaries of the NEI Specific Plan to incorporate the project site and any conforming amendments to the NEI Specific Plan to ensure consistency, which indicates that the project does not comply with the NEI SP.

SJCOG's Population, Household, and Employment Projections⁴ notes that the City will add approximately 6,102 jobs between 2020 - 2045. Utilizing Appendix J's calculation of 3,354 employees, the project represents 54.9% of the City's employment growth from 2020 - 2045. SJCOG's Growth Forecast notes that the City's population will increase by 42,744 residents between 2020 - 2045. Utilizing Appendix J's calculation of 3,354 employees, the project represents 7.8% of the City's population growth from 2020 - 2045. A single project accounting for this amount of the projected employment and/or population over 29 years represents a significant amount of growth. Further, the May 2022 industrial development pipeline's 10,995 employees represents 180% of the City's employment growth and 25.7% of the City's population growth from 2020 - 2045. Cumulatively, the proposed project and the May 2022 industrial development pipeline will generate 14,349 employees, which represents 235% of the City's employment growth and 33.5% of the City's population growth from 2020 - 2045. The proposed

⁴ SJCOG's 2018 RTP/SCS Appendix R- Population, Household, and Employment Projections
<https://www.sjcog.org/DocumentCenter/View/3722/Final-2018-RTPSCS-Technical-Appendix-R---Population-Household-and-Employment-Projections?bidId=>

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CONT

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project in combination with the current industrial development pipeline vastly exceeds the City’s projected employment growth and is a significant portion of its population growth. The EIR must be revised to include this analysis and also provide a cumulative analysis of projects approved since 2020 and projects “in the pipeline” to provide an adequate and accurate analysis to determine if the project will exceed SJCOG’s employment and population growth forecasts for the City.

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CONT

Further, the EIR utilizes uncertain language in stating that “given the nature of the proposed project, it would likely be staffed primarily by local employees once operational,” without providing local employment data such as the population’s interest or qualifications to work in the industrial sector. A revised EIR must be prepared to provide demographic and geographic information on the location of qualified workers to fill these positions in order to provide an adequate and accurate environmental analysis.

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The EIR states that “the proposed project would help to support the City’s jobs-to-housing ratio goal of 1.5, as established by the California Department of Housing and Community Development (HCD), by locating employment-generating uses in relatively close proximity thereby limiting extensive commute times. The City’s current jobs-to-housing ratio is 1.3.” The applicable footnotes state that “There were 34,710 jobs and 26,964 dwelling units within the City limits in 2018. This represents a jobs-housing ratio of approximately 1.3, which indicated that there are more jobs than homes in the City.” The proposed project will add 3,354 employees to the City. This will increase the jobs to housing ratio by further exacerbating the oversupply of jobs. The EIR is nonsensical in its conclusion that adding more jobs will help support the City’s jobs-to-housing ratio when the current ratio indicates an existing oversupply of jobs. A revised EIR must be prepared to provide this information for analysis.

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3.14 Transportation

Appendix J: Transportation states that “Per OPR guidance, the VMT analysis excludes truck trips.” However, the EIR does not provide a statutory source of exemption for medium/heavy trucks and/or freight. The EIR sources the OPR’s 2018 Technical Advisory⁵ which states that “here, the term “automobile” refers to on-road passenger vehicles, specifically cars and light trucks.” However, the purpose of the OPR Technical Advisory document is purely advisory, stating in its introduction:

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“The purpose of this document is to provide advice and recommendations, which agencies and other entities may use at their discretion. This document does not alter lead agency discretion in

⁵ Governor’s Office of Planning and Research Technical Advisory on Evaluating Transportation Impacts in CEQA https://opr.ca.gov/ceqa/docs/20190122-743_Technical_Advisory.pdf

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preparing environmental documents subject to CEQA. This document should not be construed as legal advice.”

The OPR document is not a legal interpretation, court decision, or amendment to the CEQA statute that clarifies the definition of automobile. The term “automobile” is not defined in the CEQA statute and application of the OPR interpretation is speculative and does not provide an analysis of the “worst-case scenario” for environmental impacts. Widespread public understanding and perception indicates that trucks, including medium/heavy-duty trucks and freight trips associated with the industrial nature of warehouse operations, are automobiles. The EIR must be revised to remove this misleading information and include all truck/freight activity for quantified VMT analysis. The operational nature of industrial/warehouse uses involves high rates of truck/trailer/freight VMT due to traveling from large regional distribution centers to smaller industrial parks and then to their final delivery destinations. The project’s truck/trailer /freight activity is unable to utilize public transit or active transportation and it is misleading to the public and decision makers to exclude this activity from VMT analysis. A revised EIR must be prepared to reflect a quantified VMT analysis that includes all truck/trailer/freight activity to adequately and accurately analyze the potentially significant project transportation impacts.

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Additionally, the Project Description states that “approximately 12.51 acres of the Tracy Alliance land would be reserved to accommodate a portion of a planned interchange at Paradise Road and Interstate 205 (I-205). However, the potential impacts of constructing this future interchange would undergo a separate environmental review process pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) once funding is programmed and available and once the ultimate design of the interchange is finalized; accordingly, the construction is not considered part of the proposed project (although the interchange is assumed to be in place as part of the cumulative conditions within the Transportation Impact Analysis prepared by Kimley Horn).” The EIR must be revised to remove the assumption that the I-205 interchange at Paradise Road is completed. There is no meaningful evidence provided that the improvement will be completed by the date of the cumulative conditions analysis. This is an erroneous and misleading representation of transportation impacts and the EIR must be revised. Including the improvement acts as mitigation without providing meaningful evidence that mitigation will actually result and the lead agency has no bearing over the improvement as its under CalTrans jurisdiction.

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5.0 Other CEQA Considerations

5.3 Growth Inducing Impacts of the Project

The EIR concludes that “the proposed project would not result in direct or indirect growth, negatively alter the existing jobs/housing balance, or be inconsistent with the General Plan, the

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NEI Specific Plan, or relevant City master infrastructure plans; therefore, growth-inducing impacts would be less than significant.” However, as noted throughout this comment letter, the project will result in growth that exceeds the MSR 10-Year Horizon, negatively exacerbate the existing jobs/housing balance by adding to the oversupply of jobs, is inconsistent with the General Plan (including goals, policies, and objectives adopted for purposes of avoiding a negative environmental impacts), and the NEI Specific Plan (amendments required to accommodate the proposed project). The EIR must be revised to provide this information for analysis and include a finding of significance.

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The EIR states that “the proposed project would help to support the City’s jobs-to-housing ratio goal of 1.5, as established by the California Department of Housing and Community Development (HCD), by locating employment-generating uses in relatively close proximity thereby limiting extensive commute times. The City’s current jobs-to-housing ratio is 1.3.” The applicable footnotes state that “There were 34,710 jobs and 26,964 dwelling units within the City limits in 2018. This represents a jobs-housing ratio of approximately 1.3, which indicated that there are more jobs than homes in the City.” The proposed project will add 3,354 employees to the City. This will increase the jobs to housing ratio by further exacerbating the oversupply of jobs. The EIR is nonsensical in its conclusion that adding more jobs will help support the City’s jobs-to-housing ratio when the current ratio indicates an existing oversupply of jobs. A revised EIR must be prepared to provide this information for analysis.

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The EIR must also include a cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting. For example, the May 2022 industrial development pipeline’s 10,995 employees represents 180% of the City’s employment growth and 25.7% of the City’s population growth from 2020 - 2045. Cumulatively, the proposed project and the May 2022 industrial development pipeline will generate 14,349 employees, which represents 235% of the City’s employment growth and 33.5% of the City’s population growth from 2020 - 2045. The proposed project in combination with the current industrial development pipeline vastly exceeds the City’s projected employment growth and is a significant portion of its population growth. The EIR must also discuss and analyze that the project’s employment growth exceeds the 10-Year Horizon of the MSR.

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Further, the EIR must be revised to discuss and analyze that implementation of the project will result in significant and unavoidable environmental impacts to Agriculture (cumulatively considerable), Air Quality (cumulatively considerable), and Transportation (VMT) (cumulatively considerable), with the project census tract and adjacent census tracts (all of which are designated as SB 535 Disadvantaged Communities) receiving the most significant impacts. Project implementation will result in growth that does not comply with the AQMP and will have additional

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environmental impacts that cannot be mitigated. These significant and irreversible environmental changes which caused by the project necessitate a finding of significance in this section.

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CONT

6.0 Alternatives

The EIR is required to evaluate a reasonable range of alternatives to the proposed project which will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.) The alternatives chosen for analysis include the CEQA required “No Project” alternative and only two others (Existing General Plan Alternative and Reduced Project Alternative). The EIR does not evaluate a reasonable range of alternatives as only two alternatives beyond the required No Project alternative are analyzed. The EIR does not include an alternative that meets the project objectives and also eliminates all of the project’s significant and unavoidable impacts. The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA § 15126.6). This could include alternatives such as development of the site with a project that reduces all of the proposed project’s significant and unavoidable impacts to less than significant levels.

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Conclusion

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

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Sincerely,



Gary Ho
Blum Collins & Ho, LLP

Attachments:
1.SWAPE Analysis



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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June 1, 2022

Gary Ho
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Subject: Comments on the Tracy Alliance Project (SCH No. 2020080524)

Dear Mr. Ho,

We have reviewed the April 2022 Draft Environmental Impact Report (“DEIR”) for the Tracy Alliance Project (“Project”) located in the City of Tracy (“City”). The Project proposes to construct 3,352,320-square-feet (“SF”) of warehouse and distribution space, consisting of 1,792,500-SF of warehouse space, 57,000-SF of office space, and 1,502,820-SF of light industrial space, as well as 1,706 parking spaces, on the 191.18-acre site.

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

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Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR concludes that the Project would result in a significant-and-unavoidable air quality impact. Specifically, the DEIR estimates that the Project’s daily ROG emissions associated with Project construction exceed the applicable San Joaquin Valley Air Pollution Control District (“SJVAPCD”) threshold of 100 pounds per day (“lbs/day”) (see excerpt below) (p. 3.3-36 – 3.3-37, Table 3.3-9).

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Table 3.3-9: Mitigated Daily Construction Emissions (Sequential and Concurrent Phasing)

Year	Emissions (Pounds)					
	ROG	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Mitigated Project Phase 1						
Construction Year 2022	12.25	71.81	99.34	0.67	24.06	8.22
Construction Year 2023	87.87	59.11	72.80	0.56	17.60	5.45
Maximum Phase 1 Daily Construction Emissions	87.87	71.81	99.34	0.67	24.06	8.22
Valley Air District Daily Thresholds	100	100	100	100	100	100
Do Construction Emissions Exceed Thresholds?	No	No	No	No	No	No
Mitigated Project Phase 2						
Construction Year 2023	3.43	18.41	42.60	0.27	9.51	2.92
Construction Year 2024	48.04	17.27	33.76	0.24	7.32	2.04
Maximum Phase 1 Daily Construction Emissions	48.04	18.41	42.60	0.27	9.51	2.92
Valley Air District Daily Thresholds	100	100	100	100	100	100
Do Construction Emissions Exceed Thresholds?	No	No	No	No	No	No
Mitigated Project Phase 3						
Construction Year 2024	1.13	8.20	13.98	0.11	2.49	0.90
Construction Year 2025	22.43	8.09	13.53	0.11	2.49	0.71
Maximum Daily Construction Emissions (Total for Sequenced Phases)	22.43	8.20	13.98	0.11	2.49	0.90
Valley Air District Daily Thresholds	100	100	100	100	100	100
Do Construction Emissions Exceed Thresholds?	No	No	No	No	No	No
Mitigated Project Construction (All Phases)						
Concurrent Construction (Maximum for All Phases Combined)	158.34	98.42	155.92	1.05	36.06	12.04
Valley Air District Daily Thresholds	100	100	100	100	100	100
Do Construction Emissions Exceed Thresholds?	Yes	No	Yes	No	No	No

Furthermore, the DEIR estimates that the Project’s annual ROG and NO_x emissions associated with Project operation exceed the applicable SJVAPCD thresholds of 10 tons per year (“tons/year”) (see excerpt below) (p. 3.3-39 – 3.3-40, Table 3.3-12).

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CONT

Table 3.3-12: Unmitigated Annual Operational Emissions

Emission Source	Emissions (Tons)					
	ROG	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Existing Operations						
<i>Existing Operations Total</i>	0.15	0.12	0.22	<0.01	0.07	0.02
Project Phase 1—Operational Year 2023						
Area	8.58	<0.01	0.03	<0.01	<0.01	<0.01
Energy	0.06	0.58	0.49	<0.01	0.04	0.04
Mobile—Trucks	0.49	18.92	3.36	0.07	1.50	0.43
Mobile—Autos	0.38	0.64	6.40	0.02	2.72	0.73
<i>Phase 1 Operations Total</i>	9.52	20.14	10.28	0.10	4.27	1.21
Phase 1 Operations Net Total (Subtracting Existing Emissions)	9.36	20.02	10.06	0.10	4.20	1.19
Project Phase 2—Operational Year 2024						
Area	4.72	0.00	0.01	0.00	0.00	0.00
Energy	0.03	0.31	0.26	0.00	0.02	0.02
Mobile—Trucks	0.27	10.21	1.82	0.04	0.82	0.23
Mobile—Autos	0.19	0.31	3.24	0.01	1.49	0.40
Phase 2 Operations Total	5.21	10.83	5.32	0.05	2.34	0.66
Project Phase 3—Operational Year 2025						
Area	2.21	0.00	0.01	0.00	0.00	0.00
Energy	0.02	0.14	0.12	0.00	0.01	0.01
Mobile—Trucks	0.12	4.70	0.84	0.02	0.39	0.11
Mobile—Autos	0.08	0.13	1.41	0.01	0.70	0.19
Phase 1 Operations Total	2.43	4.98	2.38	0.02	1.10	0.31
Full Project—Operational Year 2025						
Full Project Buildout (All Phases)	17.01	35.83	17.77	0.18	7.63	2.16
Valley Air District Annual Thresholds	10	10	100	27	15	15
Do Operational Emissions Exceed Thresholds?	Yes	Yes	No	No	No	No

Finally, the DEIR estimates that the Project’s daily NO_x emissions associated with Project operation exceed the applicable SJVAPCD threshold of 100 lbs/day (see excerpt below) (p. 3.3-41 – 3.3-42, Table 3.3-14).

Table 3.3-14: Mitigated Daily Operational Emissions

Metric	Emissions					
	ROG	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Total Tons Per Year	17.01	35.83	17.77	0.18	7.63	2.16
Total Pounds Per Year	34,020	71,660	35,533	357	15,261	4,312
Pounds Per Day	93.21	196.33	97.35	0.98	41.81	11.81
Valley Air District Daily Thresholds	100	100	100	100	100	100
Do Daily Emissions Exceed Thresholds?	No	Yes	No	No	No	No

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CONT

As a result, the DEIR concludes that the Project’s construction-related and operational criteria air pollutant emissions would be significant-and-unavoidable (p. 3.3-36 – 3.3-42). However, while we agree that the Project’s criteria air pollutant emissions would result in a significant air quality impact, the DEIR’s conclusion that these impacts are “significant and unavoidable” is incorrect. According to CEQA Guidelines § 15096(g)(2):

“When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”

As you can see, an impact can only be labeled as significant and unavoidable after all available, feasible mitigation is considered. Here, while the DEIR includes Mitigation Measures (“MM(s)”) AIR-1a through AIR-1d, the DEIR fails to implement *all* feasible mitigation (p. ES-10 – ES-13). Therefore, the DEIR’s conclusion that the Project’s air quality impacts are significant-and-unavoidable is unsubstantiated. To reduce the Project’s air quality impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” Thus, the Project should not be approved until an updated EIR is prepared, incorporating all feasible mitigation to reduce emissions to less-than-significant levels.

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The DEIR concludes that the proposed Project would result in a significant-and-unavoidable health risk impact after the implementation of MM AIR-1d (p. 33-49). Specifically, the DEIR states:

“As shown above in Table 3.3-19, the proposed project’s operational DPM emissions during Phase I would not exceed the Valley Air District’s cancer risk or chronic non-cancer hazard index thresholds of significance at the maximum impacted receptor for any of the sensitive receptors analyzed. As displayed in Chapter 2, Project Description, Table 2-2, Proposed Development Summary, Phase I of the proposed project would involve the development of approximately 1,849,500 square feet out of a total approximately 3,352,320 square feet across all three project phases, representing approximately 46 percent of the total proposed building space. In addition, as displayed in Table 3.3-10, Phase 1 of the proposed project would generate an estimated 2,611 daily vehicle trips out of the total 4,715 daily trips across all three project phases, representing approximately 55 percent of the total proposed operational vehicle activity. Moreover, the potential emission reductions to DPM from the application of MM AIR-1d, which would require the operation of a clean truck fleet during operation of all phases of the proposed project, was not represented in the cancer risk values during Phase I operation in Table 3.3-19. Because of a lack in operational information for Phases 2 and 3 of the proposed project, such as freight product origin, local truck circulation, or other details necessary to preform a site-specific health risk assessment, Phase 1 of the proposed project was the only project phase modeled for health risk and chronic non-cancer hazard impacts. As Phase 1 represents approximately 55 percent of the potential operational trucking impact, although operation of Phase 1 (Tracy

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Alliance) would not result in a significant impact in this regard, operation at full buildout of the proposed project could have a potentially significant health impact on nearby sensitive receptors, particularly the residential MIRs.

The implementation of MM AIR-1d would contribute to the minimization of DPM emissions generated from trucking emissions; however, full implementation of MM AIR-1d cannot be guaranteed. As a result, this impact would be significant and unavoidable after the incorporation of mitigation” (p. 3.3-49).

However, while we agree that the Project would result in a significant health risk impact, the DEIR’s conclusion that this impact is “significant and unavoidable” is incorrect. As previously discussed, according to CEQA Guidelines § 15096(g)(2):

“When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”

As demonstrated above, an impact can only be labeled as significant-and-unavoidable after all available, feasible mitigation is considered. Here, while the DEIR implements MM AIR-1d, the DEIR fails to implement *all* feasible mitigation (p. ES-12 – ES-14). Thus, consistent with the Project’s incorrect air quality analysis, the DEIR fails to comply with CEQA, and the significant-and-unavoidable impact conclusion should not be relied upon. To reduce the Project’s health risk impact to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” Thus, the Project should not be approved until an updated EIR is prepared, incorporating all feasible mitigation to reduce emissions to less-than-significant levels.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR concludes a less-than-significant greenhouse gas (“GHG”) impact, stating:

“As shown in Tables 3.8-6 through 3.8-8, Phase 1 would achieve a reduction of 49.7 percent from BAU by the year 2023 with regulations and design features incorporated, Phase 2 would achieve a 48.7 percent reduction by 2024, and Phase 3 would achieve a 31.6 percent reduction by 2025. Each phase would achieve more than the 29 percent reduction required by the Valley Air District threshold, and also more than the 21.7 percent average reduction from all sources of GHG emissions now required to achieve AB 32 targets” (p. 3.8-42).

As demonstrated above, the DEIR estimates that the Project would achieve emissions reductions beyond the ARB 2020 21.7% target and the SJVAPCD 29% reduction from business-as-usual (“BAU”) emissions requirements. Specifically, the DEIR accounts for reductions from the following regulations (see excerpt below) (p. 3.8-29 – 3.8-30, Table 3.8-5).

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Table 3.8-5: Summary of Applicable Greenhouse Gas Regulations

Regulation	Project Applicability
Pavley Low Emission Vehicle Standards	Nitrous oxide (laughing gas) is a colorless GHG. It has a lifetime of 114 years. Its global warming potential is 310.
Truck and Bus Regulation	Heavy-duty trucks accessing the site for deliveries and services are subject to the regulation.
Low Carbon Fuel Standard	Vehicles accessing the site would use fuel subject to the LCFS.
Title 24 Energy Efficiency Standards	Project buildings would be required to be constructed to meet the latest version of Title 24 (currently 2019). Reduction applies only to energy consumption subject to the regulation.
Green Building Code Standards	The project would be required to include water conservation features mandated by the standard.
Water Efficient Land Use Ordinance	The project landscaping would be required to comply with the regulation.
Renewable Portfolio Standard	Electricity purchased for use at the project site is subject to the 33 percent RPS mandate.
Solid waste	The solid waste service provider would be required to provide programs to increase diversion and recycling to meet the 75 percent mandate, to which the project would be required to adhere.

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However, due to the sheer size of the proposed warehouse development, we recommend that the DEIR incorporate additional project design features (“PDFs”) or formal mitigation measures to address the Project’s expected GHG emissions. Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating a solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered to reduce the Project’s GHG emissions, the DEIR should not be approved.

Feasible Mitigation Measures Available to Reduce Emissions

The DEIR’s analysis demonstrates that the Project would result in significant air quality and health risk impacts that should be mitigated further. Furthermore, our updated analysis indicates that the Project would result in a significant health risk impact. In an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. Feasible mitigation measures can be found in the Department of Justice Warehouse Project Best Practices document.¹ Therefore, to reduce the Project’s emissions, consideration of the following measures should be made:

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¹ “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice.

- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled.
- Providing electrical hook ups to the power grid, rather than use of diesel-fueled generators, for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Forbidding idling of heavy equipment for more than two minutes.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.
- Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model-year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.
- Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- Installing and maintaining, at the manufacturer’s recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer’s recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project,

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and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.

- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing electric plugs for electric transport refrigeration units at every dock door, if the warehouse use could include refrigeration.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity, such as equal to the building's projected energy needs.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Achieving certification of compliance with LEED green building standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.
- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

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Furthermore, to reduce the Project's criteria air pollutant and GHG emissions, we recommend consideration of SCAG's 2020 RTP/SCS PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1") and Greenhouse Gas Project Level Mitigation Measures ("PMM-GHG-1"), as described below:²

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² "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 –

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1:
In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the <i>State CEQA Guidelines</i> , a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
s) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
t) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).

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4.0-23; See also: “Certified Final Connect SoCal Program Environmental Impact Report.” Southern California Association of Governments (SCAG), May 2020, available at: <https://scag.ca.gov/peir>.

u) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.

v) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

w) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
 - i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
 - ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
 - iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 - 1. Source of supply
 - 2. Quantity of fuel
 - 3. Quantity of fuel, including sulfur content (percent by weight)

x) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
 - i. Marked crosswalks

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- ii. Count-down signal timers
- iii. Curb extensions iv. Speed tables
- iv. Raised crosswalks
- v. Raised intersections
- vi. Median islands
- vii. Tight corner radii
- viii. Roundabouts or mini-circles
- ix. On-street parking
- x. Chicanes/chokers
- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
 - i. Elimination (or reduction) of minimum parking requirements
 - ii. Creation of maximum parking requirements
 - iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
 - i. Designate a certain percentage of parking spacing for ride sharing vehicles
 - ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
 - iii. Providing a web site or messaging board for coordinating rides
 - iv. Permanent transportation management association membership and finding requirement.

Greenhouse Gas Project Level Mitigation Measures – PMM-GHG-1

In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:

b) Reduce emissions resulting from projects through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines.

c) Include off-site measures to mitigate a project’s emissions.

- d) Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
- i. Use energy and fuel-efficient vehicles and equipment;
 - ii. Deployment of zero- and/or near zero emission technologies;
 - iii. Use lighting systems that are energy efficient, such as LED technology;
 - iv. Use the minimum feasible amount of GHG-emitting construction materials;
 - v. Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
 - vi. Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;
 - vii. Incorporate design measures to reduce energy consumption and increase use of renewable energy;
 - viii. Incorporate design measures to reduce water consumption;
 - ix. Use lighter-colored pavement where feasible;
 - x. Recycle construction debris to maximum extent feasible;
 - xi. Plant shade trees in or near construction projects where feasible; and

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<p>xii. Solicit bids that include concepts listed above.</p>
<p>e) Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following:</p> <ul style="list-style-type: none"> i. Promote transit-active transportation coordinated strategies; ii. Increase bicycle carrying capacity on transit and rail vehicles; iii. Improve or increase access to transit; iv. Increase access to common goods and services, such as groceries, schools, and day care; v. Incorporate affordable housing into the project; vi. Incorporate the neighborhood electric vehicle network; vii. Orient the project toward transit, bicycle and pedestrian facilities; viii. Improve pedestrian or bicycle networks, or transit service; ix. Provide traffic calming measures; x. Provide bicycle parking; xi. Limit or eliminate park supply; xii. Unbundle parking costs; xiii. Provide parking cash-out programs; xiv. Implement or provide access to commute reduction program;
<p>f) Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network;</p>
<p>g) Improving transit access to rail and bus routes by incentives for construction and transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and</p>
<p>h) Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that:</p> <ul style="list-style-type: none"> i. Provide car-sharing, bike sharing, and ride-sharing programs; ii. Provide transit passes; iii. Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services; iv. Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle; v. Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms; vi. Provide employee transportation coordinators at employment sites; vii. Provide a guaranteed ride home service to users of non-auto modes.
<p>i) Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;</p>
<p>j) Land use siting and design measures that reduce GHG emissions, including:</p> <ul style="list-style-type: none"> i. Developing on infill and brownfields sites; ii. Building compact and mixed-use developments near transit; iii. Retaining on-site mature trees and vegetation, and planting new canopy trees; iv. Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and v. Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

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l) Require at least five percent of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the appropriate infrastructure to facilitate sufficient electric charging for passenger vehicles and trucks to plug-in.
m) Encourage telecommuting and alternative work schedules, such as: <ul style="list-style-type: none"> i. Staggered starting times ii. Flexible schedules iii. Compressed work weeks
n) Implement commute trip reduction marketing, such as: <ul style="list-style-type: none"> i. New employee orientation of trip reduction and alternative mode options ii. Event promotions iii. Publications
o) Implement preferential parking permit program
q) Price workplace parking, such as: <ul style="list-style-type: none"> i. Explicitly charging for parking for its employees; ii. Implementing above market rate pricing; iii. Validating parking only for invited guests; iv. Not providing employee parking and transportation allowances; and v. Educating employees about available alternatives.

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These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation. An updated EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality, health risk, and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The updated EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project’s significant emissions are reduced to the maximum extent possible.

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Disclaimer

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

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Sincerely,

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

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

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

Paul E. Rosenfeld, Ph.D.

Attachment A: Matt Hagemann CV

Attachment B: Paul E. Rosenfeld CV



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mhagemann@swape.com

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

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

Education:

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

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

Professional Certifications:

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

Professional Experience:

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

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

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

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

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

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

Executive Director:

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

Hydrogeology:

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

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

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

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

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

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

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

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

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

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

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

Policy:

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

Activities included the following:

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

principles into the policy-making process.

- Established national protocol for the peer review of scientific documents.

Geology:

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

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

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

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

Teaching:

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

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

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

Invited Testimony, Reports, Papers and Presentations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Experience:

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



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

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

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

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

Professional Experience

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

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

Professional History:

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

Publications:

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

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

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

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

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

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

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

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

Presentations:

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

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

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

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

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

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

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

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 2010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

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

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

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

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

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

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

Academic Grants Awarded:

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

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

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

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

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

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

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

Deposition and/or Trial Testimony:

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

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

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

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

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

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

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

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

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

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

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

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

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

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

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

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

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

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs*, vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

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

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

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

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

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

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant*.
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs*, vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant*.
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

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

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants*.
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009

Organization

Blum Collins and Ho, Attorneys at Law (on behalf of Golden State Environmental Justice Alliance [GSEJA])

Response to GSEJA-1

The commenter provides introductory statements and requests to be added to the public interest list. The City will include GSEJA on the public interest list for notification purposes.

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

Response to GSEJA-2

The commenter describes the proposed project objectives, design, and background information such as anticipated approvals.

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

Response to GSEJA-3

The commenter states that the Draft EIR did not include an analysis of the Environmental Justice impacts to nearby communities such as unincorporated Banta, which are overly burdened by and especially burdened by existing sources of pollution as identified by CalEnviroScreen, California Environmental Protection Agency (Cal/EPA's) screening tool. Additionally, the commenter states that the project's census tract and the census tracts adjacent to the project site are identified as SB 535 Disadvantaged Communities, which is not discussed or presented for analysis in the Draft EIR.

The comments are noted and acknowledged. CEQA does not require consideration of Environmental Justice considerations. Of relevance here, neither the ARB nor the Valley Air District, both of which are expert public agencies charged with addressing air quality and GHG emissions, has recommended significance thresholds be adjusted for Environmental Justice considerations, and thus neither entity recommends the evaluation of same as part of the CEQA process. As discussed in more detail in Section 3.3, Air Quality, of the Draft EIR, the analysis utilized the currently recommended Valley Air District significance thresholds to determine health risk impacts resulting from the proposed project in accordance with the mandates of CEQA. The Draft EIR evaluated potential impacts to the Banta community in Section 3.3, Air Quality, through the analysis of cumulatively considerable criteria pollutant emissions and health risks under Impacts AIR-2 and AIR-3. The Draft EIR acknowledged that the project site is adjacent to the existing sensitive receptors identified by the commenter, and therefore the Draft EIR identifies the potential health risk impacts that could occur as a result of project construction and operation and includes feasible mitigation to reduce these impacts.

For purposes of conducting the health risk impact analysis, the Draft EIR's analysis properly identified the closest sensitive receptors to the proposed project in the dispersion modeling; it also identified the MIR during each construction phase of the proposed project, which may be different since the MIR during pollutant-generating activity is influenced by the distance of that receptor to the pollutant source(s), the amount and type of pollutants generated by each source, the

topography and direction of the MIR as it relates to the pollutant source(s), and the prevailing meteorological conditions. As discussed in Section 3.3, Air Quality, Phase 1 of the proposed project would represent 55 percent of potential trucking activities. The Draft EIR determined that Phases 2 and 3 could result in operational trucking activity that would generate significant TAC emissions and the overall project could exceed the 20 in a million threshold. Because the health risk impacts analyzed for Phase 1 of the proposed project can be considered representative in terms of disclosing that full buildout of the proposed project could result in potentially significant health impacts and the efficacy of implementation of MM AIR-1d for DPM emission reductions cannot be quantified, Impact AIR-3 of the Draft EIR was determined to be significant and unavoidable. See also Response to Valley Air District-2-5. Nonetheless, to further reduce potential health impacts to the nearest sensitive receptors to the project site (the residences and school along Grant Line Road and El Rancho Road), the City has agreed to adopt and the applicants have agreed to implement a new MM AIR-1e, which was added to Section 3.3, Air Quality, of the Draft EIR to require that trucks accessing the project site be prohibited from using Grant Line Road east of the project site. These changes can be seen in Section 3.1 of the Errata. See also additional enforceable conditions of approval that the project applicants have voluntarily agreed to implement and/or otherwise incorporate to further address air quality, health risk, and buffer issues (see updated MMRP).

Response to GSEJA-4

The commenter notes that the State of California lists three approved energy compliance modeling software for nonresidential buildings: CBECC-Com, EnergyPro, and IES VE, and that CalEEMod is not listed as an approved software. The commenter also states that the spreadsheet-based and CalEEMod modeling in Appendix E do not comply with the 2019 Building Energy Efficiency Standards and under reports the project's potentially significant GHG emissions and Energy impacts to the public and decision-makers. The commenter states that because the Draft EIR did not utilize an approved energy compliance modeling software and the GHG emissions and energy impacts in the Draft EIR are invalid, a revised EIR with modeling in one of the approved software types is required. Furthermore, the commenter states that Draft EIR Appendix E is incorrectly titled Sunnyvale FCII Project Energy Use Summary.

As detailed more fully in Section 3.3, Air Quality, of the Draft EIR, the City, in its discretion, has determined to utilize the applicable Valley Air District thresholds and methodologies, which are contained under each impact statement in Section 3.3 and which are based on scientific and factual data appropriately considered and incorporated therein by Valley Air District, as the expert public agency charged with addressing air quality and GHG emissions within Valley Air District boundaries. As discussed therein, the Draft EIR utilized an approved emissions estimating model in CalEEMod based on the Valley Air District guidance contained in Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI). The GAMAQI provides technical guidance for the review of air quality impacts from projects within the boundaries of the Valley Air District. The Valley Air District has not explicitly approved the use of the CBECC-Com, Energy-Pro, or IES VE, for CEQA analysis of projects within the GAMAQI; furthermore, these models are not alternatives to CalEEMod for estimating emissions and would not be appropriate to estimate GHG or energy impacts. The Draft EIR reflects a robust Air Quality Analysis in accordance with the requirements of CEQA, and no revised modeling is necessary.

The energy calculation summary page in Appendix E has been edited in Section 4.1 of the Errata to correctly show the proposed project title. Contrary to the commenter’s statement, this minor typographical error does not impair the Draft EIR as an informational document. As shown in Appendix E, the correct CalEEMod modeling files were used to estimate project energy consumption; a revised EIR is not warranted.

Response to GSEJA-5

The commenter states that the City is not listed as a jurisdiction with local energy standards approved by the California Energy Commission (CEC). The commenter notes that for this reason, compliance with the City’s General Plan and/or Sustainability Action Plan does not comply with CEC standards or AB 32/SB 32, and a revised EIR must be prepared.

The CEC approves local energy standards only when a local jurisdiction wishes to enforce a locally adopted energy standard that is more stringent than Statewide Energy Code requirements. CEC approval is not required for local jurisdictions to adopt local standards consistent with CEC energy standards. The City has adopted by reference the State energy code as part of Municipal Code Chapter 9.64—Energy Code. Moreover, the fact that the City is not listed as a jurisdiction with local energy standards approved by the CEC does not preclude a project from being consistent with applicable CEC standards or Assembly Bill (AB) 32/SB 32. As stated in Section 3.6 Energy, proposed project buildings would be required to be designed in accordance with all applicable laws and regulations including the provisions of Title 24, California’s Energy Efficiency Standards for Nonresidential Buildings and Title 24, Green Building Code Standards. As stated on the CEC website,⁵ the CEC regularly updates the building energy efficiency standards (for example, Title 24) and as such, compliance with then-current Title 24 and Green Building Code standards ensures compliance with CEC standards and AB 32/SB 32. As described in Impact ENER-2, these standards are some of the most stringent in the nation and include minimum energy efficiency requirements with which the proposed project must comply and would ensure the proposed project would not conflict with or obstruct the applicable State plans and policies for renewable energy and energy efficiency.

Response to GSEJA-6

The commenter states that the Draft EIR does not provide any consistency analysis with the SJCOG-adopted 2018 RTP/SCS and is not consistent with several strategies set forth therein. The commenter then concludes that the Draft EIR must be revised to include accurate Air Quality/HRA modeling results, energy and GHG impact analyses and to provide an analysis of potential inconsistency with the 2018 RTP/SCS document.

For a discussion of modeling and modeling results, please see Responses to GSEJA-4, GSEJA-30, and GSEJA-31 through GSEJA-36.

State CEQA Guidelines Section 15125 requires an EIR to discuss “any inconsistencies” with plans; no analysis is required if the project is consistent. The Draft EIR discusses consistency with the RTP/SCS as part of the impact analysis in Chapter 3.6 Greenhouse Gas Emissions and summarizes that compliance with VMT targets adopted by the City to comply with SB 375 and the RTP/SCS would

⁵ California Energy Commission (CEC). 2022. Website: <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards>. Accessed July 14, 2022.

adequately address GHG emissions from passenger cars and light-duty trucks. In addition, Chapter 3.6 also discusses the relationship between SB 375 and the RTP/SCS in the context of consistency with California’s post 2020 GHG reduction targets. The Draft EIR describes that the RTP/SCS implements the goals of SB 375 and anticipates an increase in development density and intensity that would result in shorter vehicle, transit, bicycle, and pedestrian trips.

With respect to the 2018 RTP/SCS, significant and unavoidable impacts related to air quality and VMT do not necessarily equate to the proposed project conflicting with the policies and strategies outlined in the 2018 RTP/SCS. Furthermore, the policies and strategies listed by the commenter would only be possible for the City of Tracy and other cities within San Joaquin County to initiate and complete and are not possible for an individual development project to do so. However, the proposed project would support these policies and strategies to the maximum extent feasible at the project level. For example, Strategy 1 is to enhance the environment for existing and future generations and conserve energy. The Draft EIR evaluates the proposed project’s impacts on the environment and provides feasible mitigation to address identified significant impacts. As analyzed in Section 3.6, Energy, the proposed project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation (Impact ENER-1) or conflict with or obstruct a State or local plan for renewable energy or energy efficiency (Impact ENER-2). Strategy 3 is to improve air quality by reducing transportation-related emissions. Though the proposed project would result in significant and unavoidable impacts with respect to air quality and VMT, the project would be required to implement feasible mitigation (MM AIR-1d, MM AIR-1e, MM AIR-1f, MM AIR-1i, MM TRANS-1a, MM TRANS-1b), which would reduce transportation-related emissions to the maximum extent feasible thereby improving air quality, consistent with Strategy 3. Strategy 4 is to improve the regional transportation system efficiency. As described in Chapter 2, Project Description, and throughout the Draft EIR, among other things, the proposed project would set aside approximately 12.51 acres in the northwest corner of the project site, which would be sufficient to accommodate improvements to the City’s expressway system, as well as a future I-205/Paradise Road/Chrisman Road interchange as shown in Exhibit 2-7c in Chapter 2, Project Description of the Draft EIR, consistent with the City of Tracy TMP. The TMP provides a comprehensive review of the City’s transportation system and serves as a blueprint that can be utilized to identify and implement required improvements to the existing roadway system, as well as expand upon the system to accommodate future development consistent with the General Plan.⁶ As an interstate, I-205 serves the region, and, therefore, the future I-205/Paradise Road/Chrisman Road interchange would improve the regional transportation system and support Strategy 4. Similarly, Strategy 8 requires the improvement of major transportation corridors to minimize impacts on rural roads. While the interchange project is not part of the proposed project, the 12.51 acres of land set aside would facilitate opportunities for the City and Caltrans to move forward with these planned improvements to the City’s expressway system and the future I-205/Paradise Road/Chrisman Road interchange would result in such improvements, by providing regionally-focused infrastructure for automobiles and trucks entering and exiting the project site and the vicinity. For clarification and amplification purposes, the above text and discussions regarding project consistency with the RTP/SCS have been

⁶ City of Tracy. 2022. Citywide Roadway and Transportation Master Plan. Website: <https://www.cityoftracy.org/home/showpublisheddocument/13757>. Accessed September 6, 2022.

added to Section 3.8, Greenhouse Gas Emissions, Impact GHG-2 of the Draft EIR, see Section 4, Errata of this document.

Response to GSEJA-7

The commenter states that the Draft EIR should have included the City of Tracy Municipal Services Review (MSR) as an attachment for public review pursuant to CEQA Guidelines Section 15150(f) and not simply have incorporated this document by reference, and for this reason, the commenter concludes that the Draft EIR must be revised and recirculated. The commenter also states that the Draft EIR includes a footnote reference to the MSR that no longer is valid.

Pursuant to applicable provisions of Local Agency Formation Commission (LAFCo) law, in 2019, the City prepared and San Joaquin LAFCo approved the MSR, which is a comprehensive study designed to better inform LAFCo, the City, other local agencies, and the community about the provision of municipal services. MSRs attempt to capture and analyze information about the governance structures and efficiencies of service providers, and to identify opportunities for greater coordination and cooperation between providers.⁷ The City of Tracy MSR covers all lands within its municipal boundaries as well as its sphere of influence. Similar to other planning documents, the MSR is a long, technical document that provides general background information regarding the foregoing topics. Therefore, it is appropriate for the MSR to be incorporated by reference. The Draft EIR briefly described the MSR and its relationship to the analysis contained in the Draft EIR in accordance with Section 15150(c). CEQA requires that all documents incorporated by reference in an EIR be available for inspection together with the EIR; Section 15148 does not contain such a requirement for documents that are cited in an EIR. Section 1.5 of Chapter 1, Introduction, indicates a number of documents incorporated by reference, and also confirms where the incorporated documents will be available for inspection. While the MSR was not expressly referenced in Section 1.5, it, along with other documents incorporated by reference, have been and will continue to be available for inspection. In addition, the MSR is easily accessible to the public online at the following link: <https://www.sigov.org/commission/lafco/municipal-service> under “Cities.” For purposes of clarification, Section 4, Errata, updates the footnote and provides a live link to the MSR. No revision to or recirculation of the Draft EIR is required under CEQA.

Response to GSEJA-8

The commenter asserts that Table 3.11-3 in the Draft EIR contains a misleading consistency analysis and includes Objective LU-8.1, Policy 3 as an example. For this reason, the commenter states that a revised EIR should be prepared.

The law gives deference to the City’s interpretation of its General Plan. The City and its consultants, based on substantial evidence in the record, provided a thoughtful and robust consistency analysis, as set forth in detail in Impact LAND-2. As explained therein, the project site is designated as A/UR by San Joaquin County, which is designed to identify existing agricultural land intended for future urban development, and therefore the proposed project is consistent in this regard. In addition, this is consistent with the existing City of Tracy General Plan land use designation of Industrial for the

⁷ California Association of Local Agency Formation Commission (CalLAFCo). What are Municipal Service Reviews? Website: <https://calafco.org/lafco-law/faq/what-are-municipal-service-reviews#:~:text=Service%20reviews%20attempt%20to%20capture,coordination%20and%20cooperation%20between%20providers.>

project site; this reflects the long-planned urban development vision for the project site, which contemplates a variety of light industrial uses including warehousing and distribution. Once the project site is annexed into the City of Tracy upon approval by LAFCo, the current San Joaquin County General Plan designation would no longer apply to the project site as described in Chapter 2, Project Description. One of the factors LAFCo must consider when reviewing a proposal for reorganization is the effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Government Code Section 56016. Although the proposed project would result in a reduction of agricultural land, it is consistent with the City of Tracy General Plan land use designation of Industrial for the project site and reflects the planned urban development vision for the project site as set forth in both the City's and County's respective General Plans. See also Section 3.2, Agriculture and Forestry Resources, of the Draft EIR for additional information in this regard.

Response to GSEJA-9

The commenter describes analysis from Table 3.11-3 related to Goal AQ1 and how the analysis is incorrect because the proposed project would result in a significant and unavoidable impact related to a cumulatively considerable increase in ROGs and carbon monoxide (CO) during construction.

The law gives deference to the City's interpretation of its General Plan. The City and its consultants, based on substantial evidence in the record, provided a thoughtful and robust consistency analysis, as set forth in detail in Impact LAND-2. As explained therein, the proposed project would be subject to applicable regulatory measures adopted to ensure ambient air quality standards are met to the extent feasible. The proposed project would be required to implement MMs AIR-1a through AIR-1i to directly reduce pollutant emissions, such as ROG and CO generated during construction and operation to the extent feasible. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP). The proposed project would not be a source of significant toxic or hazardous air pollutants and odors and was not found to have a significant impact with respect to GHG. Refer to Section 3.3, Air Quality and Section 3.8, Greenhouse Gas, of the Draft EIR, and Section 4, Errata of this Final EIR for further discussion.

Response to GSEJA-10

The commenter states that a revised EIR must be prepared to address the inconsistencies identified in Table 3.11-3.

See Response to GSEJA-9.

Response to GSEJA-11

The commenter lists other General Plan goals and policies that the Draft EIR did not evaluate in the project's consistency analysis.

The law gives deference to the City's interpretation of its General Plan, which often involves a balancing of competing interests. The City and its consultants, based on substantial evidence in the record, provided a thoughtful and robust consistency analysis, as set forth in detail in Impact LAND-2. This is sufficient for purposes of satisfying CEQA. For purposes of further clarifying and amplifying the analysis, the following provides additional information as to the City's determination of the

proposed project’s consistency with the goals, objectives, and action items noted by the commenter. The following discussion has been added to Section 4, Errata.

AQ-1.2 P3 Developers shall implement best management practices to reduce air pollutant emissions associated with the construction and operation of development projects:

Consistent Section 3.3, Air Quality, in the Draft EIR and Section 4, Errata, include mitigation measures that the proposed project would be required to implement to reduce air pollutant emissions to the extent feasible. In addition, as described in Section 3.3, Air Quality, the proposed project would adhere to the applicable federal, State, and local laws and regulations, which include BMPs to reduce air pollutant emissions associated with the construction and operation of the proposed project. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP).

AQ-1.2 P6 Installation of solar voltaic panels on new homes and businesses shall be encouraged.

Consistent The installation of solar voltaic panels is not a City of Tracy requirement for industrial development. As described in Chapter 6 Energy page 24, the proposed project would be required to design the proposed buildings according to Subchapter 6, Part 6 of the Title 24 standards, to structurally accommodate future installation of a rooftop solar system. As such, the design of the proposed project would facilitate the future commitment to renewable energy resources. The Draft EIR was prepared based on Valley Air District guidance and, with the implementation of BMPs and MMs AIR-1a through 1i, the proposed project would reduce air quality and GHG emissions to the maximum amount feasible. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant and GHG emissions (see updated MMRP).

AQ-1.2 P12 New sources of toxic air pollutants shall prepare a Health Risk Assessment as required under the Air Toxics “Hot Spots” Act and based on the results of the Assessment, establish appropriate land use buffer zones around those areas posing substantial health risks.

Consistent A Health Risk Assessment is provided in Section 3.3, Air Quality, of the Draft EIR, and the Draft EIR concluded that the proposed project would exceed the San Joaquin Valley Air Pollution Control District’s

(Valley Air District’s) significance thresholds, resulting in significant and unavoidable impacts. However, with the implementation of BMPs and MMs AIR-1a through 1i, the proposed project would reduce air quality and GHG emissions to the maximum amount feasible. For purposes of clarification and amplification, in terms of a land use buffer zone, MM AIR-1h, as provided in Section 4, Errata of the Final EIR, requires a vegetated project site buffer in the area of the sensitive receptors in compliance with this policy. The City has agreed to adopt, and the project applicants have agreed to implement this additional mitigation measure. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP).

AQ-1.2 P13 Dust control measures consistent with the San Joaquin Valley Air Pollution Control District rules shall be required as a condition of approval for subdivision maps, site plans, and grading permits.

Consistent Valley Air District Rule 8021 includes basic dust control measures as noted in Section 3.3, Air Quality in the Draft EIR. In compliance with this policy, these measures would be included as an enforceable condition of approval for the proposed project.

AQ-1.2 P14 Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented.

Consistent As described in Section 3.3, Air Quality, of the Draft EIR there are several significant, unavoidable air quality impacts. However, the proposed project would be required to implement all feasible MM AIR-1a through MM AIR-1i. The basis for these determinations is detailed more fully in Section 3.3, Air Quality. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP).

AQ-1.2 P15 Encourage businesses to electrify loading docks or implement idling reduction systems so that trucks transporting refrigerated goods can continue to power cab cooling elements during loading, layovers, and rest periods.

Consistent The proposed project would not include refrigerated units or cold storage uses, and the project applicants have voluntarily agreed to incorporate a condition of approval to this effect. Therefore, no

trucks transporting refrigerated goods would be accessing the site. In addition, the City has agreed to adopt, and the project applicants have agreed to implement MM AIR-1f, which would restrict on-site vehicle idling in any event to no greater than 3 minutes. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant and GHG emissions (see updated MMRP).

Response to GSEJA-12

The commenter states that due to errors in the modeling and the significant and unavoidable impacts related to air quality and VMT, the proposed project would conflict with the listed General Plan goals and policies. The commenter requests that a revised EIR include a consistency analysis with all General Plan goals, policies, and objectives.

The commenter does not present specific errors in the modeling; see also Response to GSEJA-4. Additionally, the fact that there may be significant and unavoidable impacts under CEQA does not necessarily result in a local agency's finding of General Plan inconsistency. As described in Responses to GSEJA-8, GSEJA-9, GSEJA-10, and GSEJA-11, the law provides the City with substantial deference in making consistency determinations. There is substantial evidence in the record supporting the City's determination that the proposed project would be consistent with relevant General Plan provisions. No revision to the Draft EIR or recirculation is required.

Response to GSEJA-13

The commenter states that the NEI Specific Plan analysis contained in the Draft EIR does not analyze the Project Description statement that the project requires an amendment to the NEI Specific Plan boundaries in order to incorporate the proposed project. The commenter states that the Draft EIR must be revised to detail the project's proposed development standards, the applicable standards within the NEI SP, and amendments proposed to the NEI SP in order to accommodate the proposed project.

Chapter 2, Project Description, of the Draft EIR provides a detailed project description, and confirms that an NEI Specific Plan Amendment is being requested (see Section 2.5). As described on page 3.11-29 of the Draft EIR, when a project seeks a plan amendment as a component of the project itself, to rectify inconsistency with the existing designation or other provisions therein, or in this case the boundary of the NEI Specific Plan as well as other conforming revisions, the amendment necessitates a legislative policy decision by the City and does not signify a potential environmental effect. As such, the proposed Specific Plan Amendment and pre-zoning, if approved, constitute a self-mitigating aspect of the proposed project that would serve to correct what would otherwise be a conflict.

In addition, the proposed project has been designed to be fully consistent with all applicable development standards and design guidelines in the NEI Specific Plan and would be required to comply with these provisions. This information has been fully analyzed in the Draft EIR. For example, as described in Section 3.11, Land Use, of the Draft EIR, each individual development proposal for

the project site would be required to adhere to the following development standards: a maximum floor area ratio (FAR) of 0.5; a maximum height of 60 feet; and a minimum setback of 10 feet. No revisions to the Draft EIR are required.

Response to GSEJA-14

The commenter states that footnote 5 and the methodology used to determine the number of employees the proposed project would generate is not adequate, accurate or reliable. The commenter also asserts it was improper not to provide the conversations with City staff for public review. The commenter notes an alternative method to calculate the number of employees during operations and asserts that the Draft EIR must be revised to utilize the commenter's methodology.

The City, in its discretion as the Lead Agency, has the authority in the context of an EIR to choose the methodologies and assumptions to be utilized in the analysis, as well as to choose which experts it will rely upon in conducting the CEQA review, so long as these decisions are based on substantial evidence in the record. The City, as Lead Agency, has discretion to determine the appropriate method to analyze environmental impacts in an EIR. Disagreements with an EIR's impact analysis will be resolved in favor of the Lead Agency if there is any substantial evidence in the record supporting the approach used. *See, e.g., Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 409; *City of Hayward v. Board of Trustees of Cal. State Univ.* (2015) 242 CA4th 833, 840; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 CA4th 899; *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 CA4th 357, 372; *State Water Resources Control Bd. Cases* (2006) 136 CA4th 674, 795; *Anderson First Coalition v. City of Anderson* (2005) 130 CA4th 1173.

Here, the City utilized a methodology which determined that the proposed project would generate a total of approximately 1,871 employees during operations. The estimated employment was calculated using the employment amount of these existing industrial uses and their building square footage data. This figure is used consistently throughout the Draft EIR as the most accurate employee projection based on the best available data. As described in the Project Description and as otherwise reflected in the administrative record, the City of Tracy made reasonable assumptions as to the estimated employment that would be generated by the proposed project by, among other things, surveying various industrial businesses, including warehousing, manufacturing, and distribution centers. The Draft EIR used the appropriate employment generation factor based on project-specific characteristics, other reasonable information and best available data and assumed one employee for every 1,792 square feet, resulting in 1,871 employees at buildout.

For the purpose of transportation analysis, the City has adopted the TMP and the associated City travel demand model that contain employee generation factors to analyze transportation impacts, which does not account for project-specific characteristics such as the type of industrial uses. Therefore, the transportation analysis and technical analyses that rely on the transportation report utilized a different set of employee generation factors in accordance with the TMP guidelines and represents a more conservative estimation of impacts. Based on data provided by the City, the Draft EIR clarifies these assumptions to provide the most accurate evaluation of environmental impacts. Therefore, the analysis provided in the Draft EIR is internally consistent and no revisions are required.

Response to GSEJA-15

The commenter states that the proposed project's employment would exceed the amount planned for in the 10-year horizon from the MSR. The commenter requests that this information be discussed in a revised EIR, and that a finding of significance be made in this regard.

As discussed in Response to GSEJA-14, it is anticipated that the proposed project would employ a total of approximately 1,871 employees at buildout. Therefore, the anticipated employment projections associated with the proposed project are within the projections provided in Table 2-7 of the MSR for 2029 to 2049. The commenter notes the construction schedule provided in the Draft EIR assumes project operation commencing in 2025. However, this schedule was utilized to provide a conservative analysis, and, given that demolition has not occurred by April 28, 2022, as provided in the schedule, it is unlikely that the proposed project would be operational by 2025. Moreover, see Response to GSEJA-7, which explains the purpose of the MSR (which relates to LAFCo decisions about boundary changes). For example, there is a note included under Table 2-7 that states "this table is intended to demonstrate the potential pace of growth in the City and Sphere of Influence (SOI) and is not intended to place limitations on growth or otherwise be used to control the rate, type, or location of growth."

The Draft EIR properly evaluated the potential impacts of this growth utilizing the planning and land use assumptions reflected in the City's General Plan. As discussed in more detail in Section 4, Effects Found not to be Significant, of the Draft EIR, the industrial uses on the project site were anticipated by the City in the General Plan, and thus, the City anticipated this number of employees needed for such a project. Therefore, the proposed project would not result in a significant, unplanned change to the population of the City.

Response to GSEJA-16

The commenter states that the proposed project's estimate of 3,354 employees exceeds the capacity of the 2019 MSR, which indicates that the proposed project would result in a significant, unplanned change to the population of the City resulting in a significant and potentially cumulatively significant impact. For this reason, the commenter states that the Draft EIR must be revised.

See Responses to GSEJA-14 and GSEJA-15. The City, in its discretion as the Lead Agency, utilized 1,871 employees consistently throughout the Draft EIR as the most accurate employee projection based on the best available data, and as explained in GSEJA-15, the proposed project would not result in unplanned growth. Though the proposed project would generate employment, as explained in Chapter 4, Effects Found not to be Significant, the proposed project is industrial in nature (consistent with the long-planned vision for the project site and vicinity as reflected in the Industrial land use designation) and would not develop single-family or multi-family residential uses, and no direct population growth would be expected. With respect to indirect population growth, the project would create substantial employment opportunities, and therefore, could lead to indirect growth inducement. As discussed in Section 4 of the Draft EIR, according to the U.S. Census data, it is estimated that approximately 45,000 of the City's labor force is employed.⁸ In addition, the average

⁸ United States Census. 2020. Tracy, CA, Employment Data. Accessed: September 15, 2022.

travel time to work for Tracy’s employed residents is 44.5 minutes, which strongly suggests that most residents travel a significant distance out of the City to work.

As detailed more fully in Section 4 of the Draft EIR, the General Plan assumes employment growth to improve the jobs-to-housing balance and provide more employment opportunities for the City’s residents. Therefore, it is reasonably foreseeable that many of the employees of the project would come from the labor pool within Tracy, and the proposed project would not induce unplanned indirect population growth.

Response to GSEJA-17

The commenter requests that the Draft EIR should provide an analysis of the projects approved since 2020 and in the pipeline to determine consistency with the SJCOG employment growth forecast. The commenter then provides examples of planned projects as of May 2022 and requests that a revised EIR determine whether the proposed project employees would exceed growth forecasts in the General Plan or NEI Specific Plan.

CEQA Guidelines Section 15125, Environmental Setting, requires that an EIR include a description of the physical environmental conditions in the vicinity of the project site viewed from a “local and regional perspective.” This environmental setting will normally constitute the baseline physical conditions by which a lead agency measures the changes to the environment that would result from a project and for determining whether those environmental effects would be significant. The purpose of this requirement is to give the public and the decision-makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts.

In general, consistency in the description of the environmental setting is critical to ensure an accurate evaluation of environmental impacts. In other words, to provide the impact assessment that is a fundamental purpose of an EIR, the EIR must delineate environmental conditions absent the project, thereby defining a “baseline” against which predicted effects can be described and quantified.⁹ An EIR’s description of this environmental setting should be sufficiently comprehensive to allow the project’s significant impacts “to be considered in the full environmental context” (CEQA Guidelines § 15125(c)). However, the description should be no longer than necessary to provide an understanding of the significant effects of the project and of the alternatives analyzed in the EIR (CEQA Guidelines § 15125(a)). CEQA provides the lead agency with significant discretion in determining the appropriate “existing conditions” baseline.¹⁰ As indicated in CEQA Guidelines Section 15125(a)(1), generally, the lead agency should describe the physical environmental conditions as they exist at the time the notice of preparation is published. This is consistent with the related CEQA provision addressing the evaluation of a project’s environmental effects. Under CEQA Guidelines Section 15126.2(a), in assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published.

The Draft EIR is consistent with the foregoing requirements. The Draft EIR’s notice of preparation was published on August 28, 2020, and thus the environmental setting reflected in the Draft EIR

⁹ See, e.g., *Neighbors For Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4th 439, 447.

¹⁰ See, e.g., *Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 336.

includes a sufficiently comprehensive description of the physical environmental conditions in the vicinity of the project as of August 28, 2020.

See also Responses to GSEJA-14 through GSEJA-16.

The commenter also notes that the cumulative analysis discussion should determine whether the proposed project, in conjunction with cumulative development, would exceed SJCOG's employment growth forecasts for the City. As explained in the MSR, the SJCOG projection for jobs within the City is well below the City's employment levels and below the U.S. Census jobs data for the City. As the governing body, the City's General Plan provides the most accurate assessment for purposes of this proposed project, and the population projections in the General Plan are used in the analysis. The General Plan is the City's basic planning document and establishes the blueprint for development. Accordingly, the California Supreme Court has held the General Plan to be "the constitution for all future development." (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.) Other land use documents, such as zoning ordinances, tentative maps, and development agreements are all subordinate to the General Plan.

Response to GSEJA-18

The commenter states that the proposed project in combination with current pipeline industrial development as of May 2022 exceeds SJCOG's projected employment growth for the City, utilizing the commenter's methodology in calculating employees, and would account for a significant portion of the City's population growth, which warrants the preparation of a revised EIR.

See Response to GSEJA-17 regarding the proper point in time to be used for purposes of conducting the analysis.

See also Responses to GSEJA-14 through GSEJA-16. No further response is required.

For informational purposes, the following is noted.

As described in Response to GSEJA-14, the proposed project would employ approximately 1,871 people. Therefore, the proposed project would represent approximately 30 percent of the employment growth between 2020-2045. As shown in Response to GSEJA-16, the amount of employment within the City of Tracy for the proposed project would be well below the amount anticipated in the General Plan and would help improve the jobs-to-housing ratio within the City.

The commenter states that the proposed project represents 7.8 percent of the City's population growth from 2020-2045. However, this assumes that the proposed project would result in direct population growth and that 100 percent of the employees for the project would originate from outside the City of Tracy. As described in Response to GSEJA-16, the proposed project would not result in direct population growth and would not induce unplanned indirect population growth.

The commenter states that the cumulative projects included in the May 2022 Industrial and Commercial Development Pipeline Report in conjunction with the proposed project would vastly exceed the City's projected employment growth and a significant portion of its population growth. The commenter's calculations do not accurately reflect the project-specific characteristics of the

proposed project. For the reasons described in GSEJA-17, the proposed project, in combination with the current industrial development pipeline would be within the City employment projections as included in the General Plan.

Response to GSEJA-19

The commenter disagrees with the Draft EIR's assertion that the proposed project would be staffed primarily by local employees and states that a revised EIR should be prepared to provide demographic and geographic information about the prospective workers such as the local population's interest or qualifications to work in the industrial sector.

As described in Response to GSEJA-14, the proposed project would employ approximately 1,871 people, representing approximately 30 percent of the employment growth between 2020-2045. Further, as explained in Response to GSEJA-16, the proposed project's contribution to employment in the City is consistent with the forecasted employment anticipated in the General Plan.

The City has the discretion, under CEQA, to weigh the evidence relating to the accuracy and sufficiency of the information in the Draft EIR and to decide whether to accept it. The City may adopt the environmental conclusions reached by the experts who prepared the Draft EIR even though others may disagree with the underlying data, analysis, or conclusions. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 408; *State Water Resources Control Board Cases* (2006) 136 CA4th 674, 795). Disagreements or discrepancies in results arising from different methods for assessing environmental issues do not undermine the validity of the Draft EIR's analysis as long as a reasonable explanation supporting the Draft EIR's analysis is provided. (*Planning and Conserv. League v. Castaic Lake Water Agency* (2009) 180 CA4th 210, 243). The commenter's implication that local employees would not be sufficient to staff the proposed project is not based on a different method for assessing impacts; it is conclusory and not supported by any evidence. No revisions to the Draft EIR are required.

Response to GSEJA-20

The commenter claims that the proposed project would exacerbate an oversupply of jobs within the City, utilizing the commenter's proposed method of calculating the number of employees. The commenter asserts that the Draft EIR should be revised accordingly.

See Responses to GSEJA-14 and GSEJA-16.

As discussed in Chapter 4, Effects Found not to be Significant, of the Draft EIR, the City has a jobs-to-housing ratio goal of 1.5 but currently only has a jobs-to-housing ratio of 1.3. This means there are not enough jobs within the City to meet the jobs-to-housing ratio goal of 1.5. Therefore, many employees must commute outside of the City for employment, which is further supported by the average commute time for the City's employed residents of over 40 minutes. The proposed project would generate approximately 1,871 jobs within the City and would help the City achieve its jobs-to-housing ratio goal.

Contrary to the assertion this is "nonsensical," the Draft EIR was correct in its conclusion that the proposed project would help provide more jobs for the employed residents of the City and thus assist the City in meeting its goal with respect to the jobs-housing balance.

Response to GSEJA-21

The commenter states that the VMT analysis mischaracterizes the term “automobiles” by not including medium/heavy-duty trucks and freight trips; asserts that the City should not rely on OPR guidance on this point characterizing it as “purely advisory” and its interpretation being “speculative”; and asserts that a revised EIR and VMT analysis should be prepared that include all trucks, tractor trailers, and freight activity.

The comment is noted and acknowledged. However, the State of California’s guidance specifically specifies the term “automobile” used in CEQA Section 15063.2, subdivision (a) as on-road passenger vehicles, specifically cars and light trucks.¹¹

Pursuant to Public Resources Code Section 21099(b)(1), CEQA directed the OPR to propose revisions to the CEQA Guidelines to reflect the goals of SB 743. The criteria to be used by the OPR “shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. In developing the criteria, [OPR] shall recommend potential metrics to measure transportation impacts that may include, but are not limited to, VMT, VMT per capita, automobile trip generation rates, or automobile trips generated. [OPR] may also establish criteria for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of this section.”

As noted in the comment, the OPR guidance states that, “the purpose of this document is to provide advice and recommendations, which agencies and other entities may use at their discretion. This document does not alter Lead Agency discretion in preparing environmental documents subject to CEQA.” This means that the City of Tracy has discretion in setting VMT analysis methodologies and in this instance, the City has chosen in its draft guidelines to exclude heavy vehicles, consistent with OPR’s guidance in this regard. In addition, consistent with the guidance and the industry standard methodology for analyzing VMT, there is a like-for-like comparison between industrial uses for both threshold setting and project analysis.

It should be noted that while heavy vehicles are excluded from a VMT analysis for CEQA purposes, this does not preclude the City from considering heavy vehicles when reviewing potential non-CEQA operational deficiencies to the surrounding roadway network. Moreover, while medium/heavy trucks/freight trips are not considered in the VMT analysis, they are not excluded from consideration from an environmental perspective with respect to their potential impacts on air quality, noise, and greenhouse gas emissions. No revisions to the Draft EIR are required.

Response to GSEJA-22

The commenter states that the inclusion of the I-205 interchange in the Cumulative Condition is not appropriate because there is no “meaningful evidence” that the improvement will be completed by the date of the cumulative conditions analysis. Therefore, the commenter asserts that this results in an erroneous and misleading representative of the transportation impacts of the proposed project and the Draft EIR must be revised.

¹¹ California Governor’s Office of Planning and Research (OPR). 2018. Technical Advisory on Evaluating Transportation Impacts in CEQA. April. Website: https://opr.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf. Accessed January 12, 2023.

The Paradise Road/I-205 Interchange is a planned improvement in SJCOG’s Regional Transportation Plan; therefore, it is both reasonable and customary based on industry standards to include Regional Transportation Plan improvements in the Cumulative Conditions scenario for CEQA purposes. Also, LOS is no longer a CEQA transportation impact evaluation metric. The VMT analysis is based on existing vehicle-miles traveled thresholds and using the existing road network; therefore, the future implementation of the Paradise Road/I-205 Interchange does not affect the proposed project’s VMT analysis. No revisions to the Draft EIR are required.

Response to GSEJA-23

The commenter states that a revised EIR should be prepared because the conclusions set forth in the Other CEQA Considerations section of the Draft EIR are incorrect because the proposed project would exceed 10-year horizon growth projections considered by the MSR, is inconsistent with the General Plan and NEI Specific Plan and would negatively exacerbate the existing jobs/housing balance by adding to the oversupply of jobs. The commenter asserts that the Draft EIR must be revised to provide this information for analysis and include a finding of significance.

With respect to assertions related to purported inconsistencies with the growth projections included the MSR, please refer to Response to GSEJA-15. With respect to issues related to the jobs/housing balance, please refer to GSEJA-20; regarding claims of inconsistency with the General Plan, please refer to Response to GSEJA-11. With respect to inconsistency with the NEI Specific Plan, please see Response to GSEJA-13.

Response to GSEJA-24

The commenter repeats its prior comment regarding how the proposed project would not exacerbate the oversupply of jobs and states that a revised EIR must be prepared.

Please refer to Response to GSEJA-20.

Response to GSEJA-25

The commenter repeats its prior comment regarding the need to modify the cumulative analysis to reflect additional cumulative developments because the commenter asserts that a significant cumulative impact would occur due to employment increases and population growth.

With respect to a cumulative analysis in Chapter 5, Other CEQA Considerations, please see Responses to GSEJA-17 and GSEJA-18.

Response to GSEJA-26

The commenter repeats its prior comment regarding the need to revise the Draft EIR to analyze the cumulatively significant impacts to Agriculture, Air Quality, and Transportation, especially with respect to nearby disadvantaged communities.

For discussions related to disadvantaged communities and sensitive receptors, please see Responses to GSEJA-3 and MCINTOSH-3-3.

It is also noted that as set forth in Chapter 5, Other CEQA Considerations, of the Draft EIR, the analysis discloses that the proposed project would result in significant and unavoidable impacts with respect to the following:

- Project-level conversion of Prime Farmland.
- Cumulative conversion of Prime Farmland.
- Project-level impact related to Implementation of the applicable Air Quality Plan.
- Project-level impact related to cumulatively considerable net increase of ROG and CO during construction, and ROG and NO_x during operation.
- Project-level impact related to exposing sensitive receptors to substantial pollutant concentrations.
- Cumulative air quality impact.
- Project-level VMT impact.
- Cumulative VMT impact.

Those significant and unavoidable impacts are discussed in further detail in the applicable topical sections in the Draft EIR and related appendices. As discussed in Response to GSEJA-3, neither the ARB nor the Valley Air District, both of which are expert public agencies charged with addressing air quality and GHG emissions, has recommended significance thresholds adjusted for Environmental Justice considerations; therefore, the Draft EIR utilized the currently recommended Valley Air District significance thresholds to determine health risk impacts resulting from the proposed project. The City, in its authority as Lead Agency, is utilizing the questions in Appendix G of the State CEQA Guidelines to establish thresholds of significance for the proposed project. There are no recommended significance thresholds for these analyses with respect to Environmental Justice. Therefore, the Draft EIR correctly evaluated the proposed project based on existing thresholds.

As described in Section 3.1, Air Quality, the development of the Air Quality Plan (AQP) is based in part on the land use General Plan projections of the various cities and counties that constitute the Air Basin. The City's General Plan designates the project site as Industrial, which is intended to accommodate flex/office space, manufacturing, warehousing and distribution, and ancillary uses for workers' needs. Therefore, the proposed project, which involves the development of light industrial, warehouse and distribution and related uses is considered consistent with the project site's General Plan land use designation and its traffic would be included in volumes projected for analysis of the General Plan. Therefore, the inconsistency with the AQP is not due to unplanned growth.

As part of the certification of the Final EIR and prior to approval of the proposed project, the City would need to adopt a Statement of Overriding Considerations that identifies the benefits of the proposed project that outweigh its unavoidable environmental risks.

Response to GSEJA-27

The commenter states that the Draft EIR does not evaluate a reasonable range of alternatives because it did not include an alternative that meets all the project objectives and eliminates all of

the project's significant and unavoidable impacts. The comment states that a revised EIR should be prepared to address this alternative.

The commenter states that the alternatives analysis only provides two alternatives beyond the No Project alternative. However, the alternatives analysis includes an initial consideration of two other alternatives (including a maximum decreased intensity reduction and alternative location), which were both eliminated from further consideration for the reasons described in Chapter 6, Alternatives in the Draft EIR.

The commenter also states that the alternatives analysis should include an alternative that meets all of the project objectives and also eliminates all of the project's significant and unavoidable impacts. While the commenter incorrectly posits that such an alternative exists, it does not provide an example of such an alternative. There is no evidence in the record that such a feasible alternative satisfying both of the foregoing criteria exists. For example, the maximum decreased intensity reduction was initially considered to reduce air quality impacts to less than significant levels. However, to result in less than significant air quality impacts, an extreme reduction in NO_x emissions during operation would be required, from a maximum 35.83 annual tons to a level below the applicable threshold of 10 annual tons, which would require a building square footage reduction of 72.9 percent. Given the substantial decrease in intensity, such an alternative would not be feasible, would not accomplish any of the project objectives, and was therefore rejected from further consideration.

As described in Chapter 6, Alternatives, of the Draft EIR, analysis of alternatives to the proposed project provides full disclosure and allows decision-makers to consider the proposed project in light of hypothetical alternative development scenarios. This analysis is guided by the following considerations set forth under CEQA Guidelines Section 15126.6:

- An EIR need not consider every conceivable alternative to a project.
- An EIR should identify alternatives that were considered by the lead agency, but rejected as infeasible during the scoping process.
- Reasons for rejecting an alternative include:
 - Failure to meet most of the basic project objectives;
 - Infeasibility; or
 - Inability to avoid significant environmental effects.

Consistent with the foregoing requirements, the Draft EIR evaluates two alternatives (aside from the No Project Alternative) that meet at least some of the basic objectives of the proposed project while lessening one or more of its significant impacts, consisting of the Outside Storage Allowable Use Alternative and the Agricultural Protection Alternative. It should be noted that both alternatives include a reduction in building footprint. Pursuant to CEQA Guidelines Section 15126.6(e)(2), a Draft EIR must identify an environmentally superior alternative aside from the No Project Alternative. The Draft EIR identifies the Outside Storage Allowable Use Alternative as the environmentally superior alternative because it has the potential to yield the greatest reductions in the severity of the proposed significant and unavoidable impacts because it would preserve approximately 48 acres of

the existing agricultural operations including Prime Farmland. However, this alternative would not achieve the project objective of developing approximately 3.3 million square feet of employment-generating industrial uses. It also would not be as effective at achieving the employment-generating opportunity objective, as it would not provide as many local and regional employment opportunities and take advantage of the proposed project area's high level of accessibility; allow for the expansion of the City's economic base; help improve the jobs/housing balance; or reduce the commute for regional residents.

Response to GSEJA-28

The commenter (as reflected in a report attached to the comment letter prepared by a consultant, SWAPE) provides conclusionary statements and reaffirms the request to be added to the public interest list.

The comment is noted and acknowledged. See Response to GSEJA-1. No further response is required.

Response to GSEJA-29

The commenter provides introductory statements and describes the project. It does not raise any specific project-related environmental issues under CEQA, and therefore no further response is required.

Response to GSEJA-30

The commenter states that a revised EIR should be prepared because the Draft EIR did not adequately evaluate the air quality, health risk, and greenhouse gas impacts of the proposed project.

The comment is noted and acknowledged. Because it is conclusory in nature and does not identify any specific project-related environmental issues under CEQA, no further response is required.

For informational purposes, the following is noted.

The Air Quality, GHG, and Energy analyses in the Draft EIR were prepared according to the City of Tracy and Valley Air District requirements and followed the guidance described in the GAMAQI, the Valley Air District's recommended set of modeling, and analysis guidance for CEQA land use projects. This comment does not specifically indicate how the Draft EIR underrepresents emissions and health risk impacts. In addition, as shown in Responses to Valley Air District-1 through Valley Air District-21, and as presented in the Errata, the proposed project would include additional mitigation measures requested by the Valley Air District aimed at reducing air pollutant emissions and associated health risks. Furthermore, the project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions and associated health risks (see updated MMRP).

Response to GSEJA-31

The commenter presents Table 3.3-9, Table 3.3-12, and Table 3.3-14 from the Draft EIR and summarizes the Draft EIR impacts related to construction ROG emissions, annual operational ROG and NO_x emissions, and daily operational NO_x emissions, respectively. The commenter states that the Draft EIR's conclusion that air quality impacts associated with construction-related ROG

emissions and operational-related ROG and NO_x emissions cannot be fully mitigated is inadequate because it did not consider all feasible mitigation measures to reduce impacts from construction ROG emissions, annual operational ROG and NO_x emissions, and daily operational NO_x emissions. The commenter suggests additional mitigation measures as provided in GSEJA-34.

As detailed more fully in Section 3.3, Air Quality, the Draft EIR has considered all feasible mitigation based on project proponent-provided information as well as other available data and expert opinion and in some cases already includes some of the mitigation measures suggested by the commenter. See the table below for a comparison of which mitigation measures the commenter suggests, which mitigation measures the proposed project’s EIR includes, and reasons for why commenter-suggested mitigation would not be able to be feasibly implemented and/or would not clearly lessen any identified significant impact, as applicable. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP). See also Errata.

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.	COA No. 1.	For the reasons set forth in the Final EIR, it is reasonable to conclude that this measure could not be implemented in a manner that would effectively result in overall construction emissions reductions. Should the construction contractor be limited to utilizing equipment for only 10 hours per day, that contractor could instead rent multiple pieces of equipment for concurrent operation or lengthened construction schedules and times, resulting in the same or greater construction emissions than was analyzed. The suggested mitigation would not clearly lessen any significant environmental impact. Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter’s request.
Requiring on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled.	MM AIR-1d, MM AIR-1i .	On-road heavy-duty haul trucks are regulated by the ARB under the California State On-Road Heavy-Duty Vehicle Program. As described in Section 3.3, Air

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		<p>Quality and these Responses, by January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. The suggested mitigation would not clearly lessen any significant environmental impacts and would not be feasible as detailed in Response to SHUTE-6.</p> <p>See MM AIR-d (Clean Truck Fleet) for the feasible mitigation measure that would be imposed on the proposed project to address this issue. See also MM AIR-1i.</p>
<p>Providing electrical hook ups to the power grid, rather than use of diesel-fueled generators, for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.</p>	<p>MM AIR-1a.</p>	<p>MM AIR-1a regulates the use of diesel-powered generators and limits the use of such generators. The suggested mitigation would not clearly lessen any significant environmental impacts, nor is the suggested mitigation considerably different from the mitigation measure already evaluated in the Draft EIR.</p>
<p>Limiting the amount of daily grading disturbance area.</p>	<p>None.</p>	<p>This measure is not specific enough to include as a MM in the Draft EIR, and as such would not be feasible. In addition, limiting the daily grading area would not reduce overall emissions. This measure would only limit the progress of construction on a daily basis and extend the construction period, resulting in air quality impacts over a longer period.</p>
<p>Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.</p>	<p>MM AIR-1b.</p>	<p>MM AIR-1b would significantly reduce the generation of ozone precursor pollutants, such as ROGs, during project construction. In addition, the incorporation of MM AIR-1a would reduce another ozone precursor pollutant, NO_x, generated during construction. These two measures combined would significantly reduce the generation of particulates or ozone generating pollutants. Moreover, as illustrated in Section 3.3, Air</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		Quality, project construction would not result in an exceedance of particulate emissions. The suggested mitigation would not clearly lessen any significant environmental impacts, would not be feasible given likely substantial impacts on the construction schedule (both in terms of timing and mobilization efforts), nor is the suggested mitigation considerably different from the mitigation measure already evaluated in the Draft EIR.
Forbidding idling of heavy equipment for more than two minutes.	MM AIR-1f.	MM AIR-1f would require on-site trucks to limit idling to no greater than 3 minutes. The suggested mitigation would not clearly lessen any significant environmental impacts, nor is the suggested mitigation considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata).
Keeping on-site and furnishing to the Lead Agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.	MM AIR-1a.	MM AIR-1a would require the construction contractor to maintain equipment records for the construction fleet utilized for project construction. The suggested mitigation would not clearly lessen any significant environmental impacts, nor is the suggested mitigation considerably different from the mitigation measure already evaluated in the Draft EIR.
Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.	MMs AIR-1 and AIR-1b.	This would be required by the Lead Agency prior to issuance of grading permits. The suggested mitigation is not considerably different from the mitigation measure already evaluated in the Draft EIR.
Providing information on transit and ride sharing programs and services to construction employees.	COA No. 2.	The information that the commenter is referencing is available on the City of Tracy’s website. Additionally, as it would be difficult to assess the effectiveness of this type of

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		<p>temporary TDM measure or confirm any quantifiable emission reductions that could reasonably be expected to occur, the suggested mitigation would not clearly lessen any significant environmental impacts. Moreover, the feasibility of effectively implementing this type of temporary TDM measure to result in actual trip reductions is questionable because ride sharing applications have been publicly available for over a decade and transit information is accessible on the City’s website as well as provided in map-based phone applications, such as Google maps.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter’s request.</p>
<p>Requiring that all facility-owned and operated fleet equipment with a gross vehicle weight rating greater than 14,000 pounds accessing the site meet or exceed 2010 model year emissions equivalent engine standards as currently defined in California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025. Facility operators shall maintain records on-site demonstrating compliance with this requirement and shall make records available for inspection by the local jurisdiction, air district, and State upon request.</p>	<p>None.</p>	<p>On-road heavy-duty haul trucks are regulated by the ARB under the California State On-Road Heavy-Duty Vehicle Program. As described in Section 3.3, Air Quality and these Responses, by January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. The suggested mitigation would not clearly lessen any significant environmental impacts and would not be feasible as detailed in Response to SHUTE-6.</p> <p>See MM AIR-d (Clean Truck Fleet) for the feasible mitigation measure that would be imposed on the proposed project to address this issue. See also MM AIR-1i.</p>
<p>Requiring all heavy-duty vehicles entering or operated on the</p>	<p>MMs AIR-1g and AIR-1i.</p>	<p>MM AIR-1g would require future on-site on- and off-road equipment to be electric powered, and MM</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
project site to be zero-emission beginning in 2030.		AIR-1i would require the installation of Tier 2 EV charging infrastructure, facilitating the future use of electric trucks and vehicles. Because of the volume of trucks anticipated to access the site, practical limitations on the owner’s ability to regulate this item, and the current cost and availability of electric trucks, the suggested mitigation is not feasible.
Requiring on-site equipment, such as forklifts and yard trucks, to be electric with the necessary electrical charging stations provided.	MM AIR-1g.	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP.</p> <p>MM AIR-1g would require all on-site off-road and on-road equipment to be electric powered, including but not limited to forklifts and pallet jacks. The suggested mitigation is not considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata), and therefore the suggested mitigation is not required under CEQA.</p>
Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.	MMs AIR-1g.	MM AIR-1g would require future on-site on- and off-road equipment to be electric powered. The suggested mitigation would not clearly lessen any environmental impacts, nor is the suggested mitigation considerably different from the mitigation measure already evaluated in the Draft EIR. Finally, given the volume of light- and medium-duty vehicles that would be involved as part of the tenants’ business operations, practical limitations on the owner’s ability to control and enforce such an obligation, along with the current substantial cost and concerns regarding widespread availability of electric vehicles, the

Committer-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		suggested mitigation is not feasible.
<p>Forbidding trucks from idling for more than two minutes and requiring operators to turn off engines when not in use.</p>	<p>MM AIR-1f.</p>	<p>MM AIR-1f would require on-site trucks to limit idling to no greater than 3 minutes. The suggested mitigation would not clearly lessen any significant environmental impacts, nor is the suggested mitigation considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata).</p>
<p>Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to California Air Resources Board (ARB), the air district, and the building manager.</p>	<p>MM AIR-1f.</p>	<p>MM AIR-1f would require on-site trucks to limit idling to no greater than 3 minutes and would require the installation of signage throughout the site regarding the idling limitation. The suggested mitigation would not clearly lessen any significant environmental impacts, nor is the suggested mitigation considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata).</p>
<p>Installing and maintaining, at the manufacturer’s recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.</p>	<p>None.</p>	<p>The operations of private homes surrounding the project site are not under the purview of the owner or operator of the proposed project; therefore, there is no mechanism available to ensure that filtration systems would be installed and maintained at sensitive receptor locations near the project site. In addition, the effectiveness of air filtration systems heavily relies on continued maintenance and replacing filters. The suggested mitigation is not feasible.</p>
<p>Installing and maintaining, at the manufacturer’s recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air</p>	<p>None.</p>	<p>The suggested measure of installing one open-source air quality monitoring station near the project site would not reduce any air quality or GHG impact, since monitoring in and of itself does not reduce emissions. Furthermore, the commenter does not provide</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
<p>monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.</p>		<p>any information on why monitoring would be beneficial to the community. Because the suggested measure would not reduce an environmental impact caused by the proposed project, there is no legal nexus of this measure to any identified impacts of the proposed project. Therefore, the suggested mitigation is not feasible, would not be effective to reduce any impact from the proposed project, and is not required under CEQA.</p>
<p>Constructing electric truck charging stations proportional to the number of dock doors at the project.</p>	<p>MM AIR-1i.</p>	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP.</p> <p>The proposed project would be required to comply with MM AIR-1i, which would require the inclusion of EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2, in all parking areas during operation. Therefore, the proposed project would provide EV charging infrastructure that would support passenger vehicles and the future use of electric trucks.</p> <p>Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation would be duplicative and is not required under CEQA.</p>
<p>Constructing electric plugs for electric transport refrigeration units at every dock door, if the warehouse use could include refrigeration.</p>	<p>None.</p>	<p>The proposed project would not include cold storage uses; therefore, the suggested mitigation is not applicable and would not clearly lessen any significant environmental impact.</p>
<p>Constructing electric light-duty vehicle charging stations</p>	<p>MM AIR-1i.</p>	<p>MM AIR-1i would require the installation of EV chargers to</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
proportional to the number of parking spaces at the project.		support the future use of electric trucks and vehicles. The suggested mitigation is not considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata).
Installing solar photovoltaic systems on the project site of a specified electrical generation capacity, such as equal to the building’s projected energy needs.	COA No. 9(A-C). See Responses to GSEJA-31 and Valley Air District 2-12.	The Final EIR addresses the topic of solar panels on each building as part of the Responses to GSEJA-31 and Valley Air District 2-12. As described therein, the California Building Standards Code (CBC) requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels. The proposed project would be required to comply with the foregoing, thereby contributing to improved air quality and making progress toward reducing greenhouse gas emissions through the facilitation of the future production of solar energy. Furthermore, the use of solar panels would not substantially reduce air pollutant emissions on-site, because energy source emissions described in the Air Quality Analysis (see Section 3.3 of the Draft EIR) are limited to those generated from the on-site combustion of natural gas due to the inter-regional relationship between land use development projects and the facility generating the electricity. As such, the consideration of electricity-related energy source emissions is limited to GHGs. Moreover, the proposed project would not result in any significant impact related to GHG emissions, as discussed in Section 3.8 of the Draft EIR, and thus the City does not have the legal authority under CEQA to impose this measure. Therefore, based on the foregoing reasons and as further documented in Sections 3.3

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		<p>and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter’s request.</p>
<p>Requiring all stand-by emergency generators to be powered by a non-diesel fuel.</p>	<p>None.</p>	<p>The proposed project would not include stand-by emergency generators. Accordingly, the proposed mitigation is not applicable and would not clearly lessen any significant environmental impact.</p>
<p>Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queueing and idling of trucks.</p>	<p>None.</p>	<p>It is reasonable to assume that in the ordinary course of business, tenant managers would need to train facility operators to minimize queueing, to the extent feasible, as part of running a successful business, which would financially incentivize the efficient scheduling and loading of goods. The suggested mitigation would not clearly lessen any significant environmental impacts.</p>
<p>Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.</p>	<p>MM TRANS-1a and TRANS-1b.</p>	<p>MM TRANS-1a and TRANS-1b of the Draft EIR would establish a TDM plan, which would establish similar measures that the commenter is requesting. The suggested mitigation is not considerably different from the mitigation measures already evaluated in the Draft EIR.</p>
<p>Meeting CALGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, EV charging, and bicycle parking.</p>	<p>MM AIR-1i.</p>	<p>MM AIR-1i would require the installation of EV chargers to support the future use of electric trucks and vehicles, consistent with Tier 2 voluntary CALGreen standards. The suggested mitigation is not considerably different from the additional</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
		mitigation measure already incorporated in the Final EIR (see Errata).
Achieving certification of compliance with LEED® green building standards.	None.	The suggested mitigation would not clearly lessen any significant environmental impacts. Furthermore, the proposed project would adhere to existing Green Building Code requirements contained in City of Tracy Municipal Code Article 6.
Providing meal options on-site or shuttles between the facility and nearby meal destinations.	COA No. 6, No. 8(h).	<p>The suggested mitigation would not clearly lessen any significant environmental impacts. Construction worker vehicle trips would represent a minuscule amount of the overall construction emissions because the majority of emissions are generated by the use of off-road construction equipment. Moreover, any use involving commercial-grade kitchens or the like would be beyond the scope of the proposed project and contemplated uses, and thus not feasible in this regard.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of enforceable conditions of approval consistent with the commenter’s request.</p>
Posting signs at every truck exit driveway providing directional information to the truck route.	MM AIR-1e.	The suggested mitigation would be included as part of MM AIR-1e Operational Truck Fleet Routing contained in Section 4: Errata. MM AIR-1e would prohibit trucks from accessing Grant Line Road east of the project site. In addition, the project applicants have agreed to voluntarily implement a signage program along project frontage on Grant Line Road to deter trucks from accessing Grant Line Road east of the project site.

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
Improving and maintaining vegetation and tree canopy for residents in and around the project area.	MM AIR-1h.	The suggested mitigation would not lessen any significant environmental impacts. However, the proposed project includes MM AIR-1h-Vegetated Project Site Buffer which would include a vegetative buffer along the project boundary to the east. The addition of MM AIR-1h can be seen in Section 3.1 of the Errata as well as the updated MMRP.
Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with ARB regulations, by attending ARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and State upon request.	None.	As discussed at length in Section 3.3, the project applicants would be required to adhere to all applicable laws and regulations, including those set forth by ARB and Valley Air District. The suggested mitigation would not clearly lessen any significant environmental impacts.
Requiring tenants to enroll in the EPA’s SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.	COA No. 10(f).	<p>The commenter does not provide evidence for why or how this program would reduce emissions. Smartway programs aim to make supply chains more efficient by reducing fuel consumption and energy costs. The suggested mitigation would not result in quantitative reductions in air pollutant or GHG emissions and would be infeasible because it would limit the types of carriers the future tenants could work with.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter’s request.</p>
Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher	None.	Providing tenants with information on incentive programs with goals to reduce emissions from heavy-

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter’s request?	Explanation
Incentive Program, to upgrade their fleets.		duty trucks would not ensure that the tenants could or would apply for any of the programs, as applying for programs would be a voluntary action. In addition, the information would not be relevant to tenants that use third-party carriers, further limiting the potential benefit of including this suggestion mitigation. The suggested mitigation would not clearly lessen any significant environmental impacts.

See also Responses to SHUTE-13 and SHUTE-14.

Response to GSEJA-32

The commenter disagrees with the Draft EIR’s determination that impacts related to a significant health risk, specifically DPM emissions, would be significant and unavoidable. Therefore, the commenter asserts that additional mitigation measures should be incorporated and the Draft EIR be revised accordingly.

The comment is noted and acknowledged. The Draft EIR considered potential mitigation measures when the analysis was prepared; however, based on known project information and other considerations including expert opinion and other available data, many of these measures would be neither feasible nor enforceable, such as, for example, the use of a zero-emission trucking fleet. Furthermore, as described in the Response to GSEJA-31 and multiple Responses to SHUTE, the proposed project includes additional new mitigation measures that would further reduce DPM emissions; these new measures are substantially similar to or the same as many of the measures noted in the list shown in the comment letter. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP).

Response to GSEJA-33

The commenter asserts that due to the large size of the proposed project, the Draft EIR should incorporate additional project design features that reduce GHG emissions, such as the use of zero-carbon resource electricity supplies and an on-site renewable energy production system, such as solar. Until the feasibility of incorporating on-site renewable energy production is considered to reduce the proposed project’s GHG emissions, the commenter claims that the Draft EIR should not be approved.

The comment is noted and acknowledged. The commenter does not question the GHG impact analysis or less than significant conclusions referenced in its comment letter. The City is not permitted under CEQA to impose mitigation measures or require applicants to incorporate project

design features for impacts that have been determined to be less than significant. Draft EIR Chapter 2, Project Description, sets forth a detailed description of the proposed project. No further response is required.

For informational purposes, the following is noted. The Draft EIR was prepared based on Valley Air District guidance and as such, by achieving a 29 percent reduction from Business as Usual (BAU) threshold and the ARB 2020 21.7 percent threshold, the Draft EIR's determination is valid. Moreover, the analysis appropriately considered whether any renewable energy features (such as on-site solar) could be incorporated into the proposed project. In addition, the inclusion of new MM AIR-1f, MM AIR-1g, and MM AIR-1i (which the City has agreed to adopt and the applicants have agreed to implement) would further reduce GHG emissions (as well as pollutant emissions) by reducing truck idling, requiring all electric on-site equipment, and installing EV charging stations consistent with the voluntary Tier 2 CALGreen standards. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant and GHG emissions (see updated MMRP).

Response to GSEJA-34

The commenter states that the Draft EIR's analysis related to air quality and health risk impacts should be mitigated and suggests certain mitigation measures from the California Department of Justice Warehouse Best Practices document (see pgs. 6-8 of the comment letter).

See Responses to GSEJA-31 and -GSEJA-32. See also multiple Responses to SHUTE.

Response to GSEJA-35

The commenter recommends the Draft EIR consider the Southern California Association of Governments (SCAG) 2020 RTP/SCS PEIR Air Quality-level mitigation measures and greenhouse gas project-level mitigation measures.

See Responses to GSEJA-31, -GSEJA-32, and GSEJA-36. See also multiple Responses to SHUTE.

Response to GSEJA-36

The commenter states that SCAG's 2020 RTP/SCS PEIR Air Quality-level mitigation measures and GHG project-level mitigation measures would be a feasible way to reduce the proposed project's pollutant and GHG emissions. The commenter states that a revised EIR should be provided that demonstrates the inclusion of these measures.

As described in Response to GSEJA-31, the Draft EIR already includes mitigation similar to measures that are presented in this comment. See also the Table below for further discussion in this regard with respect to SCAG's 2020 RTP/SCS PEIR measures. Moreover, the Draft EIR now includes new mitigation measures recommended by Valley Air District in its comment letter. This new mitigation, as shown in Section 4, Errata, includes measures identical or similar to measures that the commenter presents. For example, new MM AIR-1f and -1g require signage to be posted limiting idling times to 3 minutes or less and the use of all electric on-road and off-road equipment. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant

emissions (see updated MMRP). See also Response to GSEJA-33 related to the less than significant GHG impacts, and also multiple Responses to SHUTE. No revisions to the Draft EIR are required.

SCAG 2020 RTP/SCS PEIR GHG Project Level Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter's request?	Explanation
<p>PMM GHG-1: In accordance with provisions of Sections 15091(a)(2) and 15126.4(a)(1)(B) of the State CEQA Guidelines, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to greenhouse gas emissions. Such measures may include the following or other comparable measures identified by the Lead Agency:</p> <ul style="list-style-type: none"> a) Integrate green building measures consistent with CALGreen (California Building Code Title 24), local building codes and other applicable laws, into project design including: <ul style="list-style-type: none"> i) Use energy-efficient materials in building design, construction, rehabilitation, and retrofit. ii) Install energy-efficient lighting, heating, and cooling systems (cogeneration); water heaters; appliances; equipment; and control systems. iii) Reduce lighting, heating, and cooling needs by taking advantage of light-colored roofs, trees for shade, and sunlight. iv) Incorporate passive environmental control systems that account for the characteristics of the natural environment. v) Use high-efficiency lighting and cooking devices. vi) Incorporate passive solar design. vii) Use high-reflectivity building materials and multiple glazing. viii) Prohibit gas-powered landscape maintenance equipment. ix) Install electric vehicle charging stations. x) Reduce wood burning stoves or fireplaces. xi) Provide bike lanes accessibility and parking at residential developments. b) Reduce emissions resulting from projects through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines c) Include off-site measures to mitigate a project's emissions. d) Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to: 	<p>MM AIR-1e through -1i</p>	<p>The proposed project would be designed according to CALGreen standards as well as the City of Tracy Building Code standards, as required for all development projects. Project design features such as drought tolerant landscaping and bicycle parking would further ensure the proposed project would reduce operational GHG emissions. In addition, MM AIR-1e through -1i, while not required to reduce a GHG impact, would provide a co-benefit of reducing operational GHG emissions. For example, the inclusion of EV charging infrastructure consistent with Tier 2 CALGreen standards would facilitate the use of EVs and reduce the use of fossil fuel-powered vehicles. Furthermore, MM AIR-1g would require zero-emission on-site equipment, which would be consistent with the SCAG measure. In conclusion, the adherence to Title 24 and existing City standards along with project design features and mitigation measures would ensure the proposed project would be consistent with SCAG PEIR project-level mitigation measure PMM GHG-1.</p>

SCAG 2020 RTP/SCS PEIR GHG Project Level Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter's request?	Explanation
<ul style="list-style-type: none"> i) Use energy and fuel-efficient vehicles and equipment; ii) Deployment of zero- and/or near zero-emission technologies; iii) Use lighting systems that are energy-efficient, such as LED technology; iv) Use the minimum feasible amount of GHG-emitting construction materials; v) Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production; vi) Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse; vii) Incorporate design measures to reduce energy consumption and increase use of renewable energy; viii) Incorporate design measures to reduce water consumption; ix) Use lighter-colored pavement where feasible; x) Recycle construction debris to maximum extent feasible; xi) Plant shade trees in or near construction projects where feasible; and xii) Solicit bids that include concepts listed above. <p>e) Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following:</p> <ul style="list-style-type: none"> i) Promote transit-active transportation coordinated strategies; ii) Increase bicycle carrying capacity on transit and rail vehicles; iii) Improve or increase access to transit; iv) Increase access to common goods and services, such as groceries, schools, and day care; v) Incorporate affordable housing into the project; vi) Incorporate the neighborhood electric vehicle network; vii) Orient the project toward transit, bicycle and pedestrian facilities; viii) Improve pedestrian or bicycle networks, or transit service; ix) Provide traffic calming measures; x) Provide bicycle parking; xi) Limit or eliminate park supply; xii) Unbundle parking costs; 		

SCAG 2020 RTP/SCS PEIR GHG Project Level Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter's request?	Explanation
<ul style="list-style-type: none"> xiii) Provide parking cash-out programs; xiv) Implement or provide access to commute reduction program; f) Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network; g) Improving transit access to rail and bus routes by incentives for construction of transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and h) Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that: <ul style="list-style-type: none"> i) Provide car-sharing, bike sharing, and ride sharing programs; ii) Provide transit passes; iii) Shift single-occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services; iv) Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle; v) Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms; vi) Provide employee transportation coordinators at employment sites; vii) Provide a guaranteed ride home service to users of non-auto modes. i) Designate a percentage of parking spaces for ride sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles; j) Land use siting and design measures that reduce GHG emissions, including: <ul style="list-style-type: none"> i) Developing on infill and brownfields sites; ii) Building compact and mixed-use developments near transit; iii) Retaining on-site mature trees and vegetation, and planting new canopy trees; iv) Measures that increase vehicle efficiency, encourage use of zero and low emissions 		

SCAG 2020 RTP/SCS PEIR GHG Project Level Mitigation Measure	Which EIR Mitigation Measure addresses the Commenter's request?	Explanation
<p>vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and</p> <p>v) Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse</p>		

See also Responses to SHUTE-13 and SHUTE-14.

Response to GSEJA-37

The commenter provides legal and conclusionary statements.

The commenter does not raise any project-specific CEQA issues, and therefore no further response is required.

From: Genna McIntosh <gennamcintosh15@gmail.com>
Sent: Friday, June 3, 2022 5:03 PM
To: Victoria Lombardo <Victoria.Lombardo@cityoftracy.org>
Subject: DEIR comment

I believe the amount of farmland that would be lost to this project is too great to justify continuing. I noticed that Tracy's logo has an agricultural aspect to it, I would assume that the City of Tracy highly values its agricultural community and will do whatever It can to support it. And taking away almost 191 acres of farmland doesn't seem to be in line with those views. Our farmland is precious resource, especially California farmland, and we should be doing everything we can to maintain these resources, this project seems to unnecessarily take away from that.

1

The air quality impacts are also greatly concerning, especially for the people who live on California Avenue. We already have the freeway behind us and all the air quality issues that come with that. To put warehouses on the other side of our homes would significantly and negatively change the air quality. In addition to the homes, there is a school less than a mile away where children play outside daily, those children do not deserve to have their air quality reduced.

2

The traffic is also a major concern, the small community of Banta has so much traffic from commuters and warehouse employees already, in addition to the large trucks that pass through illegally. This community does not deserve to have all of that increased.

3

Something that I didn't notice on the DEIR is the amount of water that would be used. As I'm sure we all know, California is in a drought, we have our governor talking about aggressive water conservation, how much water would be used on the construction of this project?

4

These issues are too great to ignore and do not justify moving forward with this project, and I strongly encourage the City of Tracy to consider the impacts of this project, and negative strongly outnumber any benefit this would bring.

5

Thank you,
Genna McIntosh

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Individuals

Genna McIntosh (MCINTOSH)

Response to MCINTOSH-1

This comment is related to the loss of 191 acres of farmland, and the commenter states that the City should support and maintain agricultural uses and thus not approve the conversion of these 191 acres.

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.

For informational purposes, the following is provided. The proposed project's potential impacts on agricultural resources are discussed at length in Section 3.2, Agriculture and Forestry Resources, of the Draft EIR. Among other things, Section 3.2 acknowledges that the project site contains approximately 188 acres of Prime Farmland and approximately 4 acres of Semi-Agricultural and Rural Commercial Land, as classified by the Farmland Mapping and Monitoring Program (FMMP). The Draft EIR details in the Regulatory Framework the relevant laws and regulations, including relevant City General Plan goals and policies, the City's local Agricultural Mitigation Fee Program, as well as those under LAFCo law. The analysis also analyzes the impacts of the proposed conversion of Important Farmland to industrial uses. As detailed more fully therein, the conversion of the project site from agricultural land to industrial uses is consistent with the City's long-term planning vision. The proposed project is consistent with the land use designation and densities and intensities established by the General Plan and conversion of the project site to industrial use was envisioned as part of buildout under the General Plan. Nevertheless, for purposes of a conservative analysis, this Draft EIR acknowledges that the proposed project would result in the loss of Prime Farmland as a result of its conversion of Prime Farmland to urban uses and discloses this as a significant and unavoidable impact. The City addresses the need to balance agricultural resource and open space preservation goals with urban development needs by focusing industrial development in the NEI Specific Plan area, for which the project site is adjacent. In so doing, this helps to ensure the preservation of other agricultural resources and open space. In addition, in accordance with Chapter 13.28 of the Municipal Code, Agricultural Mitigation Fee, the developers of the Suvik Farms, Zuriakat, and Tracy Alliance parcels would each be required to pay applicable Agricultural Mitigation fees in connection with their respective individual development proposals, as implemented by MM AG-1. In addition, the SJMSCP works at a regional level to promote the permanent preservation of agricultural lands in San Joaquin County. The SJMSCP calls for the preservation of about 100,000 acres, including 57,000 agricultural acres, over a 50-year period for the protection of a variety of biological species. Most agricultural conservation easements in the County are the product of the SJMSCP. The proposed project would be required to comply with applicable provisions of the SJMSCP (see Section 3.4, Biological Resources, of the Draft EIR for more information), which may include payment of development fees for conversion of lands. See also Section 3.2.6 for the Draft EIR's cumulative analysis with respect to agricultural resources.

Response to MCINTOSH-2

The comment is related to air quality impacts, especially to residents who live on California Avenue, adjacent to an existing air pollution source, like I-205. The commenter states that the proposed project would further impact air quality of nearby sensitive land uses including homes and a school that is less than a mile away.

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.

For informational purposes, the following is provided. The Draft EIR fully analyzed the potential air quality and health risk impacts resulting from construction and operation of the proposed project, which was performed consistent with the guidance and methodologies provided by the Valley Air District's GAMAQI. Potential impacts on sensitive uses, including nearby homes and Banta Elementary School, were specifically evaluated (see, e.g., Impact AIR-3). As discussed in Section 3.3, Air Quality, of the Draft EIR, the project site has been long planned for industrial uses and is located adjacent to the NEI Specific Plan area. The proposed project would be required to incorporate technically and financially feasible mitigation measures (MM AIR-1a through MM AIR-1d) to reduce emissions generated during project construction and operation. In addition, the project applicants have agreed to incorporate additional measures (see MM AIR-1e, MM AIR-1f, MM AIR-1g, MM AIR-1h, and MM AIR-1i), which have been included in the Final EIR and which would result in additional emission reductions during project operation. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions and health risk issues (see updated MMRP). See Responses to Valley Air District-2 through 5 for additional information in this regard.

Response to MCINTOSH-3

This comment is related to project traffic impacts to the Banta community, which currently experiences traffic impacts from commuters, warehouse employees, and illegal truck traffic.

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.

For informational purposes, the following is provided. Section 3.14, Transportation, of the Draft EIR evaluates the proposed project's potential transportation-related impacts as required under CEQA. As detailed more fully therein, the analysis considers and discloses any potentially significant impacts with respect to VMT; any conflicts relating to alternative transportation, bicycle facilities, pedestrian facilities, and transit facilities; any design hazard features; and any impairment on emergency access. The Draft EIR also identifies feasible mitigation measures to reduce identified impacts (i.e., MM TRANS-1a, MM TRANS-1b). In addition, the Draft EIR includes (for informational purposes) a non-CEQA operational analysis, utilizing a level-of-service evaluation of the study area identified by the City.

Specifically, with respect to truck traffic during operations, the Draft EIR evaluated this issue and acknowledged that the proposed project would result in new truck trips both to and from the project site. The Draft EIR discussed the relevance of Section 3.08.290 of the Tracy Municipal Code, which establishes truck routes throughout the City, restricting vehicle routes within the City for vehicles with a gross vehicle weight of 5 tons or more or that are licensed commercially as a truck in the state of origin and used for carrying goods for pickup and delivery. Vehicles meeting this requirement would be restricted to specific truck routes and designated streets, except when necessary for egress and ingress by direct route to and from restricted streets for the purpose of loading or unloading. The Draft EIR also detailed the findings of a relevant STAA truck route study. Specifically, an NEI Truck Route Map defines STAA truck routing (both interim and ultimate) and identifies new improvements (e.g., truck route signage, conversion of existing roads to STAA routes), which would further improve roadway safety by providing appropriate and adequate roadway infrastructure for the trucks that would access the project site. As a result, existing and planned roadways would be able to support proposed STAA trucks that would access the project site consistent with applicable provisions of the Municipal Code. Therefore, truck trips during operation would result in less than significant impacts.

Furthermore, the City has agreed to adopt, and the project applicants have agreed to implement MM AIR-1e to require that trucks accessing the project site are prohibited from using Grant Line Road east of the project site. See Section 3, Errata.

Nevertheless and although not required as mitigation for any impact, in an effort to further address concerns about truck traffic through the Banta community, the project applicants are willing to voluntarily implement signage along project frontage on Grant Line Road to deter trucks from traveling on Grant Line Road east of the project site, and voluntarily implement routine communications between property managers and tenants to ensure tenant understanding that trucks accessing the project site are prohibited from using Grant Line Road east of the project site. These measures will be incorporated as conditions of approval (see updated MMRP). The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further address signage and traffic pattern issues (see updated MMRP).

Response to MCINTOSH-4

The commenter notes that California is in a drought and questions the amount of water use during construction.

The comment sets forth a personal opinion on the merits of the proposed project but does not raise any specific significant environmental issues. 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.

For informational purposes, the following is provided. Section 3.16 of the Draft EIR contains the water impact analysis required under CEQA (see, e.g., Impacts UTIL-1, UTIL-2, MM UTIL-1a). In connection therewith and pursuant to SB 610, a Water Supply Assessment (WSA), consistent with the City's recently adopted 2020 Urban Water Management Plan (UWMP), was prepared for the

proposed project (Appendix K of the Draft EIR). The WSA evaluates the adequacy of the total project water supplies of the City (as the water purveyor to the proposed project), including existing water supplies and future planned water supplies, to meet the City's existing and projected future water demands, including those future water demands associated with the proposed project, under all hydrological conditions (Normal Years, Single Dry Years, and Multiple Dry Years). As detailed more fully therein, sufficient water supplies are available to serve the proposed project, as well as other existing and reasonably foreseeable future uses, during normal, dry, and multiple dry year scenarios with reliance on existing and additional supplies from future planned projects, including Aquifer Storage and Recovery Program Expansion, Recycled Water Distribution Network and Exchange Program for additional Central Valley Project water supplies, and recycled water distribution for nonpotable use. The Draft EIR also considered construction-related impacts on water supply. Construction of the proposed project would result in a relatively nominal amount of water use for dust control, mixing concrete, washing equipment and vehicles, and other activities, such as personal consumption. Because construction would require a minimal, limited quantity of water, it is reasonable to conclude that the City would have adequate water supply capacity to serve construction demands in addition to its other existing and planned uses, and new or expanded entitlements would not be necessary. Therefore, construction impacts in this regard would be less than significant.

Response to MCINTOSH-5

The commenter states that the City should consider the issues reflected in the comment letter and states an opinion that such issues outnumber any benefits of the proposed project.

The comment sets forth a personal opinion on the merits of the proposed project but does not raise any specific significant environmental issues. 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.

Comments provided at public hearing held May 25, 2022

MCINTOSH-2

Response to MCINTOSH-2-1

The commenter resides on California Avenue and expressed concern about project impacts such as air pollution, light, traffic, and loss of farmland. The commenter noted that the Draft EIR is very large and that there did not seem to be enough time to allow for review. The commenter also noted that there is a school very close to the project site, and that many properties already exist for industrial warehouses. The commenter stated that there are many Tesla and Amazon (industrial) jobs nearby and does not think there is a need for more jobs. The commenter is concerned about farmland impacts.

The comments are noted and acknowledged. To the extent the commenter is expressing an opinion on the merits of the proposed project, the comment will be noted and included in the administrative record for consideration by the City's decision-makers.

The City published a Notice of Availability/Notice of Completion of the Draft EIR on April 20, 2022. The 45-day public comment period extended from April 20, 2022, to June 3, 2022. In addition, although not required to do so under the law, the City accepted late comment letters, including, among others, one submitted more than two months after the close of the comment period from the commenter, and responded to those comments. (See Responses to MCINTOSH-3-1 through MCINTOSH 3-5.)

The Draft EIR included a careful analysis of the proposed project's potential effects related to air quality (Section 3.3, Air Quality), light pollution (Section 3.1, Aesthetics), traffic (Section 3.14, Transportation), and farmland (Section 3.2, Agriculture and Forestry Resources). Chapter ES, Executive Summary, provides an abbreviated summary of all of the potential impacts of the proposed project along with the recommended mitigation measures.

Regarding air quality, as discussed in Section 3.3, Air Quality, of the Draft EIR, the proposed project would incorporate technically and financially feasible mitigation measures to reduce emissions generated during project operation. In addition, MM AIR-1e, MM AIR-1f, MM AIR-1g, MM AIR-1h, and MM AIR-1i have been added to the Draft EIR and would result in additional emission reductions during project operation beyond what was identified in the Draft EIR. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further reduce pollutant emissions (see updated MMRP). Nonetheless, the quantified emission reductions from these new mitigation measures (as well as those from conditions of approval) cannot be identified with certainty at this time. Therefore, the impact conclusions of Section 3.3, Air Quality, of the Draft EIR remain appropriate under CEQA.

Regarding light pollution, as discussed in Section 3.1, Aesthetics, of the Draft EIR, light and glare during the construction phase would be temporary and limited to the duration of construction. The proposed project would be required to comply with Section 4.12.820 of the Municipal Code, which limits construction activities to between 7:00 a.m. and 10:00 p.m. on weekdays.

The Draft EIR discloses that the proposed project would increase the amount of light and glare on the project site. However, the light fixtures used for the proposed project would be required to meet all applicable standards pursuant to the latest adopted edition of the California Building Code and all applicable development standards and design guidelines provided in the NEI Specific Plan to reduce daytime glare and nighttime lighting.

Any window glare would be partially obscured by landscaping. Glare may also occur from on-site vehicles; however, such glare would be transient. Because of the proposed project's location adjacent to other existing urban development, the proposed project would not be adding significant nighttime lighting or glare in an area with no existing lighting impacts. As such and as detailed more fully in Section 3.1, Aesthetics, of the Draft EIR, project impacts related to light and glare were found to be less than significant.

Regarding transportation, the Draft EIR contains a detailed analysis of the proposed project's potential transportation-related impacts and identified feasible mitigation measures. As discussed therein, the proposed project is anticipated to add approximately 96 passenger cars during the morning peak-hour and approximately 142 passenger cars during the evening peak-hour along Grant Line Road through Banta. All trucks would be directed to use the existing or future truck route to the west of the proposed project and not east on Grant Line Road. Furthermore, the City has agreed to adopt, and the applicants have agreed to implement MM AIR-1e, which would require that trucks accessing the project site be prohibited from using Grant Line Road east of the project site. See Section 3, Errata. Nevertheless and although not required as mitigation for any identified impact, in an effort to further address concerns about truck traffic through the Banta community, the project applicants are willing to voluntarily implement signage along project frontage on Grant Line Road to deter trucks from traveling on Grant Line Road east of the project site, and voluntarily implement routine communications between property managers and tenants to ensure tenant understanding that trucks accessing the project site are prohibited from using Grant Line Road east of the project site. These measures will be incorporated as conditions of approval. Finally, the City of Tracy is currently implementing STAA truck routes in the NEI Specific Plan area that connect to the I-205 and MacArthur Interchange. The City of Tracy is actively coordinating with the SJCOG and the County of San Joaquin on truck route planning.

Regarding loss of farmland, the Draft EIR contains a detailed analysis of the proposed project's potential impacts to agricultural resources as well as identified mitigation measures. As discussed therein, conversion of the project site to industrial use has long been envisioned by the City as part of buildout under the General Plan and evaluated and disclosed under the General Plan EIR; this is reflected in the project site's existing Industrial General Plan land use designation. Nevertheless, for purposes of a comprehensive conservative analysis, the Draft EIR acknowledged that the proposed project would result in the loss of Important Farmland as a result of its conversion of Prime Farmland to urban uses. On June 7, 2005, the City Council adopted Chapter 13.28 Agricultural Mitigation Fee to its Municipal Code. In addition, the City Council adopted a resolution approving the Central Valley Farmland Trust as a qualifying agency to receive funds for purposes of preserving identified areas of Important Farmland. This program serves as mitigation to the extent feasible for the conversion of Prime Farmland. In accordance with Chapter 13.28 of the Municipal Code, Agricultural Mitigation Fee, the developers of the Suvik Farms, Zuriakat, and Tracy Alliance parcels would each be required

to pay applicable Agricultural Mitigation fees in connection with individual development proposals as implemented by MM AG-1. In addition, the proposed project would be required to comply with applicable provisions of the SJMSCP. Even with the payment of City mitigation fees and adherence to the SJMSCP, the proposed project would result in significant and unavoidable impacts related to the conversion of Farmland as identified by the FMMP mapping to nonagricultural use, since the foregoing would not fully avoid the impacts of this conversion (Draft EIR, Page 3.2-8–9).

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Late Comments

Under CEQA Guidelines Section 15105, the City of Tracy was legally required to provide a 45-day public review period on the Draft EIR. The public comment period for the Draft EIR began on April 20, 2022, and ended on June 3, 2022. All comment letters received after expiration of the public review and comment period ending on June 3, 2022 are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period (PRC § 21091(d); CEQA Guidelines § 15088). When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond (PRC § 21091(d)(1); PRC § 21092.5(c)). Accordingly, the City of Tracy is not required to provide a written response to late comment letters, including those five letters listed in Section 3.1 of this Responses to Comments (See CEQA Guidelines § 15088(a)).

Accordingly, the following comment letters are considered late letters that do not require a written response. Nonetheless, for information purposes, the City of Tracy has elected to respond to these late letters, but without waiving its position that written responses to late comment letters are not required by law.

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August 16, 2022

Advocates for the Environment

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



Victoria Lombardo, Planner
City of Tracy
Development Services Department
333 Civic Center Plaza
Tracy, CA 95376

Via U.S. Mail and email to victorialombardo@cityoftracy.org

re: Comments on Tracy Alliance Project, SCH Number 2020080524

Dear Ms. Lombardo:

Advocates for the Environment submits the comments in this letter regarding the Draft Environmental Impact Report (DEIR) for the proposed Comments on Tracy Alliance Project (Project). The Project site is located on undeveloped prime farmland, but it is zoned for industrial development and located at the northeast corner of Grant Line Road and Paradise Road. The site is within unincorporated San Joaquin County, adjacent to the northeastern city limits and within the City of Tracy's Sphere of Influence (SOI). The project site is directly east of the City's NEI Specific Plan boundary. The site is bound by I-205 to the north, California Avenue to the northeast, Grant Line Road to the south, and Paradise Road to the west. The Project proposes to construct up to 3,352,320 square feet of warehouse and distribution and related uses on a total of approximately 191.18 acres, 98% of which would be converted farmland.¹

1

Advocates for the Environment is a public interest law firm and advocacy organization with the mission to educate the public about the law as it pertains to the environment and provide legal services in support of environmental causes. Therefore, it is within the scope of Advocates for the Environment's mission to provide comments on the development of this project, especially because the DEIR reflects potential issues of non-compliance with CEQA.

Greenhouse Gases

The Project anticipates employing 1,871 people and creating operational emissions of 19,672 MT_{CO2e} annually, starting in the year 2030.² The DEIR quantified greenhouse gas (GHG) emissions in three phases, corresponding to the three Phases of the Project

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¹ 188 acres of farmland ÷ 191.18 acres of Project = 0.9834 = approximately 98%

² Total Emissions Estimates taken from DEIR P. 3.8-43 to 3.8-45

10,962 MT_{CO2e} (Phase 1) + 5,964 MT_{CO2e} (Phase 2) + 2,746 MT_{CO2e} (Phase 3) = 19,672 MT_{CO2e}

development. Phase 1 is planned to start in 2023 and contribute to 10,962 MTCO_{2e}; Phase 2 in 2024 with 5,964 MTCO_{2e}; and Phase 3 in 2025 with 2,746 MTCO_{2e}.

2
CONT

The City Should Require the Project to be Net-Zero

Greenhouse gas emissions from buildings, including indirect emissions from offsite generation of electricity, direct emissions produced onsite, and from construction with cement and steel, amounted to 21% of global GHG emissions in 2019. (IPCC Sixth Assessment Report, Climate Change 2022, WGIII, Mitigation of Climate Change, p. 9-4.) This is a very large portion of global GHG emissions. It is much less expensive to construct new building projects to be net-zero than to obtain the same level of GHG reductions by retrofitting older buildings. Climate damages will keep increasing until we reach net zero GHG emissions, and there is a California state policy requiring the state to be net-zero by 2045. It therefore makes no sense to construct new buildings that are not net-zero.

3

Two of the largest mixed-use development projects in the history of California, Newhall Ranch (now FivePoint Valencia), and Centennial (part of Tejon Ranch) decided, after environmental groups sued and won under CEQA, to move forward as net-zero communities. This proves it is feasible. The Applicant for this project should do the same. We urge the City to adopt net-zero as the GHG significance threshold for this project, and require full fair-share litigation. The CARB 2017 Scoping Plan states that “achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, is an appropriate overall objective for new development.” (p. 101.)

Moving this Project forward as a net-zero project would be the right thing for the City to do, and would also protect the City and the Applicant from CEQA GHG litigation.

The EIR’s GHG Analysis

The City analyzed GHG significance using the Appendix G guidelines as the thresholds, determining, under the first threshold, that the Project would not contribute to any significant direct or indirect GHG emissions, given 43.3 to 44 percent reduction from business as usual. Analyzing consistency with the 2008 and 2017 Scoping Plans under the second threshold, the DEIR concluded that the Project would not conflict with any applicable GHG-reduction plan, policy, or regulation. As discussed below, both these conclusions are unsupported by substantial evidence.

4

Significance Finding Violates Newhall

In analyzing the Project’s GHG impacts under the first threshold, the DEIR made no attempt to reconcile the percent reduction below business-as-usual (BAU) with Statewide goals. Simply allowing a margin for error, and nothing more, is not sufficient to be compliant

with the holding in *Center for Biological Diversity v. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204 (*Newhall*), which held that, when using a reduction from BAU as a significance threshold, lead agencies must affirmatively provide some demonstration that the reduction is consistent with the required statewide reductions, not just that it is “likely” to be consistent, as the DEIR suggests. In fact, the DEIR suffers the same problem as in *Newhall*, which is that despite making a demonstration of adherence to the 40% reduction goal, there was no substantial evidence to support the claim that the statewide emissions goal of 40% would necessarily translate to the equivalent goal in the local regime.

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CONT

Inconsistent with Applicable Plans

The DEIR incorrectly assumes that the only applicable plans, policies, and regulations are the CARB Scoping Plans. The Project is not only inconsistent with the 2017 Scoping Plan, but also conflicts with other applicable plans, policies, and regulations adopted for the purposes of reducing GHGs.

The EIR’s analysis of consistency with the 2017 CARB Scoping Plan is highly flawed. The threshold used in the analysis appears to be 22% below BAU. (EIR p. 3.8-34.) The BAU is the 2017 CARB Scoping Plan is called the “Reference Scenario” and represents “what GHG emissions look like if we did nothing beyond the existing policies that are required and already in place to achieve the 2020 limit. BAU includes the existing renewables requirements, advanced clean cars, the 10 percent reduction in carbon intensity Low Carbon Fuel Standard, and the SB 375 program for sustainable communities, among others.” BAU thus represents the emissions path that would occur if no new regulations were adopted after 2017. But the EIR for this Project uses a contrived BAU, apparently based on 2005 levels and the 2008 CARB Scoping Plan. Since the 2008 Scoping Plan was developed to implement AB 32, which required emissions to be reduced to 1990 levels by 2020, and that goal has been achieved, it is irrelevant to GHG analysis now. The Project must be consistent with the 2017 CARB Scoping Plan, not the 2008 CARB Scoping Plan, and a contrived BAU based on 2005 levels is not appropriate for that analysis. The portion of the EIR analyzing consistency with SB 32 and the CARB 2017 Scoping Plan should be rewritten to use the correct BAU baseline. The Project is also inconsistent with the CARB 2017 Scoping Plan in several other ways.

5

First, the Project would be inconsistent with the emissions targets laid out by the 2017 CARB Scoping Plan, including annual emissions of 6 MTCO₂e/capita by 2030, and 2 MTCO₂e/capita by 2050 (CARB Scoping Plan, p. 99). Here, the Project anticipates 1,871 employees, resulting in per-capita emissions of about 10.51 MTCO₂e/capita each operating year.³ As this is nearly double the 2030 goal of 6 MTCO₂e/capita, there is an inconsistency.

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³ 19,672 MTCO₂e ÷ 1,871 people = 10.51 MTCO₂e/capita

Second, the GHG significance analysis compared the Project with AB32 and the CARB 2008 Scoping Plan, but these policies cannot be applicable because the AB32 goal was for 2020 and it has already passed; the goal has been achieved, so that policy is irrelevant. Likewise, the San Joaquin Valley Air District Climate Change Action Plan (CCAP) is not applicable to the project, because the goals have been achieved.

7

Third, for the Project's impacts to be insignificant, the Project must be consistent with B-55-18, because it is an applicable policy which aims to achieve carbon neutrality by 2045. As this Project requires industrial storage and transportation using large vehicles, with no plans of reducing or offsetting emissions to zero by 2045, the Project is inconsistent with B-55-18.

8

Since the Project is inconsistent with applicable policies to reduce GHG emissions, its GHG impacts are significant.

Fair Share Mitigation

The Project's GHG emissions are significant and, because those emissions must be analyzed as a cumulative impact, the heightened requirement of "fair share" mitigation applies. (*Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.) For this Project, the fair share is the entirety of the Project's emissions. The City must

9

Because the DEIR concluded that the Project will have less-than-significant GHG impacts, no mitigation measures were identified. Yet, once the analysis is updated according to the above comments, the agency will need to analyze all feasible mitigation to reduce to the fair share level.

Here are some ideas for feasible mitigation measures for GHG emissions: install solar panels on the entire available roof space, prohibit natural-gas appliances, install energy-efficient lighting and temperature controls, require zero-emission vehicles, purchase offsets or sponsor local-energy projects, and utilize low-GHG construction materials. There are many more options for feasible mitigation to reduce the Project's significant GHG impact.

10

CalEEMod Deficiencies

The criteria air pollutant and GHG emissions generated by the operational land uses on the Project site were estimated using the California Emissions Estimator Model (CalEEMod). CalEEMod provides recommended default values based on site specific information, such as land use type, meteorological data, total lot acreage, project type, and typical equipment associated with a particular project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence.

11

Here, the population parameter is not supported by substantial evidence. Although the Project intends to employ 1,871 people on the premises, the inputs indicate a population size of zero for all CalEEMod runs. CalEEMod should be re-run to reflect an accurate population size for the project.

11
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Additionally, certain runs changed the default land use parameters to zero. For example, Phase 3 changed from the default of 422,967.60 square feet to a user-inputted value of 0 square feet. This parameter is not supported by substantial evidence, because the Project to be built on the Zuriakat Parcel is predicted to use 479,160 square feet of space. The model should be re-run to reflect the accurate square footage of Phase 3.

12

And the Project-associated vehicle miles traveled (VMT) as analyzed in the DEIR is not accurately reflected in the CalEEMod parameters. The DEIR indicated a VMT of 16.9 per employee, which amounts to 11,541,263.5 annual miles of vehicle travel associated with the Project.⁵ However, CalEEMod Trip Summary Information (4.2), indicates that the total VMT for all three phases amounts to 7,343,938 annual miles, or an average of 10.75 per employee.⁶ This is roughly 36% less VMT than indicated in the DEIR, and no justification has been made regarding the CalEEMod parameters. Therefore, this estimate lacks substantial evidence and contributes to an underestimation of GHG significance due to the resulting reduced quantification of emissions.

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Additionally, the various assumptions, user-inputted values, and modifications in the CalEEMod simulation should be explained such that a decision-makers and the public can adequately assess the environmental impact, because without such analysis, the CalEEMod summaries are confusing and misleading.

14

Air Quality Significance Analysis

The DEIR concluded that the Project may have potentially significant air-quality impacts, and identifies four mitigation measures. The EIR states that the Project may have significant and unavoidable air quality impacts even after mitigation, because there are no guarantees that the identified air quality mitigation measures will be implemented due to technical or financial feasibility (DEIR ES-4). But these are not the only feasible mitigation measures, so the conclusion that the air quality impact would be unavoidable is without merit. There are several mitigation strategies, in addition to the ones proposed, that could ensure air quality emissions reductions regarding the Project operations, which the lead agency should consider adopting as part of its mitigation efforts to reduce air quality significance.

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⁵ $16.9 \times 1,871 \text{ employees} \times 365 \text{ days} = 11,541,263.5 \text{ annual miles}$

⁶ $2,483,351 \text{ (Phase 1)} + 2,510,413 \text{ (Phase 2)} + 2,350,174 \text{ (Phase 3)} = 7,343,944 \text{ annual VMT}$

First, the Project could require that any machinery (including but not limited to: forklifts, dock equipment, conveyors, and carousels) to be used during the operation of the Project is powered by rechargeable battery or otherwise powered by electricity. Second, the Project could encourage future tenants to adopt incentives for carpools and alternative transportation such as public transport, bicycling, and zero emission vehicles, to reduce the amount of vehicle trips per person, and likewise reduce the associated air quality pollutants that are emitted by conventional vehicles. Third, the Project could require and enforce a strict no-idling policy on the premises. Fourth, the Project could require future tenants' vehicle fleet to be maintained with zero-emission or hybrid vehicles to the extent feasible, as zero-emission and hybrid heavy-duty vehicles and semi-trucks are already available for consumer purchase and use.

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The DEIR also contemplates a scenario in which all three project phases were constructed concurrently, in which case the impact would exceed significant levels even with all mitigation incorporated (DEIR ES-4). Therefore, to avoid this consequence, one mitigation measure could be the implementation of a plan which specifically precludes the development of multiple project phases simultaneously.

16

Agriculture Resources

The City adopted Appendix G guidelines to determine whether agricultural and forestry impact was significant. Threshold a asks whether the Project would Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. Threshold b asks whether the Project would conflict with existing zoning for agricultural use or a Williamson Act Contract. The DEIR concluded significant unavoidable impact as to agricultural resources, based on significant impact under Threshold a, despite a finding of insignificance as to Threshold b. This analysis is inaccurate because the Project would be significant under Threshold b, and there are feasible mitigation strategies beyond those identified to reduce the significant impact of conversion of agricultural land.

17

Inconsistent with the Williamson Act Contract

The EIR concluded the Project would have a less than significant impact under Threshold b, although Agricultural and Forestry Resources in its entirety was deemed to have a significant and unavoidable impact. 46.61 acres of land located on the three Suvik Farms parcels are currently under Williamson Act contracts (DEIR p. 3.2-3). In 2017, Suvik Farms landowners initiated a Notice of Nonrenewal for the contract, beginning a nine-year process to formally expire the contract. Based on the date of the Notice of Nonrenewal, the contract will expire on August 21, 2026 (DEIR 3.2-10). Yet, "since the contract term automatically renews

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annually, the actual term is essentially indefinite” (DEIR p. 3.2-2). The DEIR made no showing that the process for expiring the contract guarantees that the contract will expire in 2026.

Even if it will expire in 2026, the Project anticipates that the Suvik parcels will be developed before the term is set to expire: “Phase 2 is the Suvik Farms parcels, with construction assumed to occur in 2023 through 2024 and operation assumed to begin in 2024.” (DEIR 3.8-35). The Williamson Act Contract provides that the covered land is not to be used for non-agricultural purposes for “the duration of the contract” (Gov. Code Section 51243 (a).) Further, the existing contract remains in effect for the entire period after the notice of intent to not renew (Gov. Code Section 51246 (a).) Thus, if the plan to develop the Suvik Farms parcels is carried out before the Williamson Act contract expiration date, it would amount to a material breach of the Williamson Act Contract pursuant to Gov. Code Section 51250.

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The lead agency argues that the applicant can avoid such a breach by requesting cancellation of the contract if they are to build it before the contract ends; but the cancellation of a Williamson Act contract is inconsistent with the Williamson Act if the “objectives to be served by cancellation should have been predicted and served by nonrenewal at an earlier time” (*Sierra Club v. City of Hayward* (1981) 28 Cal. 3d 840, 855.) This is the precise situation here, because the objectives served by cancellation (i.e., the development of projects such as this one), was anticipated in 2017, which is when the landowners initiated a Notice of Nonrenewal for the Suvik Farms Williamson Act Contract. Therefore, it is not appropriate here for an applicant to request cancellation of contract simply because they want to develop the land before the contractual term is scheduled to end. Therefore, the Project, if carried out as set forth in the EIR, would violate the Williamson Act and therefore be inconsistent with it, demonstrating significant impact under Threshold b.

Mitigation to Reduce Agricultural Impact to Less Than Significant

There are three mitigation strategies that could reduce the significance of agricultural impact. First, the Project should modify its plans so that Phase 2 (involving the development of the Suvik Farms parcels) is not initiated until after the Williamson Act contract expires. Second, in addition to the proposed agricultural mitigation fee program, the Project could develop a plan to restore agricultural land after the lifespan of the Project, which was upheld as a valid mitigation measure (e.g., *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 876.) Third, the Project could limit the size of the warehouse to reduce the amount of conversion of agricultural land.

19

Inadequate Discussion of Alternatives

To be compliant with CEQA, “the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”

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(CEQA Guidelines § 15126.6 (c)). Here the City discussed two alternatives, the No Project Alternative and the Agricultural Protection Alternative, which proposes preserving 11 acres of farmland. Here, the range of alternatives is unreasonable, and there are several suggestions for alternatives to analyze.

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CONT

Range of Alternatives Is Unreasonable

The DEIR did not include a reasonable range of feasible alternatives. (See *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 407; CEQA Guidelines § 15126.6(a)). The standard for determining reasonability is “whether the alternatives discussion encourages informed decision-making and public participation” (Cal. Oak Found. v. Regents of Univ. of Cal. (2010) 188 Cal.App.4th 227, 276).

The DEIR contemplated two project alternatives, including a “No Project Alternative” and an “Agricultural Protection Alternative,” would result in protecting 11 acres of prime agricultural land. This is insufficient because there are other feasible alternatives that would be able to achieve certain project goals while also reducing the impact on the environment. Particularly, several unique resources exist on the site which are identified but not accounted for to the feasible extent in the range of alternatives, including wetland habitat and prime farmland, discussed below.

Wetland Preservation Alternative

There is a 0.07 acre ditch wetland/cattail marsh that supports Northern Pacific tree frogs. The alternatives discussion should include an alternative that aims to preserve wetland and riparian habitat, to the extent feasible. Most project objectives could still be met in an alternative that aimed to achieve habitat preservation goals or otherwise avoided to develop on the wetland portions of the Project site. Not only would this reduce biological impact, potentially below significant impact, it could also reduce GHG impact because healthy wetlands have the ability to sequester GHGs.

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Farmland Preservation Alternative

The Project would result in the loss of 188 acres of Prime Farmland. The DEIR concluded that this was a significant and unavoidable impact, but this does not necessarily mean that an alternative is infeasible. Given this unique environmental resource, and the vast extent of Prime Farmland on the Project Site, it would be reasonable and feasible to have more than one alternative that accounts for the loss of farmland, especially because the only alternative proposed, Agricultural Protection Alternative, only sets aside about 5% of farmland. The Outside Storage Allowable Use Alternative was deemed infeasible but this infeasibility determination lacks substantial evidence because it would be reasonable to analyze another

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Farmland Preservation Alternative which could propose to reserve more farmland, perhaps by reducing the Project size, to ensure that the Project is contributing to California's long-term agricultural production and soil health stability, as well as consistency with the General Plan's goal of preserving and protecting significant agricultural resources.

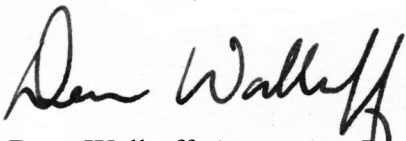
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Conclusion

To conclude, the DEIR should be updated to reflect a finding of significant GHG impact, and mitigated to the "fair share" extent (*Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364). Please put Advocates for the Environment on the list of interested parties to receive updates about the progress of this potential project approval.

22

Sincerely,



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

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Organization

Advocates for the Environment (AENV)

Response to AENV-1

This comment summarizes the proposed project and provides introductory statements.

The comment is noted and acknowledged. The commenter does not raise any project-specific issues related to CEQA, and therefore no further response is required.

Response to AENV-2

This comment describes the proposed project's estimated employees and amount of GHGs that would be generated.

The comment is noted and acknowledged. The commenter does not raise any project-specific issues related to CEQA, and therefore no further response is required.

Response to AENV-3

This comment describes the benefits of net-zero construction and states that the proposed project should be built to result in net-zero GHG emissions. The commenter cites two Southern California projects that have purportedly implemented "net-zero communities" as a basis for the commenter's claim of feasibility.

The comment is noted and acknowledged. The commenter does not question the GHG impact analysis or less than significant conclusions referenced in its comment letter. The City is not permitted under CEQA to impose mitigation measures or require applicants to incorporate project design features for impacts that have been determined to be less than significant. Chapter 2, Project Description, of the Draft EIR sets forth a detailed description of the proposed project. Imposing an obligation to be "net-zero" would not be permitted under the law. Therefore, no further response is required.

For informational purposes, the following is noted. Section 3.8, Greenhouse Gas Emissions, of the Draft EIR robustly evaluates the proposed project's GHG impacts, both from a quantitative and qualitative perspective. Section 3.8.4 describes the significance criteria, assumptions and methodologies used by the City, in its discretion, to conduct this impact analysis. CEQA does not require the City to utilize achieving net-zero GHG emissions as a significance threshold to evaluate the proposed project. Moreover, as described in the ARB 2017 Scoping Plan, "achieving net-zero increases in GHG emissions, resulting in no contribution to GHG impacts, may not be feasible or appropriate for every project, however, and the inability of a project to mitigate its GHG emissions to net-zero does not imply the project results in a substantial contribution to the cumulatively significant environmental impact of climate change under CEQA. Lead agencies have the discretion to develop evidence-based numeric thresholds (mass emissions, per capita, or per service population) consistent with this Scoping Plan, the State's long-term GHG goals, and climate change science."

As discussed in Section 3.6 Greenhouse Gas Emissions, under CEQA and as held in the California Supreme Court’s decision in *Center for Biological Diversity v. California Department of Fish and Wildlife*, GHG impacts would be considered significant if the proposed project would:

- Conflict with a compliant GHG Reduction Plan if adopted by the lead agency;
- Exceed the San Joaquin Valley Air Pollution Control District (Valley Air District) GHG Reduction Threshold; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of GHGs.

These thresholds are consistent with the Appendix G Environmental Checklist questions of the CEQA Guidelines. The City of Tracy does not currently have a formal GHG emissions reduction plan or recommended emissions thresholds for determining significance associated with GHG emissions from development projects. Therefore, the Draft EIR used the most appropriate thresholds to evaluate GHG impacts as determined by the City in its discretion. No revisions to the Draft EIR are required. See also multiple Responses to SHUTE.

Response to AENV-4

This comment states the Draft EIR’s significance determination related to GHGs and that these conclusions are not supported by substantial evidence. This comment states that the Draft EIR did not analyze the proposed project’s GHG emissions against the percent reduction below BAU consistent with Statewide goals. This comment further states that the Draft EIR did not provide substantial evidence that the Statewide emissions goal of 40 percent would translate to the equivalent local goal.

As discussed in Section 3.6 Greenhouse Gas Emissions, under CEQA and as held in the California Supreme Court’s decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (the “*Newhall Ranch*” decision) GHG impacts would be considered significant if the proposed project would:

- Conflict with a compliant GHG Reduction Plan if adopted by the lead agency;
- Exceed the San Joaquin Air Pollution Control District (Valley Air District) GHG Reduction Threshold; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of GHGs.

These thresholds are consistent with the Appendix G Environmental Checklist questions of the CEQA Guidelines. The City of Tracy does not currently have a formal GHG emissions reduction plan or recommended emissions thresholds for determining significance associated with GHG emissions from development projects. Therefore, the first impact criterion, “conflict with a compliant GHG Reduction Plan if adopted by the lead agency,” cannot be applied to the proposed project. Moreover, the other two impact criteria presented closely align with the two Appendix G Environmental Checklist questions for GHG emissions. Therefore, the City, in its discretion and consistent with the

Newhall Ranch decision, is utilizing Appendix G of the State CEQA Guidelines as thresholds for the proposed project.

The City of Tracy has not adopted its own GHG thresholds or prepared a Climate Action Plan that can be used as a basis for determining project significance, although it has adopted a Sustainability Action Plan, which is a non-qualifying GHG Reduction Plan. The Valley Air District Guidance for Valley Land use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA includes thresholds based on whether the project would reduce or mitigate GHG levels by 29 percent from BAU levels compared with 2005 levels. This level of GHG reduction is based on the target established by ARB’s AB 32 Scoping Plan, approved in 2008.

Consistent with the *Newhall Ranch* court decision and as further detailed in the robust analysis set forth in Section 3.8, Greenhouse Gas Emissions, a project BAU analysis based on substantial evidence in the record was prepared for the proposed project, which assesses “consistency with AB 32’s goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities.” Therefore, the Draft EIR evaluated project GHG emissions against an appropriate threshold that also evaluates consistency with Statewide GHG emissions reduction goals. See also multiple Responses to SHUTE. No revisions to the Draft EIR are required.

Response to AENV-5

This comment states that the Draft EIR did not analyze consistency with the correct applicable plans, policies, and regulations related to GHG emissions, and in addition it criticizes the analysis with the 2017 ARB Scoping Plan as being flawed. The comment also states that the Draft EIR used an incorrect threshold of 22 percent below BAU, consistent with the 2008 ARB Scoping Plan, which the commenter states is incorrect and instead the Draft EIR should have utilized the 2017 ARB Scoping Plan.

See Response to AENV-4 as well as multiple Responses to SHUTE. As explained in more detail in Section 3.8, Greenhouse Gas Emissions, of the Draft EIR, the proposed project is expected to become operational in phases beginning in 2023 and assumes full buildout in 2025, which is beyond the AB 32 target year. As a result, until a new threshold is identified for projects constructed after 2020, the only threshold to address significance is based on making continued progress toward the SB 32 2030 goal.

As discussed more fully in Section 3.8, Greenhouse Gas Emissions, the Valley Air District “Guidance for Valley Land use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA,” includes thresholds based on whether the project will reduce or mitigate GHG levels by 29 percent from BAU levels compared with 2005 levels. This level of GHG reduction is based on the target established by ARB’s AB 32 Scoping Plan, which was approved in 2008. The ARB recognizes that AB 32 establishes an emissions reduction trajectory that will allow California to achieve the more stringent 2050 target: “These [greenhouse gas emission reduction] measures also put the State on a path to meet the long-term 2050 goal of reducing California’s GHG emissions to 80 percent below 1990 levels.” The Valley Air District guidance recommends using emissions in 2002–2004 in the baseline scenario to represent conditions—as if regulations had not been adopted—to allow the

effect of projected growth on achieving reduction targets to be clearly defined. Thus, the BAU scenario is based on 2005 levels.

The Draft EIR analyzed the proposed project's consistency with SB 32 and the 2017 ARB Scoping Plan as described in the impact analysis for Impact GHG-1 and GHG-2. As described in Impact GHG-2, Executive Order B-30-15 establishes an interim goal to reduce GHG emissions to 40 percent below 1990 levels by 2030. The 2030 goal was codified under SB 32 and is now addressed by the 2017 Scoping Plan Update.

With respect to the 21.7 percent reduction threshold referenced by the commenter, as explained more fully in Section 3.8.4, the 2010 Cap and Trade Inventory Update provided revised inventory projections to reflect slower growth in emissions during the recession and lower future year projections. The State's 2020 BAU inventory was reduced from 596 million metric tons (MMT) carbon dioxide equivalent (CO₂e) to 545 MMT CO₂e. The new GHG reduction level for the State to reach 1990 emission levels by 2020 is 21.7 percent from BAU in 2020. The First Update to the Climate Change Scoping Plan confirmed that the State is on track to achieve the 2020 target and to maintain and continue reductions beyond 2020 as required by AB 32. In addition, the State has reported that the 2016 greenhouse gas inventory was below the 2020 target for the first time. Furthermore, the 2017 Scoping Plan states that California is on track to achieve the 2020 target.

In summary, the project analysis also addresses consistency with the SB 32 targets and the 2017 Scoping Plan Update with an assessment of the project's reduction from BAU levels based on emissions in 2030 compared with the 21.7 percent reduction. The Valley Air District's *Guidance for Valley Land use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA* includes thresholds based on whether the project will reduce or mitigate GHG levels by 29 percent from BAU levels compared with 2005 levels.

In conclusion, each of the project phases would achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements from adopted regulations in their respective operational years. The emission estimates presented in Table 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this progress and the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target. Furthermore, Table 3.8-12 describes how the proposed project would be consistent with the 2017 Scoping Plan Update measures. The GHG analysis in the Draft EIR complies with CEQA, and therefore no revisions are required.

Response to AENV-6

This comment states that the Draft EIR should use the 2017 ARB Scoping Plan threshold of 6 metric tons of carbon dioxide equivalent (MT CO₂e)/capita by 2030 and 2 MT CO₂e/capita by 2050. The comment states that the proposed project would result in an estimated 10.51 MT CO₂e/capita each operating year and would conflict with the 2017 ARB Scoping Plan.

The thresholds that the commenter is suggesting are intended for Plan-level Greenhouse Gas Emissions reduction goals, such as a Climate Action Plan, not project-specific thresholds. As such, this threshold would not apply to the proposed project. See Responses to AENV-4 and AENV-5, as well as multiple Responses to SHUTE for additional discussion as to the methodologies used in, and the adequacy of, the GHG impact analysis.

Response to AENV-7

This comment states that the Draft EIR incorrectly compared the project with AB 32, the 2008 Scoping Plan, and the San Joaquin Valley Air District Climate Change Action Plan, because the goals of these policies have already been achieved.

As described in Section 3.8, Greenhouse Gas Emissions, since no other local or regional Climate Action Plan is in place, the proposed project is assessed for its consistency with ARB's adopted Scoping Plans: the 2008 Scoping Plan and the 2017 Scoping Plan Update. In addition, See Responses to AENV-4 and AENV-5, as well as multiple Responses to SHUTE.

Response to AENV-8

This comment states that the proposed project would not be consistent with B-55-18 because the proposed project would not plan to reduce or offset emissions to zero by 2045 and impacts would be significant.

As described in Response to AENV-3, as well as multiple Responses to SHUTE, CEQA does not require an evaluation of impacts against a threshold that requires net-zero GHG emissions. The Draft EIR evaluated GHG impacts against the appropriate threshold as required by CEQA. See Responses to AENV-4 and AENV-5. Moreover, as detailed in Section 3.8, Greenhouse Gas Emissions, each of the project phases would achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements from adopted regulations in their respective operational years. The emission estimates presented in Tables 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this progress and the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target. Furthermore, Table 3.8-12 describes how the proposed project would be consistent with the 2017 Scoping Plan Update measures. Therefore, the City has properly determined that the proposed project would not prohibit or prevent the State of California from achieving the goals set in Executive Order B-55-18 because it would not result in barriers to achieving net-zero emissions.

Response to AENV-9

This comment states that the proposed project GHG emissions are significant and must be mitigated with fair share mitigation consistent with the findings of *Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.

As described in Section 3.8 Greenhouse Gas Emissions, as shown in Tables 3.8-6 through 3.8-8, Phase 1 of the proposed project would achieve a reduction in GHG emissions of 49.7 percent from BAU by the year 2023 with regulations and design features incorporated, Phase 2 would achieve a

48.7 percent reduction by 2024, and Phase 3 would achieve a 31.6 percent reduction by 2025. Each phase would achieve more than the 29 percent GHG emission reductions required by the Valley Air District threshold, and also more than the 21.7 percent average reduction from all sources of GHG emissions now required to achieve AB 32 targets. Therefore, the Draft EIR demonstrates that the proposed project would not exceed applicable thresholds set by the Valley Air District and mitigation would not be required. The City is not permitted under CEQA to impose mitigation measures or require applicants to incorporate project design features for impacts that have been determined to be less than significant. Chapter 2, Project Description, of the Draft EIR sets forth a detailed description of the proposed project.

See also Responses to AENV-4 and AENV-5, as well as multiple Responses to SHUTE.

Response to AENV-10

This comment presents potential mitigation measures to include in the Draft EIR with the purpose of reducing GHG emissions. The commenter suggested the following GHG reduction measures: install solar panels on the entire available roof space, prohibit natural gas appliances, install energy-efficient lighting and temperature controls, require zero-emission vehicles, purchase offsets or sponsor local energy projects, and utilize low GHG construction materials.

As described in Response to AENV-9, the Draft EIR describes that the proposed project would not exceed GHG emission thresholds set by the Valley Air District and mitigation would not be required. The City is not permitted under CEQA to impose mitigation measures or require applicants to incorporate project design features for impacts that have been determined to be less than significant. Chapter 2, Project Description, of the Draft EIR sets forth a detailed description of the proposed project. Moreover, the analysis appropriately considered whether any renewable energy features (such as on-site solar) could be incorporated into the proposed project. The commenter's proposed mitigation measures are discussed below, along with why each of them would not be feasible or result in significant GHG emissions reductions.

The proposed project would be required to comply with existing City and Title 24 requirements to include solar-ready rooftop infrastructure, which would allow for the future installation of solar panels and thus facilitate future on-site renewable energy production. The proposed project would not preclude the use of natural gas appliances, but the overall GHG emissions during project operation from energy sources, such as natural gas appliance, would be relatively nominal. The proposed project would be required to include the use of energy-efficient lighting and heating, ventilation, and air conditioning (HVAC) systems consistent with City building code and Title 24 standards. As part of MM AIR-1i, the proposed project would be required to include EV charging infrastructure consistent with Tier 2 CALGreen requirements, which would allow for future EV vehicles to use the site for vehicle recharging. The proposed project would not exceed GHG threshold set by the applicable Air District, the San Joaquin Valley Air District, and as such would not need to purchase carbon offsets or fund local energy projects. The proposed project's construction activity would not need to utilize low GHG construction materials, because no significant impact would occur during construction. Furthermore, as described in Section 4: Errata, the proposed project would include MM AIR-1a, -1f, and -1g that would require a clean truck fleet, limit truck idling, and zero-emission on-site equipment. The project applicants have also voluntarily agreed to

incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further address air quality, GHG emissions, and energy efficiency issues (see updated MMRP). These mitigation measures (as well as other identified conditions of approval), while not intended to reduce GHG emissions, would substantially reduce GHG emissions because they would address the primary project source of GHG emissions, HHD trucks and on-site off-road equipment that utilize diesel fuel.

No further response is required. Also, see Response to AENV-15 and multiple Responses to SHUTE for a description of mitigation measures included in the Draft EIR to reduce GHG emissions.

Response to AENV-11

This comment states the purpose of CalEEMod and how default values can be replaced by project-specific information. This comment describes that the population parameter in CalEEMod was changed to 0 but the total project population would be 1,871 employees and should be changed to the total project buildout population. Therefore, the commenter asserts that CalEEMod should be re-run to reflect an accurate population size for the project.

The Draft EIR's modeling is accurate for the purposes of this analysis. The population parameter is associated with permanent residents that would inhabit residential land uses, such as apartments. As described in the CalEEMod Guidance Manual Appendix D, the population data is used to estimate emissions associated with solid waste generation for residential land uses. However, the population parameter is not appropriate for this proposed project's modeling because it would not include residential uses. Therefore, no changes to the modeling approach or evaluation are required.

Response to AENV-12

This comment states that certain CalEEMod modeling files had the default land use parameters changed to 0 but should be changed to show the project land use sizes. In particular, the comment points to the Phase 3 CalEEMod operational model.

The Draft EIR's modeling is accurate for the purposes of this analysis. The CalEEMod Notes Document contained in Appendix B of the Draft EIR explains the adjustments made to the CalEEMod modeling files. The operational runs were adjusted to include the following two land uses: Commercial > User Defined Commercial > 1 x User Defined Metric and Industrial > User Defined Industrial > 4 x User Defined Metric. The reason the operational runs include these land uses with 0 square feet of building space is to separately model the mobile emissions associated with the use of passenger vehicles and HHD trucks. CalEEMod emissions results do not identify the source of emissions except for general sources such as Area, Energy, and Mobile. By modeling the two types of mobile sources separately it allows the City's technical consultant to better differentiate types of mobile sources from the building sources of emissions (Area, Energy, Waste, and Water). Furthermore, as shown in the CalEEMod Notes Document, the correct land use parameters were included in the CalEEMod modeling runs. Therefore, no changes to the modeling approach or evaluation are required.

Response to AENV-13

This comment states that the operational CalEEMod results show a reduction in VMT compared to the VMT estimated in the Draft EIR. The comment states that the Draft EIR indicated a VMT of 16.9

per employee with a total VMT of 11,541,263 whereas the CalEEMod file indicated a total VMT of 7,343,938 and an average employee VMT of 10.75.

The Draft EIR's modeling is accurate for the purposes of this analysis. As explained in the CalEEMod Notes Document, Note 7, Kimley-Horn and Associates produced a TIA for the proposed project (Appendix J of the Draft EIR), that analyzes the trip generation rates for the proposed project. As contained therein, Project Phase 1 (Tracy Alliance Parcel) would generate an estimated 1,775 daily passenger vehicle trips and 836 daily truck trips. Project Phase 2 (Suvik Farms Parcels) would generate an estimated 974 daily passenger vehicle trips and 459 daily truck trips. Project Phase 3 (Zuriakat Parcels) would generate an estimated 456 daily passenger vehicle trips and 215 daily truck trips. Therefore, the vehicle trips generated by the proposed project were adjusted in the operational models to match the estimated daily vehicle trips disclosed in the TIA.

As shown in Appendix B of the Draft EIR, each of the three phases of development would result in a total of 19,529,323 VMT. See Section 4.2 in Phase 1 Unmitigated 2023 Passenger Vehicle Mobile Emissions; Phase 1 Unmitigated 2023 Truck Mobile Emissions; Phase 2 Unmitigated 2024 Passenger Vehicle Mobile Emissions; Phase 2 Unmitigated 2024 Truck Mobile Emissions; Phase 3 Unmitigated 2025 Passenger Vehicle Mobile Emissions; and Phase 3 Unmitigated 2025 Truck Mobile Emissions.

The VMT that the commenter identified is from the Phase 1 Passenger Vehicles Only results file shown on page B-506. As a result, the CalEEMod modeling prepared for the Draft EIR overestimates the VMT generated by the proposed project and presents a conservative analysis. Therefore, the adjustments made to the CalEEMod operational modeling files were based on substantial evidence and the estimated VMT is consistent. Thus, no changes to the modeling approach or evaluation are required.

Response to AENV-14

This comment states that the adjustments to the default CalEEMod values are not explained adequately.

The comment is noted and acknowledged. The CalEEMod Notes Document contained in Appendix B of the Draft EIR explains the adjustments made to the CalEEMod modeling files. No revisions are necessary.

Response to AENV-15

This comment states that the Air Quality Analysis did not fully consider all feasible mitigation measures to reduce impacts. This comment states that the Draft EIR should include new mitigation such as: requiring on-site machinery be all electric, encourage tenants to incentivize carpools and alternative transportation, require a no-idling vehicle policy, and require future tenants' vehicle fleet be zero-emission.

As discussed in more detail in Section 3.4, Air Quality, of the Draft EIR, there are numerous mitigation measures that would be imposed on the proposed project. In addition, as described in Response to GSEJA-31 and multiple Responses to SHUTE, the City has agreed to adopt, and the project applicants have agreed to implement, additional mitigation measures, such as, among others, MM AIR-1g that requires all on-site off-road equipment and on-road equipment be electric

powered. This equipment includes types of equipment the commenter mentions, such as forklifts. Furthermore, as described in Section 3.14 Transportation, the Draft EIR includes MM TRANS-1a, which requires the implementation of TDM measures to reduce operational vehicle trips. The first such measure requires future tenants to communicate information and strategies to employees about reducing vehicle trips. MM TRANS-1a also includes the encouragement of telecommuting for administrative staff, as well as the provision of designated parking spaces for carpool vehicles, a transit stop along the project frontage with Grant Line Road, bicycle lanes and sidewalks along the project frontages, and on-site bicycle racks and showers for employees to use. MM TRANS-1a already includes measures that the commenter requests, such as incentivizing carpools.

As described in Section 3.3 Air Quality, the Draft EIR includes MM AIR-1d, which requires the use of a clean truck fleet to the maximum extent feasible, which meets the ARB's adopted 2013 Optional Low-NO_x Standard of 0.02 gram of nitrogen oxide (NO_x) per brake horsepower-hour for all heavy-duty trucks during operation of the proposed project. Moreover, existing extensive regulations already govern idling restrictions for heavy-duty vehicles. For example, the ARB On-Road Heavy-Duty Vehicle Program would require heavy-duty truck owners to limit idling to five minutes. In addition, the new ARB Advanced Clean Cars II Regulations Resolution 22-12 would require new gasoline powered cars purchased in the State to be zero-emission, which would lead to future tenants' vehicle fleets containing some zero-emission vehicles. See also Response to AENV-3 and multiple Responses to SHUTE regarding the commenter's proposed net-zero emissions requirement. Therefore, the Draft EIR includes many of the mitigation measures the author is calling for and provides the most feasible and applicable mitigation. In addition, the City has agreed to adopt, and the project applicants have agreed to implement, additional mitigation measures that would further reduce emissions in this regard. The project applicants have also voluntarily agreed to incorporate and/or otherwise implement a number of additional measures/design features as conditions of approval to further address air quality, health risk issues and GHG emissions (see updated MMRP). No revisions to the Draft EIR are required.

Response to AENV-16

This comment suggests mitigation that limits the amount of construction that could occur at one time to just one phase of the project to limit air quality emission impacts.

As described in Section 3.4, Air Quality, the analysis presents a reasonable worst-case scenario where all development occurs concurrently and overlaps; this is consistent with the project description and related project objectives, and is particularly necessary and relevant here given there are three different property owners/applicants, each of which would independently develop its respective specific individual development proposal with timing based on numerous considerations. Restricting other property owners from developing their respective portions of the project site in the manner suggested by the commenter would not be feasible from a practical, economic or legal standpoint. See also Response to SHUTE-15.

Response to AENV-17

This comment opines that the impact conclusions in Impact AG-1 and Impact AG-2 are inconsistent and then states that the proposed project would have significant impacts related to conflict with existing zoning for agricultural use or a Williamson Act Contract (Impact AG-2).

Impacts related to conflict with existing zoning for agricultural use or a Williamson Act Contract were thoroughly analyzed in Section 3.2, Agriculture and Forestry Resources, Impact AG-2. See Response to AENV-18. No revisions to the Draft EIR are required.

Response to AENV-18

This comment claims the proposed project would violate the Williamson Act Contract and would therefore result in significant and unavoidable impacts. This is based on the assertion that although the Notice of Nonrenewal of Suvik Farm parcels' Williamson Act Contract was initiated in 2017, since the contract term automatically renews annually, the actual term is essentially indefinite. The comment then states that even if the contract expires in 2026, the Suvik Farm parcels would be developed by 2024, before contract expiration, which would violate the Williamson Act Contract. Lastly, the comment states that requesting to cancel the Williamson Act Contract would be inconsistent with the Williamson Act if the "objectives to be served by cancellation should have been predicted and served by nonrenewal at an earlier time."

The Draft EIR's analysis of impacts to agricultural resources, including any potential conflicts with Williamson Act Contracts, is discussed at length in Section 3.2 and the Draft EIR's analysis is accurate for purposes of this analysis. The comment cited selected text from Section 3.2, Agriculture and Forestry Resources, out of context. As presented in Section 3.2, a Notice of Nonrenewal was initiated in 2017, and the contract will expire on August 21, 2026. The nonrenewal process is provided for under the enabling statute for the Williamson Act.

Section 3.2 also presents analysis that, should development of the Suvik Farms parcels be pursued prior to the Williamson Act Contract expiration date, then pursuant to applicable provisions of the Williamson Act, the applicant for the development of the Suvik Farms parcels would be required to take specific steps to cancel the contract (rather than waiting for the contract to expire as a result of the nonrenewal) to petition the City Council for cancellation consistent with the requirements of Government Code Section 51282(a), or agree to the incorporation of a condition of approval such that no permit for development on the Suvik Farms parcels would be issued prior to the August 21, 2026 expiration date. Accordingly, because the Suvik Farms parcels applicant would be required to follow applicable provisions of State law related to Williamson Act Contracts, the proposed project would not result in any conflicts with the Williamson Act Contract and impacts would be less than significant.

The landowners of the Suvik Farm parcels properly initiated a Notice of Nonrenewal in 2017, anticipating future development of the parcels. Because a Notice of Nonrenewal was already initiated, if the landowners need to request cancellation in advance of the contract's expiration date (August 21, 2026), the cancellation request would be consistent with the Williamson Act.

As demonstrated thoroughly in Section 3.2, Agriculture and Forestry Resources, the proposed project would be required to comply with all relevant Williamson Act regulations related to nonrenewal cancellation, and impacts related to the Williamson Act Contract would be less than significant. Accordingly, the Draft EIR's conclusions were accurate and no revisions are required.

Response to AENV-19

This comment includes three mitigation strategies the commenter suggests would reduce impacts to agricultural resources: (1) modify development plans so that development of the Suvik Farm parcels would not occur until after the Williamson Act Contract expires, (2) restore the agricultural land after the lifespan of the project, and (3) limit the size of the warehouses to reduce the amount of agricultural land conversion.

Section 3.2, Agriculture and Forestry Resources, contains a detailed discussion of impacts and feasible mitigation, as required under CEQA. In terms of the mitigation measures suggested by the commenter:

1. As discussed in Impact AG-2 of the Draft EIR, in order for development of the Suvik Farms parcels to occur prior to the August 21, 2026 expiration date of the Williamson Act Contract, the applicant would be required to petition the City Council for cancellation, or agree to the incorporation of a condition of approval such that no permit for development on the Suvik Farms parcels would be issued prior to the August 21, 2026, expiration date. These requirements would ensure consistency with the Williamson Act Contract and would avoid related project impacts. Satisfaction of these requirements would be assured by the applicable statutory and regulatory framework. Therefore, the suggested mitigation of modifying development plans to delay development of the Suvik Farms parcels is not necessary and would not clearly result in a lessening of significant impacts.
2. Regarding the suggestion that agricultural use of the land be required to be restored after the lifespan of the project, as a general matter, nothing prevents this transition from occurring (at least in theory). The court in *King and Gardiner Farms v. County of Kern* (2020) 45 Ca.App.5th 814, 876-77, found that restoration of farmland to productive use could be mitigation; however, as suggested by the court in its discussion, such a mitigation measure is feasible when the project is temporary or has an identified lifespan. For a large industrial project such as the one at hand, which involves significant economic investment from the property owners/applicants to develop and operate substantial public and private infrastructure and improvements with no inherent lifespans, the commenter's suggested mitigation measure is not feasible. There is no specified end date for the industrial land uses that would be approved by the requested entitlements that would provide the basis for this type of restoration measure; moreover, given the intensity of proposed urban industrial uses, the ability to restore the project site to Important Farmland appears speculative at best.
3. Reduction of the proposed development in order to reduce agriculture impacts was analyzed as one of the project alternatives. The Draft EIR provided two alternatives (aside from the No Project Alternative) that would meet at least some of the basic objectives of the proposed project while lessening impacts to agricultural land conversion, including the Outside Storage Allowable Use Alternative and the Agricultural Protection Alternative. It should be noted that both alternatives include a reduction in building footprint. Pursuant to CEQA Guidelines Section 15126l(2), a Draft EIR must identify an environmentally superior alternative aside from the No Project Alternative. The Draft EIR identifies the Outside Storage Allowable Use Alternative as the environmentally superior alternative because it has the potential to yield the greatest reductions in the severity of the proposed significant and unavoidable impacts,

as it would preserve approximately 48 acres of the existing agricultural operations including Prime Farmland. However, as discussed more fully in the Draft EIR, this alternative would not meet the project objectives to the same extent of the proposed project; e.g., it would not achieve the project objective of improving local and regional employment opportunities by taking advantage of the project site's high level of accessibility to the same degree as the proposed project. Nor would this alternative allow for the expansion of the City's economic base and help improve the jobs/housing balance to the same degree (the proposed project quantifiably achieves the City's project objectives by developing a maximum of 3,352,210 square feet of employment-generating industrial uses.) This alternative also would not be as effective at achieving the employment-generating opportunity objective, as it would not provide as many local and regional employment opportunities or reduce the commute for regional residents.

Prior to approving the proposed project, the City, as the Lead Agency, would be required to adopt a Statement of Overriding Consideration explaining its reasoning to approve the proposed project.

Response to AENV-20

This comment claims that the Draft EIR did not analyze a range of reasonable alternatives.

See Responses to GSEJA-27 and AENV-19.

Response to AENV-21

This comment states the Draft EIR should include an alternative with the aim of preserving the on-site cattail marsh.

Impacts related to riparian habitat were thoroughly analyzed in Section 3.4, Biological Resources, of the Draft EIR. Impacts to potential jurisdictional features were found to be less than significant with the implementation of MM BIO-3 (Conduct Delineation of Potentially Jurisdictional Aquatic Resources [Channels and Wetlands]). Therefore, it is not necessary to analyze a project alternative that would reduce such impacts. See also Response to GSEJA-27.

This comment claims that the Draft EIR only analyzed one project alternative (aside from the No Project Alternative) that would reduce agricultural land impacts. The comment claims that the Draft EIR found the Outside Storage Allowable Use to be infeasible without providing justification.

The Draft EIR provided two alternatives (aside from the No Project Alternative) that meet some of the basic objectives of the proposed project while lessening impacts to agricultural land conversion, including the Outside Storage Allowable Use Alternative and the Agricultural Protection Alternative. It should be noted that both alternatives include a reduction in building footprint. Contrary to the commenter's claims, the Draft EIR fully analyzed the Outside Storage Allowable Use Alternative and determined it to be the environmentally superior alternative because it has the potential to yield the greatest reductions in the severity of the proposed significant and unavoidable impacts, as it would preserve approximately 48 acres of the existing agricultural operations including Prime Farmland.

As discussed in Section 6, Alternatives, of the Draft EIR, the Outside Storage Allowable Use Alternative would have a somewhat lower level of impacts for aesthetics, agriculture and forest

resources, air quality, biological resources, cultural resources, energy, GHG emissions, hydrology and water quality, noise, public services, tribal cultural resources, utilities and service systems, and wildfire. Overall, the impacts would be reduced due to a smaller square footage of the buildings and the reduced number of employees. However, the impact conclusions would remain the same and the proposed project's mitigation measures would still be required under this alternative. Furthermore, this alternative would not meet quantitative objectives for employment-generating industrial uses, and would also not meet the other project objectives at all and/or to the same degree as the proposed project.

Therefore, the Draft EIR evaluated a reasonable range of project alternatives that would reduce agricultural impacts. Even then, impacts to agricultural land conversion are still found to be significant and unavoidable.

See also Responses to GSEJA-27 and AEVN-19.

Response to AENV-22

This comment claims that the Draft EIR should be updated to reflect the author's finding of a significant GHG impact and mitigated as such. The commenter provides closing statements.

The comment is noted and acknowledged. Because no project-specific CEQA issues were raised, no further response is required.

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February 22, 2023

Tracy City Council
333 Civic Center Plaza
Tracy, California
Via e-mail

Re: Additional Comments on Tracy Alliance warehouse project and Final Environmental Impact Report

Dear Tracy City Council:

The Sierra Club submitted extensive comments on the Tracy Alliance warehouse project and Final Environmental Impact Report (Final EIR) in our letter of February 9, 2023.

Since then, we have met with a representative of the Tracy Alliance Group (Dermody Properties) and have upcoming meetings with individual members of the Tracy City Council. We also expect to meet with Mike Souza who is representing the Suvik Farms parcels, which are approximately 47 acres of the total 191 acres of the proposed annexation project (see attached exhibit).

We are attempting to negotiate a successful outcome so that this project can move forward without our strong objections and possible litigation.

We have heard that this item is scheduled for the March 7 Tracy City Council meeting.

We respectfully request that the hearing be opened and testimony taken but that the matter be continued for one month so that we can continue our negotiations with the applicants and with the City.

New Concerns about the Final EIR and Future Approvals for Unknown Building on the Suvik and Zuriakat Parcels: Will There be Further CEQA Analysis and Public Hearings?

After we have more closely studied the Final EIR we have discovered the following major issues regarding future approvals of the Suvik and Zuriakat parcels.

The Final EIR studies the impacts due to development of the Tracy Alliance parcels (122 acres).in detail. The Tracy Alliance Group has provided conceptual site designs and

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infrastructure plans of three separate buildings. The applicant has also shared with us plans of truck circulation improvements at the main driveway and Grant Line Road, ensuring that trucks entering and exiting that portion of the site are prohibited from turning left (eastward) onto Grant Line Road, which is a major issue for the Banta community. The applicant is considering whether to agree with our specific additional measures and conditions, summarized below and in our previous letter.

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CONT

However, a major shortcoming of his Final EIR is that there is NO similar project description information for the 69 acres known as the Suvik and Zuriakat parcels, which make up roughly 45% of the assumed development potential of the entire annexation area

The Final EIR contains NO discussion of how this FEIR is to be used in assessing impacts and leading to approvals for future buildings on these parcels. This future analysis and recommended detailed mitigation measures are key since the Suvik parcel is closer to the main Banta community (and Banta Elementary School) than the Tracy Alliance parcels.

The California Environmental Quality Act (CEQA) allows for the preparation of “program”-level and “project”-level impact reports (see Sections 15168 of the CEQA Guidelines). However, a document that is being approved as a “program” level assessment (or a hybrid EIR that is being prepared as a “program” level analysis for part of the project and a “project” level document for another part) must clearly specify and describe this in the project description.

This Final EIR contains no such discussion and so we and the residents of Banta are left with the following question:

Will the City Council require the applicants for the Suvik and Zuriakat parcels to submit detailed development plans to the community that will be subject to CEQA review, e.g. a project level EIR, followed by public hearings scheduled before the Planning Commission and City Council? Or will the City Council allow city staff to administratively approve site and building plans with no further environmental review and public hearings?

To clarify this issue, we request that the following condition of approval be added to any approval for the annexation project:

The applicants for future development of the Suvik and Zuriakat parcels shall be required to submit detailed development plans to the community that will be subject to CEQA review, e.g. a project level EIR, followed by public hearings scheduled before the Planning Commission and City Council

The Final EIR Fails to Adequately Analyze and Mitigate the Project’s Air Quality Impacts

Air pollution from significant activities in the San Joaquin Valley Air Basin includes a variety of industrial-based sources as well as on- and off-road mobile sources. These sources, coupled with geographical and meteorological conditions unique to the area, stimulate the formation of

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unhealthy air. San Joaquin County is in non-attainment of Ozone, PM10 and PM2.5 State air quality standards. Breathing in particulate matter (PM10 and PM2.5) and ground-level ozone can trigger a variety of health problems. Heavy-duty trucks are key sources of diesel pollution and toxic air contaminants (TACs) and are therefore a focus of air quality impacts. Diesel trucks emit large volumes of particulate matter (a.k.a. diesel particulate matter, or DPM), therefore contributing to health problems that include cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death.¹

The public health risks associated with these pollutants are severe. As the Draft EIR for the pending Costco warehouse project states:

The reactivity of O3 causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. Scientific evidence indicates that ambient levels of O3 not only affect people with impaired respiratory systems, such as asthmatics, but healthy adults and children as well. Exposure to O3 for several hours at relatively low concentrations has been found to significantly reduce lung function and induce respiratory inflammation in normal, healthy people during exercise. This decrease in lung function generally is accompanied by symptoms including chest pain, coughing, sneezing and pulmonary congestion. (Costco DEIR page 3.3-4)

Also from the Costco warehouse Draft EIR:

Some studies indicate that DPM poses the greatest health risk among the TACs listed above. A 10- year research program demonstrated that DPM from diesel-fueled engines is a human carcinogen and that chronic (long-term) inhalation exposure to DPM poses a chronic health risk. In addition to increasing the risk of lung cancer, exposure to diesel exhaust can have other health effects. Diesel exhaust can irritate the eyes, nose, throat, and lungs, and it can cause coughs, headaches, lightheadedness, and nausea. Diesel exhaust is a major source of fine particulate pollution as well, and studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems. Costco DEIR page 3.3-22)

Given these existing air quality problems and severe public health consequences, the City needs to do everything in its power to ensure new development does not exacerbate the problem. Unfortunately, the DEIR does not adequately analyze or mitigate this project's impacts.

¹ Storing Harm: the Health and Community Impacts of Goods Movement Warehousing and Logistics, January 2012, available at: <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Storing-Harm.pdf>; accessed June 2, 2021.

The Final EIR's evaluation of potential mitigation measures is deeply flawed. CEQA requires that (1) a project's significant impacts be fully disclosed in detail, (2) mitigation be fully enforceable and not improperly deferred, (3) the City adopt all feasible mitigation to mitigate a project's impacts, and (4) the Final EIR provide for an adequate mitigation monitoring and reporting program. Here, Tracy's General Plan provides sound guidance as well: Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented." (General Plan Policy AQ-1.2-P14). And to confirm conformity with the Air District's Air Quality Attainment Plan, the California Air Resources Board requires that any new project "contain in its design all reasonably available and feasible air quality control measures."

4

Summary of Our Requested Additional Mitigation Measures and Conditions of Approval

As we noted in our previous letter, we are requesting that the Council not approve this large warehouse project unless the following specific air quality, greenhouse gas emissions, project setback, circulation, and other measures are included in the project's conditions of approval. The California Environmental Quality Act (CEQA) requires lead agencies to adopt all feasible mitigation measures to reduce impacts of a development project, even if the environmental analysis finds that the impacts are "significant and unavoidable."

5

These conditions have been recommended by the State Attorney General as well as other State agencies such as the California Air Resources Board:

- construct sufficient solar panels on each building to provide power for the project, to be completed prior to the issuance of the first occupancy permit for the building
- utilize a "clean fleet" of light vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations for all buildings
- The property owners/tenants/lessees shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later.
- At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.
- design the project to include a setback of at least 1,000 feet from the nearest homes
- provide a community benefits fund to assist Banta residents and the Banta elementary school in upgrading air ventilation systems

6

- provide funding to install large signs along Grant Line Road in multiple locations that state trucks are prohibited on the road east of the project site, and design all phases of the project to prohibit left turns on to Grant Line Road

6
CONT

In our December 6 letter we attached the executed Settlement Agreement between the Sierra Club, the City of Stockton, and Greenlaw Development, LLC (developer of the 203-acre Mariposa Industrial Park in the South Stockton area which will be occupied by Walmart).

In addition, the State Attorney General (AG) signed a separate Memorandum of Understanding with the City of Stockton and the developer which includes the same measures that were included in the Sierra Club settlement.

7

We have also recently commented to the City on the pending Costco warehouse project and DEIR. We incorporate by reference our two letters on the Costco project and DEIR, as they are very germane and applicable to this Tracy Alliance project and FEIR.

We also incorporate by reference the comments submitted on the Tracy Alliance Draft EIR by the Golden State Environmental Justice Alliance.

Th City Must Require Setbacks from the Nearest Residences for All Phases of the Project

The issue of requiring adequate mitigation for local distribution warehouse projects has recently come to the attention of the State Attorney General’s Office (AG). The office has recently published a very helpful guide, updated in 2022, called “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act” (Attachment B to this letter).

8

The Guidelines recommend the following regarding setbacks between planned warehouse projects and the nearest “sensitive receptors” (defined by the State as collections of residences, schools, playgrounds, childcare centers, long-term health care facilities, rehabilitation centers, convalescent centers, hospitals, retirement homes, senior centers, and other sensitive land uses):

Examples of best practices when siting and designing warehouse facilities include:

Per California Air Resources Board (CARB) guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptor (footnote) (pages 5-6 of the Guidelines, emphasis added)

The footnote to this guidance cites the CARB documents and states:

CARB, Air Quality and Land Use Handbook: A Community Health Perspective (April 2005), at ES-1. CARB staff has released draft updates to this siting and design guidance which suggests a greater distance may be warranted in some scenarios. CARB, Concept Paper for the Freight Handbook (December 2019), available at

https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf (last accessed September 18, 2022).

8
CONT

The Tracy Alliance Final EIR notes on page 3.3-42 that the closest sensitive receptors to the project site are single-family residences and Banta Elementary School. The closest sensitive receptors to the project site are located at the following distances:

- Residences as close as 145 feet west of the project site across Paradise Road;
- Residences immediately adjacent to the project site to the east along Grant Line Road;
- Residences as close as 120 feet south of the project site across Grant Line Road;
- Residences as close as 60 feet north of the project site across California Avenue; and
- Banta Elementary School approximately 1,500 feet to the east at its closest outside area.

9

The Final EIR must include the following mitigation measure, which is available and feasible:

The site plans for all phases of the project shall ensure a minimum setback from the nearest residence of at least 1,000 feet. The setback area shall be landscaped with an earthen berm and mature trees and shrubs

10

Adopt a Warehouse Ordinance

In addition to the above measures, the Sierra Club is requesting that the City of Tracy draft and consider a comprehensive Warehouse Sustainability Ordinance for future projects that establishes development standards for the construction of industrial warehousing and distribution facilities that exceed 100,000 square feet before December 31, 2023. The City of Stockton has agreed to this timeline.

11

Conclusion

We are formally requesting that the above mitigation measures be included as part of the Tracy Alliance project approval.

12

As we noted in our previous letter, the Sierra Club will continue to monitor and comment on every proposed warehouse project in the City of Tracy (as well as in the Cities of Manteca, Lathrop, Stockton, and San Joaquin County). If future projects fail to incorporate the measures as recommended by the Attorney General and CARB, the Sierra Club will consider litigation to enforce inclusion of these measures in project approvals.

The City of Tracy, along with the other jurisdictions in San Joaquin County, must address the very serious health, air pollution, and energy impacts of the rapidly growing distribution

warehouse development in our communities. Applicants must do all that is possible to minimize the very real environmental impacts that warehouse development projects pose.

We are available to meet with your staff and applicants at any time to further discuss the programs that may be implemented to achieve our mutual goals.

If you have any questions about these comments, you may contact Eric Parfrey at parfrey@sbcglobal.net or (209) 641-3380.

12
CONT

Sincerely,

s/s Margo Praus, Chair

Delta-Sierra Group, Sierra Club

cc: Scott Lichtig, California Attorney General's Office
Stanley Armstrong, California Air Resources Board
Patia Siong and Harout Sagherian, San Joaquin Valley Air Pollution Control District
Heather Minner and Winter King, Shute, Mihaly, Weinberger
Aaron Isherwood and Harrison Beck, Sierra Club Environmental Law Program
Manteca City Council
Lathrop City Council
Dermod Properties
Mike Souza

Attachment A: Tracy Alliance exhibit

Attachment B: Attorney General's report "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act"

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Sierra Club (SIERRA-1)

Response to SIERRA-1-1

The commenter references a separate comment letter on the proposed project and Final EIR, dated February 9, 2023. The commenter noted a meeting with one of applicant teams (Dermody) had already occurred, referenced upcoming meetings with individual Council Members and a representative from another applicant team (Suvik), and requested that the hearing be opened and testimony be taken, but that the matter be continued for one month.

The comment is noted and acknowledged. CEQA comments raised in the referenced February 9 letter are addressed in Responses to SIERRA-2-1 through SIERRA-2-11, below.

This comment does not raise any specific project-related environmental issues under CEQA, and therefore no further response is required. For informational purposes, it is noted that the proposed project is scheduled for consideration by the City Council at its hearing on August 15, 2023.

Response to SIERRA-1-2

The commenter claims that the proposed project’s Final EIR does not contain discussion of how the Draft EIR is to be used in assessing impacts and leading to approvals for future buildings on the Suvik and Zuriakat parcels because there is no “conceptual site plan and infrastructure plans” that are specific to the Suvik and Zuriakat parcels, unlike the Tracy Alliance parcels. In addition, the commenter refers to CEQA requirements related to EIRs that involve program-level and project-level review, and requests “future analysis and recommended detailed mitigation measures” (particularly given the proximity of the Suvik parcels to the Banta community). The commenter requests that a condition of approval be added to require CEQA review for the individual development proposal on the Suvik and Zuriakat parcels to ensure these parcels submit detailed development plans that will be subject to CEQA review.

As a preliminary matter, it is noted that the commenter concedes that the “Final EIR studies the impacts due to development of the Tracy Alliance parcels (122 acres) . . . in detail.” However, the commenter takes issue with the fact that unlike the Tracy Alliance portion of the proposed project, which included a description of a conceptual site plan and related features, the Draft EIR does not include a similarly detailed project description for the Suvik and Zuriakat parcels. Contrary to the commenter’s assertion, the assumed development parameters, the basis for those assumptions, and the related impact conclusions for these portions of the proposed project were discussed in detail throughout the Draft EIR.

The methodology, approach to analysis, and process of evaluating the potential impacts of future development on the Suvik and Zuriakat parcels were thoroughly discussed in Chapter 1, Introduction, of the Draft EIR.

Specifically, Chapter 1.2, Environmental Review Process, of the Draft EIR states:

This Draft EIR provides a project-level analysis for the proposed project. For the purposes of analysis in this Draft EIR, because the applicant for the Tracy Alliance parcels has submitted an individual development proposal for these parcels, this

Draft EIR evaluates, as required under CEQA, the specific aspects of that proposal. With respect to the remaining portions of the project site, individual development proposals have not yet been submitted. Accordingly, this Draft EIR evaluates at a project-level full buildout of the project site as contemplated under the proposed project, based on information that is reasonably available and reflects reasonable assumptions of maximum development potential that could occur on the remaining parcels (Suvik Farms and Zuriakat). This is estimated to consist of up to 1,502,820 square feet of warehouse and distribution development, consistent with the maximum allowable density per acre identified in the NEI Specific Plan (see Table 2-2 in the Project Description for a summary of the proposed development). The level of analysis for Suvik Farms and Zuriakat parcels reflects the level of detail available at the time of preparation of this Draft EIR. The environmental impacts of the proposed project are analyzed in the Draft EIR to the degree of specificity appropriate, in accordance with CEQA Guidelines Section 15146.

Therefore, impacts from future development of Suvik and Zuriakat parcels in accordance with all applicable City development standards and design guidelines are appropriately analyzed and disclosed throughout the Draft EIR and Final EIR, based on the best information available at the time when environmental review commenced. Future development of Suvik and Zuriakat parcels would be subject to all mitigation measures identified in the MMRP, except certain measures that expressly apply only to the Tracy Alliance parcels as noted in the MMRP. All mitigation measures would be imposed as enforceable conditions of approval on all individual specific development proposals for the proposed project that are submitted to the City, including those for the Suvik and Zuriakat parcels. In addition, these parcels would be subject to the additional conditions of approval which the project applicants voluntarily agreed to accept, as detailed in the updated MMRP. All parcels within the project site would be required to submit and obtain approval of site-specific applications pursuant to the City's Municipal Code and the City's standard entitlement process including Development Review, which is a discretionary process, including a public hearing before the appropriate decision maker and subject to appeal. Therefore, at such time as the owners of the Suvik and/or Zuriakat parcels apply to the City for Development Review Permits (as they must before any development can occur on those parcels), the City would evaluate those application(s) and determine, in accordance with all applicable CEQA requirements, the required form of CEQA compliance as it does with all Development Review Permit applications.

Other procedural requirements related to the City's Development Review Permit process (as well as other potential subsequent approvals) are set forth in detail in the City's Municipal Code and other applicable laws and regulations. All future individual development proposals for the proposed project, including those for the Suvik and Zuriakat parcels, would be required to adhere to these and all other applicable legal mandates in connection with the subsequent entitlement process.

Based on the foregoing, and further because only legislative approvals (i.e., pre-zoning, NEI Specific Plan Amendment) are currently being considered, there is no basis for imposing the condition of approval requested by the commenter.

No further response is required.

Response to SIERRA-1-3

The commenter states that significant sources of air pollution in the San Joaquin Valley Air Basin include industrial type land uses which operate with on- and off-road mobile vehicles. The commenter lists the pollutants in the San Joaquin Valley Air Basin that are in nonattainment and states that the primary source of TACs is from the operation of heavy-duty trucks because they emit a large volume of DPM. The commenter lists the health risks from DPM emissions and cites a Draft EIR for a Costco development. The commenter states that the City should prevent further health risks due to new development and that the Draft EIR does not properly analyze or mitigate the entire project impacts.

The commenter summarizes information regarding the air quality in the San Joaquin Valley Air Basin, as well as noting generally the sources of air pollution and impacts related thereto, including health concerns related to heavy-duty diesel trucks.

The commenter also cited conclusions from an EIR for an unrelated Costco development regarding public health risks associated with air pollution. The commenter then goes on to assert that, given the foregoing, the City “needs to do everything in its power to ensure new development does not exacerbate the problem” and claims that the Draft EIR for the proposed project does not adequately analyze or mitigate its impacts. However, the commenter does not provide any specific comments related to the analysis or specific mitigation measures in the Draft EIR and Final EIR for the proposed project.

CEQA requirements make clear that 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. (See CEQA Guidelines Section 15204(a)). Reviewers and commenters should explain the basis for their comments and provide data, references, or other evidence to support their comments. (See CEQA Guidelines Section 15204(c)).

CEQA requires that the Final EIR address comments submitted during the 45-day public comment period that raise significant environmental issues on the adequacy of the Draft EIR (PRC § 21091(d)(2)(B); CEQA Guidelines § 15088(c)). CEQA considerations are limited to significant issues as these relate to potential physical impacts of the project on the environment.

A good faith effort at full disclosure to facilitate informed decision-making is the primary focus of CEQA. Thus, the lead agency must evaluate comments on the Draft EIR and prepare written responses for inclusion in the Final EIR. (See PRC § 21091(d); CEQA Guidelines §§ 15088(a) and 15132). The written responses must describe the disposition of any “significant environmental issues” raised by commenters. (See PRC § 21091(d)(2)(B); CEQA Guidelines §§ 15088(c) and 15132(d), 15204(a)). There must be good faith, reasoned analysis in response. While conclusory statements by the lead agency unsupported by factual information will not suffice, the level of detail in the response may correspond to the level of detail in the comment. A general response may be appropriate when a comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment. (See CEQA Guidelines § 15088(c)). Also, CEQA does not require that the lead agency respond to every comment submitted to it. The lead agency generally has considerable leeway regarding responses to comments, and

need not respond to comments that do not raise a significant environmental issue.¹² The lead agency also need not respond to general reference materials submitted in support of comments, comments that repeat those already considered, or comments that are clearly irrelevant, and has the discretion to reject comments that are not focused as provided by the CEQA Guidelines. (See CEQA Guidelines §§ 15204(e)). Responses to comments need not be exhaustive; they need only to demonstrate a good faith, reasoned analysis. (See CEQA Guidelines §§ 15088(c)). As noted above, the commenter's assertions about air quality in the San Joaquin Valley, its comments regarding the environmental review for the unrelated Costco project, and its generalized assertion that the proposed project may pose similar air quality concerns, do not address any specific aspects of the Draft EIR for this project, nor do they otherwise identify any flaws or defects in the Draft EIR for this project. Because no specific issues cognizable under CEQA are raised, no further response is required.

Nonetheless, for informational purposes, the following is noted. As described in this Final EIR Response to Comments (including, without limitation, Responses to Valley Air District-2, and multiple Responses to GSEJA and SHUTE) as well as the updated Errata, the Draft EIR for the proposed project robustly evaluated all potential air quality and GHG emissions impacts and identified feasible mitigation where necessary. Specifically with respect to potential health risks, the proposed project's potential to expose sensitive receptors to elevated concentrations of TACs was fully analyzed and mitigated to the extent feasible under Impact AIR-3 in the Draft EIR. See also Response to SIERRA-1-4 and Response to SIERRA-1-5, below, for more details addressing the adequacy of the air quality analysis prepared for the proposed project. The Draft EIR and Final EIR for the proposed project (1) properly assume compliance with a robust regulatory framework (including citing relevant General Plan policies as well as guidance from ARB and the Valley Air District) and set forth a thoughtful consistency analysis related thereto; (2) fully disclose all significant impacts; (3) identify all feasible mitigation measures to mitigate, avoid or reduce the identified significant impacts; and (4) include a summary of all such measures that will be incorporated into a MMRP that will be adopted by the City Council in connection with its certification of the Draft EIR and thereafter imposed as enforceable conditions of approval.

Response to SIERRA-1-4

The commenter claims that the Draft EIR did not adequately evaluate the potential mitigation measures and lists the CEQA requirements that all mitigation measures must meet. The commenter reiterates Tracy General Plan Policy AQ-1.2-P14, which requires new development only be approved if it includes feasible mitigation measures.

See Response to SIERRA-1-3, above. See also multiple Responses to SHUTE.

For informational purposes, the following is noted. As described in the Response to Comments and Errata of this Final EIR, the Draft EIR for the proposed project robustly evaluated and disclosed all potential air quality and GHG emissions impacts and identified feasible mitigation consistent with CEQA requirements, where necessary; specifically, the Draft EIR considered air quality and GHG impacts in Chapters 3-3 and 3-8, which detail all potential project impacts, the resulting mitigation

¹² See *Citizens for E. Shore Parks v. State Lands Comm'n* (2011) 202 Cal.App.4th 549.

measures, and how those measures would reduce impacts to the extent feasible. The Draft EIR discloses that the proposed project would result in significant and unavoidable impacts related to the following topics: Implementation of the Applicable Air Quality Plan, Cumulatively Considerable Net Increase of ROG_s and CO During Construction, and Cumulatively Considerable Net Increase of ROG and NO_x During Operation, Exposing Sensitive Receptors to Substantial Pollutant Concentrations, and Cumulative Air Impacts. In addition, the Draft EIR determined that less than significant impacts would occur related to a substantial increase in GHG emissions and consistency with the applicable GHG Reduction Plan and policies.

With respect to potential health risks in particular, the proposed project's potential to expose sensitive receptors to elevated concentrations of TACs was fully analyzed and mitigated to the extent feasible under Impact AIR-3 in the Draft EIR. See also Response to SIERRA-1-3, above, and Response to SIERRA-1-6, below, for more details addressing the adequacy of the air quality analysis prepared for the proposed project. For example, as further described in Response to GSEJA-31 and multiple Responses to SHUTE, the Draft EIR and Final EIR considered additional potential mitigation measures when the analysis was prepared; however, the suggested potential measures that were not adopted were determined to be either infeasible, unenforceable, not considerably different compared to measures already required, or would not reduce the impact being mitigated. In addition, the project applicants have also voluntarily agreed to the incorporation of additional enforceable conditions of approval to further address air quality and health risk issues (see updated MMRP). See also multiple Responses to SHUTE.

Response to SIERRA-1-5

The commenter requests the City Council not approve the proposed project unless the commenter's specific listed mitigation measures are included as conditions of approval. The commenter then states the CEQA requirement for all lead agencies to adopt feasible mitigation measures that reduce impacts of a development.

For the reasons set forth in Chapters 3-3 and 3-8 and as further described in the Final EIR Response to Comments and Errata (including, without limitation, Responses to Valley Air District-2, and multiple Responses to GSEJA and SHUTE), the Final EIR for the proposed project evaluated and disclosed all potential air quality and GHG emissions impacts as required under CEQA. In addition, feasible mitigation was identified, which would be imposed on the proposed project as enforceable conditions of approval and implemented prior to issuance of applicable permits as detailed in the MMRP (which would be adopted in connection with the City Council's certification of the Draft EIR). In addition, see Response to SIERRA-1-4 above, and Response to SIERRA-1-6, below. Moreover, the project applicants have also voluntarily agreed to the incorporation of additional enforceable conditions of approval to further address air quality and GHG emission issues (see updated MMRP).

Response to SIERRA-1-6

The commenter urges the lead agency to adopt a list of recommended mitigation measures that the commenter suggests are feasible and would reduce impacts of the proposed project. Some of the recommended measures are based on measures recommended by the State Attorney General and/or other State Agencies to reduce Air Quality and GHG impacts.

For the reasons set forth herein, CEQA does not require the incorporation of additional mitigation beyond those measures already identified therein. Therefore, no further response is necessary.

However, for informational purposes the following is noted. As detailed more fully below, with respect to certain measures proposed by the commenter, the project applicants had already previously agreed to incorporate measures that are substantially similar to several of those suggested by the commenter. See also multiple Responses in SHUTE.

Furthermore, although not required to do so, the project applicants have voluntarily agreed to accept certain of the additional measures, as detailed further below and in the updated MMRP.

A response to each suggested mitigation measure is provided below.

Suggested Mitigation Measure No. 1: Construct sufficient solar panels on each building to provide power for the proposed project, to be completed prior to the issuance of the first occupancy permit for the building.

Response: This Final EIR addresses the topic of solar panels on each building as part of the Response to GSEJA-31 and Valley Air District 2-12. As described therein, the California Building Standards Code (CBC) requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels. The proposed project would be required to comply with the foregoing, thereby contributing to improved air quality and making progress toward reducing greenhouse gas emissions through the facilitation of the future production of solar energy. Furthermore, the use of solar panels would not substantially reduce air pollutant emissions on-site, because energy source emissions described in the Air Quality Analysis (see Section 3.3 of the Draft EIR) are limited to those generated from the on-site combustion of natural gas due to the inter-regional relationship between land use development projects and the facility generating the electricity. As such, the consideration of electricity-related energy source emissions is limited to GHGs. Moreover, the proposed project would not result in any significant impact related to GHG emissions, as discussed in Section 3.8 of the Draft EIR, and thus the City does not have the legal authority under CEQA to impose this measure. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA.

Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.

Suggested Mitigation Measure No. 2: Utilize a "clean fleet" of light vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations for all buildings.

Response: The suggested mitigation measure is similar to recommended measures identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP. Moreover, the commenter's suggestion that the project applicant provide clean fleet vehicles for all light and

medium-duty vehicles beyond what has already been identified as appropriate mitigation would be infeasible.

The fact that other projects in other jurisdictions have incorporated the requested measure does not demonstrate feasibility since, among other things, different projects have different limitations/parameters (e.g., a project that will be operated by one user that owns and controls its fleet, which is a very limited number of projects). Furthermore, the vast majority of light-duty passenger vehicles would be owned and operated by employees of future tenants/users, all of whom are private citizens. As such, neither the project applicants nor the City would be able to mandate or acquire clean fleet vehicles for employees. Other light vehicles/delivery vans/trucks that would access the project site during operations are anticipated to be from third-party vendors. Because it is not anticipated that future tenants occupying the proposed project would own these vehicles, neither the future tenants nor the City would have control over the vehicles accessing the project site and thus neither would have the ability to enforce any such obligation during the life of the proposed project. Rather, the emissions resulting from the vehicles accessing the project site would largely be influenced by regulations (current and future) that would apply to vehicle manufacturers based on determinations made by the ARB, which is the expert public agency charged to address these issues via a comprehensive regulatory framework applied Statewide based on robust data and evaluation with consideration of multiple complicated factors. As described in Response to GSEJA-31, given the volume of medium-duty vehicles that would be involved as part of the tenants' business operations, practical limitations on the owner's ability to control and enforce such an obligation, along with the current substantial cost and concerns regarding widespread availability of electric vehicles, the suggested mitigation is not feasible. Moreover, the project applicants would be required to provide EV charging infrastructure throughout all parking areas as part of MM AIR-1i, which would improve charging infrastructure in the City and help facilitate the transition to electric vehicles. Furthermore, the suggested measure cannot be enforced in a way that would ensure a reduction of potential health impacts. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA.

Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.

Suggested Mitigation Measure No. 3: The property owners/tenants/lessees shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025, or when commercially available for the intended application, whichever date is later.

Response: The Final EIR has explained in detail how the proposed project would be required to ensure the use of a clean truck fleet during operations to the maximum extent feasible, and thus is generally consistent with the commenter's request. For example, the proposed project would be required to demonstrate compliance with MM AIR-1d, which requires as a condition

of issuance of occupancy permit that applicants of each specific individual development proposal document the use of a clean truck fleet that meets the California ARB adopted 2013 Optional Low-NO_x standard of 0.02 gram of NO_x per brake horsepower for all heavy-duty trucks during operation to the maximum extent feasible. Moreover, MM AIR-1i would require the proposed project to include EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2 in all parking areas during operation. Therefore, all development as part of the proposed project would be conditioned to demonstrate that a clean truck fleet would be operational to the maximum extent feasible when the subject project operations begin.

The suggested mitigation measure requiring that the property owners/tenants/lessees ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations is not feasible, as detailed in Response to SHUTE-6. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation is not required under CEQA.

Suggested Mitigation Measure No. 4: At all times during project operation, owners, operators, or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.

Response: The proposed project would be required to comply with MM AIR-1i, which would require the inclusion of EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2, in all parking areas during operation. Therefore, the proposed project would provide EV charging infrastructure that would support passenger vehicles and the future use of electric trucks. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation is not required under CEQA.

Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.

Suggested Mitigation Measure No. 5: Design the proposed project to include a setback of at least 1,000 feet from the nearest homes.

Response: The ARB's general recommendation of a 1,000-foot setback is not a legal mandate that would prohibit all new warehouse developments from operating within 1,000 feet of existing receptors. Rather, this suggested setback is merely a general, non-binding guideline. Moreover, to the extent the commenter construes this recommendation as a mandate, the language of the ARB guidance demonstrates this is not the case. Rather, the referenced ARB guidelines also provide that for new warehouses meeting certain criteria that operate within 1,000 feet of new receptors, ARB recommends that a site-specific HRA be prepared to fully analyze a project's anticipated health risk impacts. As described in the "Concept Paper for the Freight Handbook," prepared by the ARB, "Transition zone recommendations. . . should not be

used as a substitute for site-specific assessments of emissions and health impacts for proposed freight facilities, including those analyses required or recommended as part of federal or State environmental review processes.”

Consistent with ARB’s guidance, the Draft EIR included the preparation of a robust, site-specific HRA that fully evaluated the proposed project’s estimated health risk impacts on nearby residences and other sensitive receptors and included recommended feasible mitigation. Additionally, the primary source of TACs during operation would be from truck idling and parking activity occurring in the parking areas of the project site. As such, the main source of project TACs would be near docking doors, loading areas, and parking areas where trucks would idle and stop and start engines—not at the boundaries of the project site nearest existing sensitive receptors. As described in the “Concept Paper for the Freight Handbook,” prepared by the ARB, physical space or transition zones are implemented to separate sensitive receptors from new freight facilities because creating distance from an emissions source can reduce health risks. The proposed project design would include drainage basins in the northern portion of the project site such that project truck operations would not occur directly adjacent to existing sensitive receptors. Further, the City would review and approve the detailed site plans associated with each individual specific development proposal for the proposed project before any development occurs, to confirm compliance with all applicable requirements and standards. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation is not required under CEQA.

Suggested Mitigation Measure No. 6: Provide a community benefits fund to assist Banta residents and the Banta Elementary School in upgrading air ventilation systems.

Response: The City does not have the legal authority to impose an obligation for the project applicants to provide funds as suggested by the commenter because, among other reasons, there is no legal nexus of this measure to any identified impacts of the proposed project. See Section 3.3 of the Draft EIR as well as this Final EIR for additional detail in this regard. Moreover, the operation of private homes in the Banta community are not under the purview of the owners or operators of the proposed project; thus, there would be no mechanism available to ensure that any such funding would be utilized to install and maintain air filtration systems at sensitive receptor locations within the Banta community. In addition, the suggested measure raises significant implementation issues, e.g., it does not identify which Banta residents would receive such funding, how much would be provided to each recipient, and how such air filtration systems (which heavily rely on continued maintenance and replacing filters) would be effectively maintained. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA.

Suggested Mitigation Measure No. 7: Provide funding to install large signs along Grant Line Road in multiple locations which state that trucks are prohibited on the road east of the project site, and design all phases of the proposed project to prohibit left turns onto Grant Line Road.

Response: Although not required as mitigation for any impact, the City has agreed to adopt, and the project applicants have agreed to expand the requirements in MM AIR-1e to include the suggested measure. The updated MM AIR-1e is provided below (with changes reflected in in underline), in Section 4, Errata, and is also included in the updated MMRP.

Recirculation is required only if the new mitigation measure is considerably different from the alternatives or mitigation measures already evaluated in the Draft EIR; would clearly lessen the proposed project's significant environmental impacts; and is not adopted. Recirculation is required only if each of the above criteria is met (*South County Citizens for Smart Growth v. County of Nevada (2013) 221 CA4th 316, 330*). Here, as documented in Section 3.3 of the Draft EIR and this Final EIR, this suggested measure is not required under CEQA. Nevertheless, the City has agreed to adopt, and the project applicants have voluntarily accepted the inclusion of this mitigation measure; therefore, recirculation is not required.

MM AIR-1e Operational Truck Fleet Routing

Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that trucks used during project operation for the subject individual development proposal shall be prohibited from accessing Grant Line Road east of the project site, such as plans illustrating intended truck routes. Additionally:

- A. Prior to the issuance of grading permit, the project applicant shall submit to the City of Tracy Engineering Department plans or designs that show where the project's private drive intersects with Grant Line Road; the applicant shall use a combination of raised concrete medians (or islands) and/or bollards to prevent trucks from entering the left turn pocket. Truck drivers shall be directed into a dedicated right turn lane onto Grant Line Road. Signage and roadway striping within the project will also direct drivers to the appropriate lanes as they approach the intersection. The design shall be reviewed and approved by the City of Tracy Engineering Department.
- B. Prior to the issuance of occupancy permit for the first building, the Phase I Developer shall demonstrate to the City of Tracy Public Works Department that the development shall include new signage placed along Grant Line Road, warning truck drivers that truck travel through the Community of Banta is not permitted and is a finable offense. Specifically, two signs shall be placed on the north and south sides of Grant Line Road near its intersection with the proposed project's private drive and visible to east bound traffic. The exact locations, design and text of the signs shall be approved by the City of Tracy Public Works Department.

As revised, MM AIR-1e would prohibit trucks from accessing Grant Line Road east of the project site by requiring installation of raised concrete medians and/or bollards to prevent trucks from entering the left turn pocket, and by requiring signage along

Grant Line Road warning truck drivers that truck travel through the Banta community is not permitted and is a finable offense.

See also Response to SIERRA-1-3 through Response to SIERRA-1-5, above and Responses to SHUTE-13 and SHUTE-14.

Response to SIERRA-1-7

The commenter states that it attached a letter to this February 23, 2023, comment letter that is the settlement agreement between the Sierra Club, City of Stockton, and Greenlaw Development, LLC, for a project that would develop a 203-acre industrial park. The commenter further elaborates that the State Attorney General signed a separate Memorandum of Understanding (MOU) with the City of Stockton and the developer that includes many of the measures listed previously. The commenter states that they have commented on other warehouse projects in the City and incorporate by reference those other letters as well as the public comment letter by the Golden State Environmental Justice Alliance.

This comment has been noted. No response is needed as no new concerns are raised. CEQA directs commentors to focus on specific environmental issues associated with the proposed project and the proposed project's environmental document. To the extent this comment attempts to incorporate letters related to a separate project and unrelated environmental analysis, no further response is required as the comments are not focused on the proposed project. Contrary to the commenter's assertion, there is no substantial evidence in the record to document why or how comments made on an unrelated Costco project and its separate environmental review, which is being pursued by a different applicant on a different site, are "very germane and applicable" to the proposed project. Thus, there is no basis for "incorporating by reference" such comments; brief, generalized statements by the commenter, apparently based solely on the fact that each project proposes a warehouse-type light industrial use is not sufficient for purposes of exhausting any such issues. Moreover, the commenter's failure to specifically identify the purported "flaws" in the Draft EIR for the proposed project—instead seeking to rely on a "shortcut" of generally referencing a separate proposal with a separate CEQA document—does not provide the City with an opportunity to thoughtfully respond to specific comments at hand, contrary to CEQA.

No further response is necessary.

See Response to GSEJA-1 through Response to GSEJA-37 for responses to the comment letter by the Golden State Environmental Justice Alliance.

See also Response to SIERRA-1-3, above.

Response to SIERRA-1-8

The commenter refers to the published document from the State Attorney General, *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, which includes measures to reduce air quality and GHG impacts. This document includes measures such as setbacks between sensitive receptors and new warehouse uses.

The comment is noted. Because it does not raise any specific CEQA comments with respect to the proposed project, no response is necessary.

For informational purposes, see also Response to SIERRA-1-3 and Response to SIERRA-1-6, above and multiple Responses to SHUTE.

Response to SIERRA-1-9

The commenter restates text from the Draft EIR describing where existing sensitive receptors are located in relation to the project site.

This comment has been noted. Because it does not raise any specific CEQA comments with respect to the proposed project, no further response is required.

Response to SIERRA-1-10

The commenter requests that the Final EIR include a new mitigation measure that ensures all phases of the project provide a minimum 1,000-foot setback between the nearest residence and the proposed project that includes landscaping, earthen berms, and mature trees.

See Response to SIERRA-1-6, above, regarding the suggested mitigation of a 1,000-foot setback. See also Section 3.3 of the Draft EIR for additional information as to why the suggested mitigation is not triggered under CEQA. See also Responses to SHUTE-16 and SHUTE-20. No further response is required.

For informational purposes, the following is noted. The proposed project would be required to include a vegetative buffer along the eastern property boundary of the project site pursuant to MM AIR-1h. This mitigation measure was requested by the San Joaquin Valley Air District (Valley Air District), and accepted by the City and the project applicants, and states the following: “Prior to the issuance of building permit(s) for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall demonstrate on their site plans the inclusion of a vegetative buffer along the eastern property line of the project site adjacent to sensitive receptors. Examples of vegetative buffers may include, but are not limited to, trees, bushes, shrubs, or a mix thereof.” As discussed more fully throughout this Final EIR, MM AIR-1h further addresses the concern related to the proposed project’s potential to locate sources of TACs near sensitive receptors. Furthermore, with incorporation of MM AIR-1h, the proposed project satisfies the commenter’s request that the proposed project include landscaping, earthen berms, and mature trees. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA. In addition, the project applicants have also voluntarily agreed to the incorporation of additional enforceable conditions of approval to further address air quality, health risk and buffer issues (see updated MMRP).

Response to SIERRA-1-11

The commenter requests that the City consider an ordinance for future projects that establishes development standards for the construction of industrial warehousing and distribution facilities that exceed 100,000 square feet before December 31, 2023.

The comment is noted. This comment does not raise any CEQA concerns with respect to the Draft EIR for the proposed project, and instead involves a requested action directed to the City that is only within its land use purview. 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.

Response to SIERRA-1-12

The commenter provides conclusion statements and requests that the aforementioned suggested mitigation measures be included as part of the proposed project.

See Response to SIERRA-1-3 through Response to SIERRA-1-6, above. No further response is required.

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February 8, 2023

Tracy City Council
333 Civic Center Plaza
Tracy, California
Via e-mail

Re: Comments on Tracy Alliance warehouse project and Final Environmental Impact Report

Dear Tracy City Council:

The Sierra Club submits the following comments on the Tracy Alliance warehouse project and Final Environmental Impact Report (FEIR). The Sierra Club also requests that notices of scheduled public hearings and availability of documents relating to all large proposed industrial development projects be sent to us. Please send digital copies of notices by e-mail to Eric Parfrey at parfrey@sbcglobal.net.

1

We are requesting that the Council not approve this large warehouse project unless the following specific air quality, greenhouse gas emissions, and project setback measures are included in the project's conditions of approval:

- sufficient solar panels to provide power for the project
- utilize a "clean fleet" of light vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations
- adopt standards to provide 100% electrification of all heavy-duty trucks (Class 7 and 8) domiciled on the project site by end of 2025 or when commercially available for the intended application, whichever date is later
- provide electric charging facilities on the project site sufficient to charge all electric trucks and employee vehicles
- design the project to include a setback of at least 500 feet from the nearest homes
- provide a community benefits fund to assist Banta residents and the Banta elementary school in upgrading air ventilation systems
- provide funding to install large signs along Grant Line Road in multiple locations that state trucks are prohibited on the road east of the project site, and design the project to prohibit left turns on to Grant Line Road

2

Background

San Joaquin County along with other inland areas of California have seen an explosion of very large warehouse development due to demand from Internet shopping. Distribution warehouses have been concentrated in locations with access to major metropolitan markets in southern and northern California such as the Inland Empire (Riverside and San Bernardino counties) and now in San Joaquin and other counties of the Central Valley. These projects have the potential, if not adequately mitigated, for adding large numbers of heavy duty trucks and contributing to an increase in poor air quality in the Central Valley.

The Sierra Club together with other community organizations has been actively involved in warehouse projects throughout the state and has secured very meaningful mitigation programs along with environmental justice and community organizations to address heavy duty diesel truck emissions and protect the primarily disadvantaged neighborhoods that are most affected by the new warehouses.

For the last several months the Club has been carefully monitoring and commenting on environmental analyses of proposed large warehouse distribution projects in San Joaquin County, including in the cities of Stockton, Manteca, Lathrop, and Tracy

In Tracy, our attorneys Shute, Mihaly, and Weinberger submitted extensive comments to the City regarding the Costco project Draft Environmental Impact Report (DEIR) on October 31, 2022. We followed up with a letter of December 6, 2022 which stated the following, which is also applicable to this Tracy Alliance project:

...[T]he Sierra Club has serious concerns about the environmental impacts of the Project as currently proposed, and the DEIR substantially understates, and fails to fully analyze, the severity and extent of significant project-related effects on air quality, greenhouse gas ("GHG") emissions, and public health. In particular, we noted that the environmental documentation for the Project is inadequate in that the DEIR identifies virtually no mitigation measures to reduce the Project's impacts, even though such measures are readily available, feasible, and commonly required.

In our December 6 letter we attached the executed Settlement Agreement (Attachment A to this letter) between the Sierra Club, the City of Stockton, and Greenlaw Development, LLC (developer of the proposed 203-acre Mariposa Industrial Park in the South Stockton area).

In addition, the State Attorney General (AG) signed a separate Memorandum of Understanding with the City of Stockton and the developer which includes the same measures that were included in the Sierra Club settlement (Attachment B to this letter).

We incorporate by reference our two letters on the Costco project and DEIR, as they are very germane and applicable to this Tracy Alliance project and FEIR.

The issue of requiring adequate mitigation for local distribution warehouse projects has recently come to the attention of the State Attorney General's Office (AG). The office has recently published a very helpful guide, updated in 2022, called "Warehouse Projects: Best Practices and Mitigation

3

Measures to Comply with the California Environmental Quality Act” (Attachment C to this letter) and has become actively involved in commenting on projects and negotiating with local agencies to secure additional needed mitigation. The Sierra Club appreciates the AG’s actions and has worked to support their advocacy in several cities.

For example, earlier this year the Sierra Club initiated litigation and negotiated a settlement agreement with the City of Fontana. The AG also negotiated a memorandum of agreement in Fontana to resolve air quality and other issues for a large warehouse project located adjacent to a high school (see <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-innovative-settlement-city-fontana-address>).

3
CONT

We are making similar requests in comment letters on pending warehouse projects in the cities of Lathrop, Manteca, and in unincorporated San Joaquin County.

If enacted by all jurisdictions in San Joaquin County, a standard set of air quality and greenhouse gas emission standards will create a level playing field for all warehouse developers and protect the health of San Joaquin County residents and lessen the impacts of climate change.

Additional Air Quality/GHG Mitigation Measures That Must be Approved by Tracy City Council for the Tracy Alliance Project

The California Environmental Quality Act (CEQA) requires lead agencies to adopt all feasible mitigation measures to reduce impacts of a development project, even if the environmental analysis finds that the impacts are “significant and unavoidable.” [cite]

4

The following specific measures would mitigate (reduce) the project’s air quality and greenhouse emissions impacts. These are the same measures that were recommended by the Attorney General and state regulatory agencies such as the California Air Resources Board (CARB) for the Mariposa project in south Stockton.

- The project shall include sufficient solar panels on the roofs of the project’s building or in the parking lot to provide power for the operation’s base power use at the start of operations and as base power use demand increases. To be clear, enough solar panels to power each individual building must be constructed at the same time the building is finished, and in operation prior to the first occupancy permit issued by the City.
- The project shall adopt standards to provide 100% electrification under the clean fleet requirements The property owner/tenant/lessee shall ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations and shall expedite a transition to zero-emission vehicles, with the fleet fully zero-emission by December 31, 2025 or when commercially available for the intended application, whichever date is later.
- The property owner/tenant/lessee shall utilize a "clean fleet" of vehicles/delivery vans/trucks (Class 2 through 6) as part of business operations

5

- At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.

5
CONT

Require Setbacks from the Nearest Residences

The EIR notes on page 3.3-42 that the closest sensitive receptors to the project site are single-family residences and Banta Elementary School. The closest sensitive receptors to the project site are located at the following distances:

- Residences as close as 145 feet west of the project site across Paradise Road;
- Residences immediately adjacent to the project site to the east along Grant Line Road;
- Residences as close as 120 feet south of the project site across Grant Line Road;
- Residences as close as 60 feet north of the project site across California Avenue; and
- Banta Elementary School approximately 1,500 feet to the east at its closest outside area.

6

With so many residences and the school located in proximity to the project, it is dismaying that nowhere in the DEIR is there an analysis about required setbacks. For example, the DEIR fails to analyze how the site plan for Phase 3 of the project could be conditioned to guarantee a minimum setback from the nearest residence of at least 500 feet. This required setback would mitigate air quality, aesthetic, noise, and other impacts generated by the project.

7

The Final EIR must include the following mitigation measure, which is available and feasible:

- The site plan for Phase 3 of the project shall ensure a minimum setback from the nearest residence of at least 500 feet. The setback area shall be landscaped with an earthen berm and mature trees and shrubs

Require a Community Benefits Fund to Pay for HVAC Upgrades

The EIR fails to include any analysis of measures that could be adopted to mitigate air quality impacts by funding improvements to the HVAC and ventilation systems of nearby homes and Banta Elementary School. Such a measure could be implemented through the adoption of a development agreement signed between the developer and the City.

As part of the negotiated settlement agreement for the Mariposa project in south Stockton, the developer agreed to fund a \$200,000 community benefits program that will be used for specific improvements, including upgrades to nearby residents HVAC systems to mitigate air quality impacts. The community benefits program will be administered by a local non-profit organization.

8

The development agreement signed between the City and developer must include the following program, modeled on the Stockton example:

- The project development agreement shall include a community benefits program that will be used for specific improvements to benefit the Banta community, including upgrades to

nearby residents and the elementary school HVAC systems to mitigate air quality impacts. The program could also fund water filtration systems for the school and /or residents.

- The project shall install one open source air quality monitoring station near the site that can be monitored in real time by Banta residents

8
CONT

Require Mitigation to Prohibit Heavy Duty Trucks on Grant Line Road

The Final EIR includes a measure that requires the developer to prepare a signage plan but includes no details or standards for the plan. Prohibiting truck travel on Grant Line Road through the Banta community is a critical component of the project's mitigation strategy. Standards must be established as a condition of approval. The project's site plan must also be amended to prohibit left turn lanes from the project on to Grant Line Road.

The project conditions of approval shall include the following:

- The developer shall prepare a signage plan that includes funding to install large (minimum size of four by six feet) digital signs along Grant Line Road in multiple locations that state trucks are prohibited on the road east of the project site. The City shall work with the developer, California Highway Patrol, and San Joaquin County to ensure that the prohibition is enforced. The developer shall fund the installation of cameras along Grant Line Road by Banta School to enforce and ticket noncompliant truck traffic
- The site plans for the project shall locate the truck entrance and exit into the complex to be constructed the farthest away from residents on California Avenue. The intersection of the entrance/exit to the project from Grant Line Road shall be designed to physically prohibit left turns on to Grant Line Road and shall include a median on Grant Line Road to prohibit left turns.
- Truck traffic shall be limited during school hours

9

Adopt a Warehouse Ordinance

In addition to the above measures, the Sierra Club is requesting that the City of Tracy draft and consider a comprehensive Warehouse Sustainability Ordinance for future projects that establishes development standards for the construction of industrial warehousing and distribution facilities that exceed 100,000 square feet before December 31, 2023. The City of Stockton has agreed to this timeline.

10

Conclusion

We are formally requesting that the above mitigation measures be included as part of the Tracy Alliance project approval.

Please be advised that the Sierra Club will continue to monitor and comment on every proposed warehouse project in the City of Tracy (as well as in the Cities of Manteca, Lathrop, Stockton, and San Joaquin County). If future projects fail to incorporate the measures as recommended by the Attorney General and CARB, the Sierra Club will consider litigation to enforce inclusion of these measures in project approvals.

11

The City of Tracy, along with the other jurisdictions in San Joaquin County, must to address the very serious health, air pollution, and energy impacts of the rapidly growing distribution warehouse development in our communities. Applicants must do all that is possible to minimize the very real environmental impacts that warehouse development projects pose.

11
CONT

We are available to meet with your staff and applicants at any time to further discuss the programs that may be implemented to achieve our mutual goals.

Sincerely,

s/s Margo Praus, Chair
Delta-Sierra Group, Sierra Club

cc: Scott Lichtig, California Attorney General's Office
Stanley Armstrong, California Air Resources Board
Patia Siong and Harout Sagherian, San Joaquin Valley Air Pollution Control District
Heather Minner and Winter King, Shute, Mihaly, Weinberger
Aaron Isherwood and Harrison Beck, Sierra Club Environmental Law Program
Manteca City Council
Lathrop City Council

Attachment A: Sierra Club Settlement Agreement with City of Stockton
Attachment B: Attorney General's Memorandum of Agreement with City of Stockton
Attachment C: Attorney General's report "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act"

Sierra Club (SIERRA-2)

Response to SIERRA-2-1

The commenter provides an introduction and requests that notices of scheduled public hearings and availability of documents relating to all large proposed industrial development projects be sent to the commenter.

The comment is noted and acknowledged. This comment does not raise any specific project-related environmental issues under CEQA, and therefore no further response is required.

Response to SIERRA-2-2

The commenter requests the City Council not approve the proposed project unless the commenter's specific listed mitigation measures are included as conditions of approval. The commenter then states the CEQA requirement for all lead agencies to adopt feasible mitigation measures that reduce impacts of a development. The commenter urges the lead agency to adopt a list of recommended mitigation measures that the commenter suggests are feasible and would reduce impacts of the proposed project. Some of the recommended measures are based on measures recommended by the State Attorney General and/or other State Agencies to reduce Air Quality and GHG impacts.

The issues raised herein have been thoroughly addressed in Responses to SIERRA-1-5 and -6 and multiple Responses to SHUTE. No additional response is required.

Response to SIERRA-2-3

The commenter provides background information on increases of warehouse development in San Joaquin County and other inland areas of California, and states that the commenter is actively involved in these warehouse projects. The commenter states that it attached a letter that is the settlement agreement between the Sierra Club, City of Stockton, and Greenlaw Development, LLC, for a project that would develop a 203-acre industrial park. The commenter further elaborates that the State Attorney General signed a separate MOU with the City of Stockton and the developer that includes many of the measures listed previously. And the Attorney General also negotiated a memorandum of agreement in Fontana for a warehouse project.

The issues raised herein have been thoroughly addressed in Response to SIERRA-1-7 and Responses to SHUTE-11 and SHUTE-12. No additional response is required.

Response to SIERRA-2-4

The commenter states that CEQA requires lead agencies to adopt all feasible mitigation measures to reduce impacts of a development project, even if the environmental analysis finds that the impacts are significant and unavoidable.

The issue raised herein has been thoroughly addressed in Responses to SIERRA-1-5 and -6 and multiple Responses to SHUTE. No additional response is required.

Response to SIERRA-2-5

The commenter urges the lead agency to adopt a list of recommended mitigation measures that the commenter suggests are feasible and would reduce impacts of the proposed project. Some of the

recommended measures are based on measures recommended by the State Attorney General and/or other State Agencies to reduce Air Quality and GHG impacts.

The issues raised herein have been thoroughly addressed in Responses to SIERRA-1-5 and SIERRA-1-6 and multiple Responses to SHUTE. No additional response is required.

Response to SIERRA-2-6

The commenter restates text from the Draft EIR describing where existing sensitive receptors are located in relation to the project site.

The issue raised herein has been thoroughly addressed in Response to SIERRA-1-9. No additional response is required.

Response to SIERRA-2-7

The commenter requests that the Final EIR include a new mitigation measure that ensures all phases of the project provide a minimum 500-foot setback between the nearest residence and the proposed project that includes landscaping, earthen berms, and mature trees.

A similar comment which requested a more conservative, 1,000-foot setback from the nearest residence is addressed in Response to SIERRA-1-10, as well as Responses to SHUTE-16 and SHUTE-20. In addition, the project applicants have also voluntarily agreed to the incorporation of additional enforceable conditions of approval to further address air quality, health risk and buffer issues (see updated MMRP). No additional response is required.

Response to SIERRA-2-8

The commenter requests analysis and a mitigation measure requiring funding of HVAC improvements for nearby homes and Banta Elementary School. The commenter also requests the project to install one open-source air quality monitoring station near the project site that can be monitored in real time by Banta residents.

The comment related to funding HVAC improvements has been thoroughly addressed in Responses to SIERRA-1-6 and SHUTE-17. No additional response is required.

The suggested measure of installing one open-source air quality monitoring station near the project site would not reduce any air quality or GHG impact, since monitoring in and of itself does not reduce emissions. Furthermore, the commenter does not provide any information on why monitoring would be beneficial to the community. Because the suggested measure would not reduce an environmental impact caused by the project, there is no legal nexus of this measure to any identified impacts of the proposed project. Therefore, the suggested mitigation is neither required under CEQA nor would it reduce any impact from the project. See also Response to SHUTE-14. No additional response is required.

Response to SIERRA-2-9

The commenter requests enforcement measures to prohibit truck traffic on Grant Line Road east of the project site, including signage plan, installation of cameras, siting truck entry away from

residents on California Avenue, implementing physical barrier to prevent illegal truck turns, and limiting truck traffic to occur outside of school hours.

The issue raised herein has been thoroughly addressed in Response to SIERRA-1-6 and multiple Responses to SHUTE. No additional response is required.

Response to SIERRA-2-10

The commenter requests that the City consider an ordinance for future projects that establishes development standards for the construction of industrial warehousing and distribution facilities that exceed 100,000 square feet before December 31, 2023.

The issue raised herein has been thoroughly addressed in Responses to SIERRA-1-11 and SHUTE-2. No additional response is required.

Response to SIERRA-2-11

The commenter provides conclusion statements and requests that the aforementioned suggested mitigation measures be included as part of the proposed project. See Response to SIERRA-1-3 through Response to SIERRA-1-6. No further response is required.

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HEATHER M. MINNER
Attorney
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April 13, 2023

Via Electronic Mail Only

Mayor Nancy Young and
Members of the Tracy City Council
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

tracycitycouncil@cityoftracy.org
cityclerk@cityoftracy.org
cm@cityoftracy.org

Re: Final Environmental Impact Report for the Tracy Alliance Project
(State Clearinghouse No. 2020080524)

Dear Mayor Young and Members of the City Council:

This firm represents the Sierra Club Mother Lode Chapter’s Delta-Sierra Group in matters relating to the proposed Tracy Alliance Industrial Project (hereinafter “Project”). On behalf of the Delta-Sierra Group, we respectfully submit these comments to ensure that the City’s decision-makers fully comply with the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.*) (“CEQA Guidelines”). The Delta-Sierra Group is deeply concerned about the detrimental environmental and public health impacts the Project will have on the neighborhoods immediately adjacent to the site and the broader community at large. The City should take a pause on approving any new warehouse projects at this time.

1

I. Executive Summary

Warehouse development in the Tracy-Manteca-Lathrop-Stockton area has exploded, and before another 3.3 million square feet are added from this project, it is time for decision-makers to take a step back and look at this issue holistically and comprehensively. Exhibit A to this letter summarizes warehouse/light industrial projects along the I-205 corridor that are recently approved or under consideration in some form. It illustrates the sheer volume of warehouses approved/proposed for this relatively small area of San Joaquin County – each of which will bring thousands of daily Heavy Duty Diesel truck trips and their accompanying particulate pollution. In Tracy alone, if

2

Mayor Nancy Young and Members of the City Council
April 13, 2023
Page 2

approved, the Tracy Alliance project will generate over 1,500 truck trips per day, and the Costco Depot Annex project will generate an additional 1,200. In addition, the Cordes Ranch Specific Plan in Tracy will allow the development of more than 30 million square feet of light industrial uses and the associated truck traffic that project will bring. We only have to look as far as the Inland Empire in Southern California to see the public health damage that unchecked warehouse development can bring to an area. The Tracy City Council has an opportunity to re-examine whether this is the future they want to for this community and, by extension, the larger region.

The proliferation of logistics and fulfillment center warehouses in southern San Joaquin County should be a big concern to the Tracy City Council. While there are some benefits to new industrial development in terms of construction (limited term) and warehouse jobs, the long-term, ongoing costs to the community at large are substantial. In the case of this project, a notable share of the Project's impacts will be borne by residents of the small, unincorporated community of Banta, which is immediately east of the project site. According to the California Office of Environmental Health Hazard Assessment's CalEnviroScreen tool¹, the community of Banta is in a census tract that is currently more burdened than 72% of California's census tracts in terms of air- and water-borne pollutants. The toxic air contaminants and diesel particulate matter generated by this project will further degrade the air quality in the area.

It is important to acknowledge that the City of Tracy is not required to approve the Tracy Alliance project. The Project Applicant is requesting approval of several legislative land use decisions including pre-zoning, initiation of reorganization proceedings to LAFCo for annexation, and an amendment to the Northeast Industrial Specific Plan. The City has full discretion to decline these requests while it considers how this project – combined with the other millions of square feet of warehouse space currently being proposed in Tracy (and millions of square feet under consideration in nearby cities) – will impact Tracy residents and other local businesses for decades to come.

The Delta-Sierra Group urges the City Council to consider adoption of a warehouse ordinance that would apply citywide and would set expectations and requirements for the responsible development of warehouse projects. The developers of the Tracy Alliance project have the ability and opportunity to incorporate better design features, more energy-efficiency, and cleaner technologies into their project and have not opted to do so. A warehouse ordinance would require developers to be better neighbors and better partners to the community, and would establish a level playing field for all

¹ CalEnviroScreen 4.0 Indicator Maps:
<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

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future warehouse development. Instead of requiring a project-by-project process (and potential litigation) to incorporate best practices, an ordinance would make such practices known up front, resulting in an improved environmental for all – particularly those who live, work, and attend school near the warehouse facilities.

A comprehensive look at warehouse development is the best approach. However, if the City decides to consider approval of this project now, know that the Tracy Alliance Final EIR fails to fully analyze the severity and extent of significant project-related effects on air quality, greenhouse gas (“GHG”) emissions, and public health. The EIR is thus inadequate as an informational document and violates the minimum standards of adequacy under CEQA and the CEQA Guidelines. The EIR also fails to identify or adopt feasible mitigation to reduce the Project’s significant impacts to the extent feasible. At a minimum, the Delta-Sierra Group strongly encourages the City to prepare the proper analysis, identify appropriate mitigation measures, and recirculate an EIR that addresses the issues raised in this letter.

While there are many significant impacts identified in the EIR, the Delta-Sierra Group is deeply concerned about those impacts that will dramatically affect public health near the Project and contribute to a decline in the overall quality of life in the San Joaquin Valley. These impacts include an unacceptable increase in toxic air pollution and other harmful emissions, including climate-destroying greenhouse gas emissions.

If for no other reason, the City Council should deny this project at this time because the EIR found that neighboring residents would be exposed to substantial pollutant concentrations from construction, and that “operation at full buildout of the proposed project could have a potentially significant health impact on nearby sensitive receptors, particularly the resident[s].” *See* the Findings of Fact (Attachment F) to the Tracy Planning Commission Staff Report dated January 25, 2023 at 123. This is true even after all of the mitigation identified in the EIR has been adopted. We don’t even know how harmful this significant impact will be, because the EIR inexplicably fails to conduct a health risk assessment for the second and third phases of the Project—even though expert testimony submitted with this letter emphasizes that such a study is entirely possible at this time.

The EIR attempts to excuse this fatal omission by asserting that all feasible mitigation has been identified to reduce significant health impacts. But that assertion is preposterous. For instance, the EIR only requires the use of a “vegetative buffer” between residents and the project site, when other jurisdictions have required high walls or berms with strict standards to reduce pollution from the site. Similarly, the EIR would only require the use of heavy-duty trucks meeting a 2013 low-NOx standard, when other

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jurisdictions have required, and warehouse operators have agreed to, quickly using zero-emission heavy-duty trucks with no diesel emissions. These are only a few of the most egregious Project impacts and failings of the EIR. The City Council should not approve the Project at this time.

2 CONT

II. The EIR Fails to Adequately Analyze and Mitigate the Project's Air Quality Impacts.

In evaluating the Project's air quality impacts, the regional air quality baseline is key. Air pollution from ongoing activities in the San Joaquin Valley Air Basin includes a variety of industrial-based sources as well as on- and off-road mobile sources. These sources, coupled with mountains surrounding the Air Basin that form natural horizontal barriers to the dispersion of air contaminants, create the existing climatic conditions. *See* DEIR at 3.3-1. San Joaquin County is in non-attainment of Ozone, PM₁₀ and PM_{2.5} State air quality standards. *See* DEIR at 3.3-5. Breathing in particulate matter (PM₁₀ and PM_{2.5}) and ground-level ozone can trigger a variety of health problems. Heavy-duty trucks are key sources of diesel pollution and toxic air contaminants (TACs) and are therefore a focus of air quality impacts. Diesel trucks emit large volumes of particulate matter (a.k.a. diesel particulate matter, or DPM), therefore contributing to health problems that include cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death.² Diesel generators are another source of DPM and NO_x, and as explained below, the amount of diesel generators expected at the site are not clearly quantified in the emissions calculations. Another source not identified are the use of truck refrigeration units (TRUs) on heavy-duty trucks coming to the project site. The Project Description does not acknowledge that any of the 3,352,000 square feet of warehouse space could be used for cold storage uses. The analysis does not include an analysis of TRUs or cold storage, so there should be a mitigation measure and/or condition of approval prohibiting this use.

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Given the Air Basin's existing air quality problems and public health consequences, the City needs to do everything in its power to ensure new development does not exacerbate the problem. Unfortunately, the EIR does not adequately analyze or mitigate the Project's air quality impacts. This firm retained air quality experts at Baseline Environmental Consulting to review the Air Quality and Greenhouse Gas Emissions sections of the DEIR and FEIR and to offer their professional expertise on the analyses and mitigation measures. Their comments ("Baseline letter") are included as

² Storing Harm: the Health and Community Impacts of Goods Movement Warehousing and Logistics, January 2012, available at: <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Storing-Harm.pdf>; accessed June 2, 2021.

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Exhibit B and are referenced throughout this letter. The Baseline letter describes flaws in the EIR analysis used to support the significance determinations and identification and assessment of mitigation measures, such as unsubstantiated and incomplete calculations for evaluating air pollutant emissions during project operation.

3 CONT

Even with the additional information provided in the Final EIR, the document's analysis of Project-related air quality impacts and GHG emissions contains deficiencies that must be remedied in order for the EIR to be reliable under CEQA. Furthermore, the EIR fails to identify all feasible mitigation that could be incorporated to minimize the impacts of the Project.

A. The EIR Fails to Properly Analyze Project Emissions and the Associated Health Risks.

1. The EIR Does Not Identify All Sources of Toxic Air Contaminants.

While the EIR assumed the use of diesel generators during construction and accounted for those emissions in the analysis, the EIR does not adequately analyze the emissions from diesel generators (back-up or otherwise) in the day-to-day operations of the future warehouse facilities. Diesel generators are a fairly typical piece of equipment at industrial warehouses. If diesel generators were intentionally not included in the operations emissions calculations, it should be noted and there should be a requirement prohibiting their use at any facility in the Specific Plan area and the means to ensure compliance should be detailed. If diesel generators are not going to be prohibited, their omission from the emissions calculations is a substantive oversight which renders the emissions calculations inaccurate and the conclusions of the Health Risk Assessment (HRA) incorrect as well.

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Additionally, there is no discussion of the potential for cold storage in any of the warehouse buildings, which would result in substantially higher energy use and emissions from trucks equipped with TRUs. The EIR must analyze the impacts from these potential uses. If the applicants agree that no trucks transporting refrigerated goods would be accessing the site and none of the warehouses will have cold storage, there should be a mitigation measure and/or condition of approval prohibiting cold storage and TRUs and requiring that language to be included in future lease agreements.

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2. The EIR Fails to Adequately Analyze NOx Mitigation Measures.

As detailed in the Baseline letter, the project’s unmitigated NOx emissions from heavy-duty trucks are already expected to be about 75 percent lower than the current heavy-duty truck NOx standard that was established in 2010. Therefore, the FEIR suggestion that implementation of MM AIR-1d could reduce the project’s unmitigated emissions from trucks by 90 percent is significantly overestimated and highly misleading. *See* Exh. B at 3. This measure should be modified to accurately reflect realistic reductions. MM AIR-1d should also be modified to require the use of heavy-duty trucks equipped with 2014 or later model engine years when using trucks that meet the Low-NOx Standard is not immediately feasible. Furthermore, the FEIR must adopt mitigation requiring the phasing in of zero-emission electric trucks as they become increasingly available to further reduce criteria air pollutant emissions to the greatest extent feasible. Finally, the EIR should include mitigation to reduce emissions from light and medium-duty trucks.

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3. The EIR Fails to Adequately Evaluate Health Risks.

As detailed in the Baseline letter, the EIR air quality analysis is deeply flawed in that it contains multiple missteps related to the health risk assessment: 1) The FEIR only calculated health risks associated with operation of Phase 1 of the project and stated that health risks associated with Phases 2 and 3 could not be estimated due to “a lack in operational information ...”. The Baseline letter describes how this is incorrect; and 2) The FEIR presented separate health risk assessments for project construction and operation – ignoring that fact that these two steps are likely to be overlapping at time and magnifying the health risk impacts. *See* Exh. B at 4. With these inaccuracies, the EIR’s evaluation of health risks is incomplete and insufficient.

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4. The EIR Underestimates Emissions from Warehouse Vehicle Trips and Therefore Improperly Calculates Air Pollutant Emissions.

As detailed in the Baseline letter, the EIR did not substantiate the default travel distance used to estimate emissions from both passenger vehicle and truck trips. *See* Exh. B at 1. The justification provided in the FEIR for using the CalEEMod default travel distance of 11.35 miles per trip for operational truck trips is inadequate and non-conservative. There is no information in the Project Description of the FEIR regarding the potential origin and destination of truck trips generated by the project. This is especially true of Phases 2 and 3 of the Project, for which there are not yet any development plans and therefore no basis for the applicants to even begin to make

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assumptions about the origins and destinations of diesel trucks. There was likewise no justification for assuming passenger vehicles would travel 11.35 miles per trip. Recognizing that the CalEEMod default travel distance is not appropriate, recent EIRs for large-scale warehouse projects have used more conservative values. The Mariposa Industrial Project in Stockton doubled the CalEEMod default travel distance from 7.3 miles per trip for operational truck trips to 15.0 miles per trip after both CARB and the SJVAPCD raised concerns about the appropriateness of the default trip value (as SJVAPCD did for this project as well). *See* Mariposa FEIR³ at 3-17. At the CenterPoint Properties Project in Contra Costa County, the EIR assumed a truck travel distance of 28.61 miles per trip in accordance with the Transportation Impact Assessment (TIA) conducted specifically for the project. *See* Center Point TIA⁴ at 3.2-40.

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CONT

However, for the Tracy Alliance project, the EIR did not provide substantial evidence to justify the per trip truck travel distance assumed or total VMT and associated air pollutant emissions that would be generated by truck and passenger vehicle trips. The EIR omitted any analysis of trip origins and destinations other than to nearby intermodal facilities. As a result, the FEIR significantly underestimates the mobile air pollutant emissions that would be generated by the project.

B. The Mitigation Measures Identified to Reduce Air Quality, Public Health, and Greenhouse Gas Emissions Impacts Are Insufficient.

The EIR’s evaluation of potential mitigation measures continues to be deeply flawed. CEQA requires that (1) a project’s significant impacts be fully disclosed in detail, (2) mitigation be fully enforceable and not improperly deferred, (3) the City adopt all feasible mitigation to mitigate a project’s significant impacts, and (4) the Final EIR provide for an adequate mitigation monitoring and reporting program. Here, Tracy’s General Plan provides sound guidance as well: Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented.” (General Plan Policy AQ-1.2-P14). And to confirm conformity with the San Joaquin Valley Air Pollution Control District’s “PM 2.5 Plan for the San Joaquin Valley” and others, the California Air Resources Board requires

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³ See Mariposa Industrial Project FEIR:

http://www.stocktonca.gov/files/Mariposa_Final_Environmental_Impact_Report.pdf

⁴ See CenterPoint Properties Project TIA: https://files.ceqanet.opr.ca.gov/256802-3/attachment/3ntW1kfqcVbzgoQdoNVv726ko6HRswUxmNWQ_yoZq4lO9XUaRXthhKb14ky-QneGDR5TcQq2Dip2JT5x0

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that any new project “contain in its design all reasonably available and feasible air quality control measures.”

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1. Additional Mitigation Measures to Reduce Air Quality and Greenhouse Gas Emissions Impacts Are Reasonable and Feasible.

CEQA requires lead agencies to adopt all feasible mitigation measures to reduce impacts of a development project, even if the environmental analysis finds that the impacts are “significant and unavoidable.” Even with the mitigation measures included in this EIR, significant and unavoidable impacts air quality and public health impacts remain. However, that does not allow the EIR or the City to simply conclude that nothing else can be done. CEQA mandates that an agency adopt the most effective and feasible measures to reduce a project’s impacts, even if they do not reduce the impacts to a less than significant level. *See* Pub. Res. Code § 21002 (CEQA mitigation includes measures that would “*substantially lessen* the significant environmental effects” of a project); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 524-25 (“Even when a project’s benefits outweigh its unmitigated effects, agencies are still required to implement *all* mitigation measures unless those measures are truly infeasible.”) (emphasis added).

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Further, as discussed below, the EIR’s conclusion that the Project’s GHG impacts are less than significant is not supported. In fact, under the appropriate GHG threshold, the Project’s impacts are clearly significant. The EIR’s proposed mitigation measures for the Project’s air quality and greenhouse gas impacts, however, fall far short of CEQA’s requirements.

There are examples up and down the State of California of warehouse/fulfillment center projects that have been approved and constructed with feasible, effective, and robust measures designed to minimize the impacts of greenhouse gas emissions, reduce the effects of particulate matter and air quality degradation, and increase transportation and energy efficiency. Listed below are examples of recent projects that were approved with such measures in place; their approval documents with the measures to be implemented are included as appendices to this letter:

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- World Logistics Center: Buildings totaling 40.6MSF on 2,610 acres in the City of Moreno Valley. Approved June 16, 2020. *See* WLC Settlement Agreement attached as Exhibit C.
- CenterPoint Properties Warehouse Project: Buildings totaling approximately 555,537 square feet on a 31.48-acre site in the

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unincorporated North Richmond area of Contra Costa County. Approved May 2022. *See* CenterPoint Properties Warehouse Project Conditions of Approval attached as Exhibit D.

- Mariposa Industrial Park: Buildings totaling approximately 3.6MSF on 203 acres in the unincorporated Stockton area of San Joaquin County. Approved December 2022. *See* Mariposa Industrial Park Project Mitigation Monitoring and Reporting Program attached as Exhibit E and Development Agreement attached as Exhibit F.

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CONT

In addition to the project-specific measures contained in each of the approval documents cited above, other municipalities such as the City of Fontana have adopted citywide ordinances that mandate the inclusion of many of these measures in every warehouse/fulfillment center project over a certain size. *See* Fontana Ordinance 1891 attached as Exhibit G.

With plentiful examples of effective, reasonable, and feasible warehouse project mitigation, the Project EIR must be revised to include more robust measures with requirements for: (1) context-sensitive site design and facility layout; (2) measures to reduce impacts during facility construction; and (3) measures to reduce impacts during ongoing facility operation. The measures below address issues such as energy efficiency, emissions reduction, particulate matter reduction, and minimizing vehicle miles traveled (which reduces air emissions). Just a few examples are listed below. The attachments to this letter provide detailed measures on these topics.

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- Impacts to Cumulatively Considerable Net Increase of reactive organic gases (ROG) and carbon monoxide (CO) During Construction, and ROG and oxides of nitrogen (NOx) During Operation are Significant and Unavoidable and Require Additional Measures.**

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Measures that would help further reduce emissions during construction include:

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- Limiting the use of off-road diesel-powered equipment. Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day was proposed. The FEIR responded to this proposed measure by stating that if this limit was enforced, the construction contractor would simply rent multiple pieces of equipment for concurrent or overlapping use and that this measure would not clearly lessen a significant environmental impact. *See* FEIR at 3-115. But the City could easily address this concern by limiting the hours of construction that uses off-road diesel-powered equipment to 10 hours per day.
- Requiring on-road heavy-duty haul trucks to be model year 2014 or newer if diesel-fueled.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite for construction employees to minimize travel during meal breaks.

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Measures that would help the Project reduce emissions during operation include the following (see Exhibits C through G to this letter for detailed measures on these topics).

- The property owner/tenant/lessee shall ensure that heavy-duty trucks(Class 7 and 8) traveling to and from the project site are model year 2014 or later from start of operations and shall be fully zero-emission by December 31, 2025, with limited exceptions.

The FEIR rejected a proposal to require all heavy-duty trucks entering or operating on the project site to be zero-emission beginning in 2030. It claims that “[B]ecause of the volume of trucks anticipated to access the site, practical limitations on the owner’s ability to regulate this item, and the current cost and availability of electric trucks, the suggested mitigation is not feasible.” *See* FEIR at 3-118. This bald statement is insufficient to support a determination that the requirement is “truly infeasible,” as CEQA requires. Moreover, similar measures are being required at other approved

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warehouse facilities (*See* Mariposa MMRP, Exhibit E), so electric truck requirements are feasible and must be fully analyzed in this EIR.

- The property owner/tenant/lessee shall ensure that medium-duty trucks (Class 2 through 6) traveling to and from the project site are zero-emission, with limited exceptions.
- At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.
- Prohibit the reliance on natural gas for the facility.
- Install solar photovoltaics energy system (or other renewable energy systems) should be used to power all of the Project's energy needs (all electric vehicle charging stations) unless sufficient usable space is not available. This will also allow the site to support and serve electric trucks, which will reduce NOx and PM emissions, and further reduce the Air Quality impacts of the Project.
- Require that all forklifts, yard trucks and yard equipment used on-site be electrically powered or zero-emission with sufficient on-site charging equipment.
- Install and maintain, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time.
- Require tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.
- Install signs along California Avenue, Paradise Road, and Grant Line Road noting that truck and employee parking is prohibited.
- Designate on-site areas for employee pickup and drop-off.

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- Appoint a compliance officer who is responsible for implementing all mitigation measures, and providing contact information for the compliance officer to the City, to be updated annually.

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b. Exposing Sensitive Receptors to Substantial Pollutant Concentrations are Significant and Unavoidable and Require Additional Measures.

The EIR found that during construction, if all three project phases were constructed concurrently, the proposed project would expose sensitive receptors to CO and diesel particulate matter (DPM) emissions that exceed applicable thresholds even with mitigation incorporated. One obvious mitigation measures to reduce this impact, not adopted in the EIR, is to require the phasing of construction such that construction of all three parcels do not occur at the same time.

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During operation, the proposed project could expose sensitive receptors to NO_x, and DPM levels that exceed applicable thresholds even after incorporation of identified mitigation resulting in a significant and unavoidable impact. As noted below, section, MM AIR-1i in the Final EIR should be modified to specify the details for more robust setbacks and buffers to adjacent uses and minimize operational impacts to residents in the area. More stringent clean fleet requirements are also feasible as discussed above and should be required. Furthermore, the entrance/exit to the project from Grant Line Road should be required to be designed to physically prohibit left turns on to Grant Line Road and include a median on Grant Line Road to ensure all trucks leaving the site are forced to travel west.

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An additional mitigation measure that should be included in the FEIR is to establish and seed a community benefit fund to mitigate project air quality impacts on affected residents and the Banta Elementary School by retrofitting buildings on their properties. The community benefit fund could be used to retain a contractor to retrofit/install HVAC and/or air filtration systems on properties impacted by the Project. This comment was provided in response to the DEIR, and the Applicant/Developer responded that “[T]he operations of private homes surrounding the project site are not under the purview of the owner or operator of the proposed project; therefore, there is no mechanism available to ensure that filtration systems would be installed and maintained at sensitive receptor locations near the project site. In addition, the effectiveness of air filtration systems heavily relies on continued maintenance and replacing filters. The suggested mitigation is not feasible.” See FEIR at 3-119. This is nothing more than an excuse that should not be tolerated by the City. The World Logistics Center project in Moreno Valley and the Mariposa Industrial Project in Stockton both provide ready

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examples of how to establish feasible community benefit programs for retrofitting nearby properties. Residents and the school may request retrofits and it should not be presumed that they would not follow factory instructions for required maintenance. In the case of the Tracy Alliance project, the Applicants may not want to fund such a program, but that does not make the measure infeasible.

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2. Existing Mitigation Measures are Weak and Unenforceable.

To follow are descriptions of deficiencies of the existing EIR mitigation measures:

a. MM AIR-1a (NOx Reduction Measure) is Not Effective as Written.

MM AIR-1a states “[F]or all construction equipment and vehicles used during project construction that are less than 250 horsepower, the contractor shall use electric construction equipment and vehicles to the extent feasible, with the exception of handheld generator sets.” *See* DEIR at ES-11. The EIR fails to analyze whether strict compliance would be feasible, however. If in fact it would not be feasible in particular instances, the mitigation measure should be modified to identify the “next best” option to reduce emissions in those instances.

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b. MM AIR-1e (Operational Truck Fleet Routing) Should be Modified to Include More Detail on How Trucks Will be Prohibited From Travelling on Grant Line Road East of the Project Site.

MM AIR-1e should be modified to ensure effectiveness and enforceability. For instance, the EIR should consider egress and ingress design measures to discourage truck traffic on Grant Line Road east of the project site. MM AIR-1e should also be modified to add the following language: “The developer shall prepare a signage plan that includes funding to install large (minimum size of four by six feet) digital signs along Grant Line Road in multiple locations that state trucks are prohibited on the road east of the project site. The City shall work with the developer, California Highway Patrol, and San Joaquin County to ensure that the prohibition is enforced. The developer shall fund the installation of cameras along Grant Line Road by Banta School to enforce and ticket noncompliant truck traffic.” The City must include any signage obligations agreed to by the developers in the mitigation and monitoring report to allow these mitigation measures to be tracked and enforced.

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c. MM AIR-1h (Vegetated Project Site Buffer) Should Include Specific Setback and More Effective Buffer Standards.

MM AIR-1h states that the Applicant “shall demonstrate on their site plans the inclusion of a vegetative buffer along the eastern property line of the project site adjacent to sensitive receptors. Examples of vegetative buffers may include, but are not limited to, trees, bushes, shrubs, or a mix thereof.” This measure contains no specifics and will be ineffective at reducing significant health impacts from project emissions. In contrast, an effective mitigation measure would provide metrics of the size of a required vegetated buffer and details on the structures or plant materials in order to ensure the efficacy of the buffer. See <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/13-306.pdf>. For example, the plans for a similar warehouse project in the City of Stockton included much more robust buffer requirements, which were described in detail in the Project Development Agreement. See Exhibit F at 17 and Exhibit B to the DA. The State Office of the Attorney General and the City of Stockton also entered into a Memorandum of Agreement that requires the City to consider a warehouse ordinance to address a myriad environmental concerns related to warehouse development. Among other measures, the Agreement includes several site design measures related to establishing adequate buffers. See Exhibit H at 6 and 7. This is evidence that more effective, feasible buffering mitigation is available and similar measures must be adopted in this EIR.

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MM AIR-1h should be modified to include specific standards based on California Air Resources Board (CARB) and State Attorney General guidance. The site plans for all phases of the project shall ensure a minimum setback from all on-site truck routes, parking areas, loading docks, and buildings of at least 1,000 feet to the nearest residence or other sensitive receptor. The setback area shall be landscaped with an earthen berm and sizable trees and shrubs that will grow to provide full visual screening that will also provide auditory and toxin-absorbing benefits. Bushes and shrubs are insufficient. The measure should be modified to incorporate these setback requirements and more specific standards on the amount, size, and height of the vegetated areas.

III. The EIR’s Analysis of the Project’s Greenhouse Gas Impacts is Woefully Insufficient and the Conclusion that Impacts are Less Than Significant is Unsupported.

Climate Change is the defining issue of our time and we are at a defining moment. From shifting weather patterns that threaten food production, to rising sea levels that

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increase the risk of catastrophic flooding, the impacts of climate change are global in scope and unprecedented in scale.⁵

CEQA serves as one of the State’s frontline tools in combatting climate change; careful attention to analyzing and mitigating the air quality impacts and greenhouse gas emissions of projects are paramount to improving community conditions on the local scale and combating climate change at every level. As the Supreme Court found in *Center for Biological Diversity v. California Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204 (“*Newhall Ranch*”), it may not make sense to translate a general standard (in that case AB 32’s requirement to reduce emissions to 1990 levels by 2020) to a specific project. In fact, *Newhall Ranch* noted that new projects—such as this Project—may require a greater level of emission reduction because “[d]esigning new buildings and infrastructure for maximum energy efficiency and renewable energy use is likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems.” *Newhall Ranch*, 62 Cal.4th at 226.

Since 2010, it has become clear from a scientific perspective that any additional GHG emissions will contribute to a serious and growing climate crisis.⁶ Recognizing this reality, in 2018 Governor Brown signed Executive Order 55-18 calling for the state to achieve carbon neutrality as soon as possible and no later than 2045.⁷ Given these facts on the ground, the EIR should establish a net zero threshold for new emissions. *See e.g.*, CARB 2017 Scoping Plan at 101 (“Achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, is an appropriate overall objective for new development.”)⁸ Not only does the EIR neglect to reference EO 55-18, it also fails to explain why this project should not be judged by a significance threshold requiring *no* net increase in GHG emissions, since that is the standard necessary to comply with the State’s climate change plans and policies.

⁵ United Nations: <https://www.un.org/en/global-issues/climate-change#:~:text=Climate%20Change%20is%20the%20defining,scope%20and%20unprecedented%20in%20scale>.

⁶ Summary for Policymakers (SPM) presents key findings of the Working Group I (WGI) contribution to the Intergovernmental Panel on Climate Change (IPCC): https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

⁷ Executive Order to Achieve Carbon Neutrality: <https://www.ca.gov/archive/gov39/wp-content/uploads/2018/09/9.10.18-Executive-Order.pdf>

⁸ California’s 2017 Climate Change Scoping Plan: https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf?utm_medium=email&utm_source=govdelivery

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The DEIR includes a quantitative measure of the Project’s GHG emissions, analyzing whether the Project would “generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.” (DEIR a 3.8-35). Additionally, the DEIR includes a qualitative analysis of the Project’s GHG impacts, considering whether the Project would “conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.” *See* DEIR at 3.8-46. Both analyses violate CEQA. The FEIR failed to make any changes to the DEIR’s analysis of GHG impacts.

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First, the Project’s quantitative analysis relies entirely on outdated thresholds of significance that are unsupported by substantial evidence because they fail to reflect the State’s more recent—and more aggressive—GHG reduction goals. Even on its own terms, the analysis is flawed. The DEIR employs a “Business-As-Usual” (“BAU”) analysis that violates the requirements laid out by the California Supreme Court to (1) consider the Project’s effects on the State’s long-term GHG reduction goals, and (2) adequately explain why the Statewide standards relied upon for the analysis accurately capture the unique characteristics of this Project. *See Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 223, 225-27. (“*Newhall Ranch*”)

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Compounding the DEIR’s entirely insufficient quantitative analysis is an equally insufficient discussion of the Project’s consistency with the State’s long-term GHG reduction goals. The EIR inexplicitly omits any discussion of the State’s most recent 2045 goal of carbon neutrality by 2045. The EIR also impermissibly omits any analysis of the Project’s consistency with Assembly Bill 32’s 2050 goal, under the guise that such analysis is too speculative. Each of these legal errors is, alone, sufficient invalidate any potential certification of the EIR.

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A. The Project Impermissibly Relies on Outdated Thresholds of Significance.

The EIR evaluates the Project’s estimated GHG emissions under thresholds of significance from 2009 and 2010. The DEIR’s BAU analysis compares the Project’s estimated emissions to a “business-as-usual” scenario that estimates emissions under the regulatory framework that existed in 2005, assuming that it would apply for the entirety of the Project’s life. The specific significance thresholds used in the DEIR are 29% and 21.7% below BAU levels. Therefore, because the DEIR concluded the Project’s actual emissions would achieve a greater than 29% reduction from 2005 BAU levels, the Project’s GHG impacts were considered insignificant (DEIR a 3.8-42). These two thresholds, however, were created by the California Air Resources Board (“CARB”) in 2009 and 2010, respectively, and are a measurement of the Statewide reductions

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necessary to achieve Assembly Bill (“AB”) 32’s goal of reducing GHGs to 1990 levels by 2020. (DEIR at 3.6-6, 3.6-7, 3.6-8).⁹ The DEIR also cites the 2009 San Joaquin Valley Air District (“Air District”) Guidance for its use of the 29% BAU threshold.¹⁰

Since the publication of these two significance thresholds—which were only intended to ensure the State met its 2020 goal—it has become clear from a scientific perspective that any additional GHG emissions will contribute to a serious and growing climate crisis. The Intergovernmental Panel on Climate Change recently released its “Synthesis Report” for the “Sixth Assessment Report,” which is based on the content of three “Working Group Assessment Reports” and three “Special Reports.”¹¹ The Report sounds the alarm on the dire need for rapid and decisive action to ensure global warming does not exceed 1.5°C compared to pre-industrial levels, which is widely considered the point at which the effects of climate change will be “irreversible.”¹²

Recognizing the need to take comprehensive and timely action, in 2018 former Governor Brown signed Executive Order 55-18, calling for the state to achieve carbon neutrality as soon as possible and no later than 2045.¹³ In 2022, Governor Newsom signed AB 1279, which codified into legislation the goal of achieving carbon neutrality by 2045.¹⁴ Not only does the EIR neglect to reference this goal (or CARB’s accelerated 2030 target identified in the 2022 Scoping Plan), it also fails to explain why this project should not be judged by a significance threshold requiring *no* net increase in GHG

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⁹ See also California Air Resources Board, *Climate Change Scoping Plan* (December 2008), https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/document/adopted_scoping_plan.pdf.

¹⁰ San Joaquin Valley Air Pollution Control District, *Final Staff Report Addressing Greenhouse Gas Emissions Impacts under the California Environmental Quality Act*, (December 17, 2009), <https://www.valleyair.org/Programs/CCAP/12-17-09/1%20CCAP%20-%20FINAL%20CEQA%20GHG%20Staff%20Report%20-%20Dec%2017%202009.pdf>.

¹¹ Intergovernmental Panel on Climate Change, *AR6 Synthesis Report: Climate Change 2023*, <https://www.ipcc.ch/report/sixth-assessment-report-cycle/>.

¹² Intergovernmental Panel on Climate Change, *Summary for Policymakers: Synthesis Report of the IPCC Sixth Assessment Report*, https://report.ipcc.ch/ar6syр/pdf/IPCC_AR6_SYR_SPM.pdf.

¹³ Executive Order to Achieve Carbon Neutrality: <https://www.ca.gov/archive/gov39/wp-content/uploads/2018/09/9.10.18-Executive-Order.pdf>.

¹⁴ Muratsuchi, *The California Climate Crisis Act (2021-2022)* (“AB 1279”).

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emissions, since that is the standard necessary to comply with the State’s climate change plans and policies across the board. There is no evidence, much less substantial evidence, to conclude that reducing the GHG emissions of new warehouses by 29 percent below 2005 BAU will achieve the state’s current goal of net neutrality by 2045. There is not even any evidence that 29 percent below BAU, a threshold designed to meet the goal of reaching 1990 levels by 2020, will achieve the SB 32 goal of 40 percent below 1990 levels by 2030. The EIR simply assumes that it is sufficient to show “continued progress” reducing emissions based on outdated thresholds simply because the City of Tracy has not yet adopted new thresholds for the 2030 target. (DEIR at 23.8-45). Lack of a previously adopted City threshold for 2030 is not substantial evidence for refusing to acknowledge that steeper reductions are required to reach the state’s 2030 goals, than assumed to reach the state’s 2020 goals. The City cannot bury its head in the sand.

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To comply with CEQA’s dictates, the EIR must be revised and recirculated to include a significance threshold of *no net increase in GHG emissions* and conclude the Project’s massive GHG impacts are significant. As a result, the Project must also be required to incorporate all feasible mitigation measures, including, but not limited to: (1) clean fleet and clean construction equipment requirements, (2) extensive use of on-site solar photovoltaic panels, and (3) installation of electric vehicle charging infrastructure.¹⁵ Proven feasible measures are attached to this letter.

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B. The EIR’s Business-As-Usual Analysis Violates the Requirements set forth by the California Supreme Court in Newhall Ranch.

The EIR’s GHG analysis fails to comply with the requirements laid out in *Newhall Ranch*. In *Newhall Ranch*, the California Supreme Court held in 2015 that a lead agency may be able to rely on an AB 32-based business-as-usual (“BAU”) threshold to determine whether a project’s GHG impacts are significant. However, its holding was subject to two major caveats. First, the Court warned that “over time consistency with year 2020 goals will become a less definitive guide, especially for long term projects that will not begin operations for several years.” *Id.* at 223. The Court, in 2015, emphasized that an EIR “may *in the near future* need to consider the project’s effects on meeting longer term emissions reduction targets.” *Id.* (emphasis added). That was over eight years ago, and it is now 2023. It is patently improper to rely on a threshold for 2020 emissions for a project that will begin operation four years after that date.

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¹⁵ See San Joaquin Valley Air Pollution Control District, *Emission Reduction Clean Air Measures*, <https://ww2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>.

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Additionally, the Court noted that the CARB Scoping Plan implementing AB 32’s GHG reduction goals “nowhere related that *statewide* level of reduction effort to the percentage of reduction that would or should be required from *individual* projects.” *Id.* at 225-26. Indeed, the Court emphasized that the flawed EIR was using the BAU model “for a purpose *very different* from its original design.” *Id.* at 227 (emphasis added). Lead agencies could only rely on the use of a BAU threshold if they provided substantial evidence that “the required percentage reduction from business as usual is the *same* for an individual project as for the *entire* state population and economy.” *Id.* at 225-26 (emphasis added). Tellingly, a Draft EIR recently prepared by the City of Tracy in connection with the “Costco Depot Annexation Project” explicitly refused to undertake a BAU analysis because of the Supreme Court’s “skepticism that a percentage reduction goal applicable to the State as a whole would apply without change to an individual development project, regardless of its size or location.” *See* Costco DEIR at 3.7-18.¹⁶

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The EIR here uses the exact same threshold as the EIR in *Newhall Ranch*, assuming that a 29 percent reduction from BAU projections will render the Project’s GHG impacts insignificant. *See* DEIR at 3.8-42. Yet, the EIR has failed to either (1) adequately explain the Project’s effect on meeting the State’s long-term GHG reduction goals beyond 2020, or (2) provide substantial evidence justifying its use of the Statewide BAU for a large warehouse development that displaces climate-friendly agriculture in the already warehouse-laden San Joaquin Valley, as the Supreme Court requires.

The DEIR utterly fails to “consider the project’s effects on meeting longer term emissions reduction targets” beyond AB 32’s end-date of 2020. *Newhall Ranch*, 62 Cal.4th at 223. The DEIR misleadingly asserts that it incorporates the State’s GHG reduction goals for 2030, as delineated in Senate Bill (“SB”) 32 and CARB’s 2017 Scoping Plan Update. The DEIR asserts its analysis “addresses consistency with the SB 32 targets and the 2017 Scoping Plan Update with an assessment of the project’s reduction from BAU based on emissions in 2030 compared with the 21.7 percent reduction.” *See* DEIR at 3.8-32.

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However, as the EIR itself notes, this 21.7 percent BAU threshold was created years before SB 32 and the 2017 and 2022 Scoping Plan Update and was intended solely to update the State’s pathway for achieving its 2020 goal in light of the expected reduction in growth and development caused by the “Great Recession.” (DEIR at 3.8-13).

¹⁶ City of Tracy, *Draft Environmental Impact Report: Tracy Costco Depot Annex Project* (September 2022), <https://www.cityoftracy.org/home/showpublisheddocument/13855/637989204233470000>

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As delineated in SB 32 and the 2017 Scoping Plan Update, the State’s goal for 2030 is to reduce GHG emissions to *40 percent below* 1990 levels. *See* DEIR at 3.8-14. Neither CARB, nor the Air District, nor any other entity, have quantified a BAU threshold needed to ensure the State achieves its 2030 target. The Bay Area Air Quality Management District is in the process of updating its GHG-related thresholds to capture the State’s 2030 and 2045 targets, but has not yet completed this process.¹⁷ This 21.7 percent BAU threshold *in no way* encompasses the State’s more aggressive 2030 goal.

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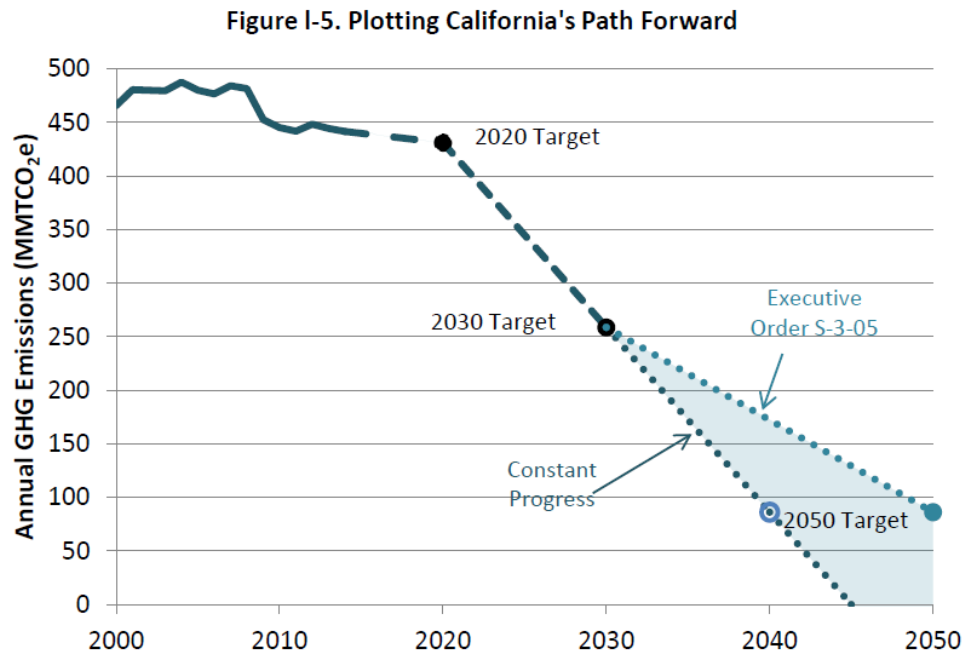
Nor does the EIR’s conclusion the Project’s actual 2030 emissions achieve a greater than 40% reduction from BAU levels. *See* DEIR at 3.8-45. A 40% reduction from 2005 BAU levels is not synonymous with reducing Statewide GHGs to 40% below 1990 levels. Otherwise, the 29% BAU threshold would have ensured the State reduced GHGs 29% below 1990 levels, which is clearly not the case. Indeed, since a 29% reduction in BAU levels was needed to simply achieve 1990 levels, then significantly more than a 40% reduction in BAU levels is likely needed to achieve reductions of 40% below 1990

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¹⁷ Bay Area Air Quality Management District, *CEQA Thresholds and Guidelines Update*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>.

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levels. The following chart that quantifies and maps California’s path to decarbonization is illustrative. See DEIR at 3.8-48.



As is evident from the chart, to achieve the 2020 target, the State solely needed to reduce its annual GHG emissions by about 20 MMTCo₂e from 2009 levels—the year in which the Scoping Plan and Air District Guidance were published. However, achieving the 2030 target will require a reduction of approximately 200 MMTCo₂e from 2020 levels. Significantly more emissions reduction are necessary to achieve the 2030 target than the 2020 target. A simple 11% increase in required reductions from BAU levels is wholly insufficient to ensure the Project does not interfere with the State’s 2030 target, given the substantial reductions needed to meet both the 2030 and 2050 targets. Indeed, that that the Project barely achieves a greater than 40% reduction from BAU levels in 2030, and achieves less for the years 2023, 2024, and 2025, indicates its impacts are significant.

At any rate, this warehouse will operate for decades after 2030. Thus, even if the EIR accurately reflects the goals delineated in SB 32 and the 2017 Scoping Plan Update (it does not), the EIR would still be insufficient. Given the warehouse’s long life-span, the Statewide GHG goal of carbon neutrality by 2045, as announced by Governor Brown in Executive Order 55-18, and codified in legislation by Governor Newsom in 2022, is entirely relevant. Tellingly, the EIR does not even mention this goal, let alone quantify

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the Project's 2045 emissions and analyze whether the Project will interfere with the target, as *Newhall Ranch* requires.¹⁸

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The EIR also fails to provide substantial evidence justifying its use of the Statewide 29 and 21.7 percent BAU thresholds and concluding that impacts are less than significant for this specific warehouse development, which will replace climate-friendly agriculture in the now warehouse-laden San Joaquin Valley. The EIR entirely ignores the significant changes that have occurred in the San Joaquin Valley since 2009, the year the first Scoping Plan and the San Joaquin Valley Air District's recommended GHG thresholds were published. Warehouse development has exploded in San Joaquin Valley, and the State, in the past fifteen years.¹⁹ Warehouses generate enormous amounts of GHG emissions due to the large numbers of diesel-fueled truck trips typically used to make deliveries to warehouses.²⁰ Crucially, this particular warehouse development will replace climate-friendly agriculture, particularly alfalfa, that can contribute to net neutrality by removing GHGs from the atmosphere.²¹

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The DEIR takes the position that "substantial evidence needed to support a project BAU threshold can be derived from data used to develop the Scoping Plan inventory and control strategy and from analysis conducted by the ARB to track progress in achieving the AB 32 2020 target." See DEIR at 3.8-33. However, in *Golden Door Properties, LLC*

¹⁸ There is no excuse for failing to consider the Project's hinderance on meeting the State's 2045 carbon neutral goal, given that the Executive Order was made in 2018. At the very least the DEIR should have been revised and recirculated when AB 1279 was signed and when CARB approved its related 2022 Scoping Plan. This new information shows that the Project's GHG impacts will be significant under both thresholds. Moreover, the Draft EIR was fundamentally inadequate for failing to include a discussion of the State's 2045 net neutrality goal.

¹⁹ See California Attorney General Xavier Becerra, *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>; New York Times, *Warehouses Are Headed to the Central Valley, Too* (Jul. 22, 2020), available at <https://www.nytimes.com/2020/07/22/us/coronavirus-ca-warehouse-workers.html>.

²⁰ Becerra, *Warehouse Best Practices*.

²¹ See Farm & Ranch Guide, *Alfalfa "Fabulous" in Removing Carbon Dioxide from Atmosphere*, <https://www.ars.usda.gov/ARSUserFiles/38020/Alfalfa.pdf>; The Alfalfa Project, *Does Alfalfa Sequester Carbon?*, <https://thealfalfaproject.com/alfalfa-blog/2017/11/2/does-alfalfa-sequester-carbon>.

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v. County of San Diego (2018), the Court held a similar efficiency metric was unsupported by substantial evidence *precisely* because it “relie[d] on statewide service population and GHG inventory data” and did “not address the County specifically.” 27 Cal.App.5th 892, 904-05. The EIR made absolutely no effort to determine whether this “data” accurately reflects the explosion in warehouse development in the San Joaquin Valley, which has historically been an agricultural-intensive region. Given the warehouse boom has occurred recently and rapidly, the decades-old “data” referenced in the EIR likely failed to encompass this massive change, and the GHG emission implications from it. Moreover, the CARB 2022 Scoping Plan (page 108) found that the SB 32 2030 target must be increased to meet the state’s 2045 net neutrality goals.

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The DEIR’s core justification for its use of the Statewide BAU threshold is that the California Supreme Court’s concern that new development may need to do more than existing development to reduce GHGs is unfounded. *See* DEIR at 3.8-33. According to the DEIR “[t]he State’s regulatory program is able to target both new and existing development because the two most important strategies, motor vehicle fuel efficiency and emissions from electricity generation, obtain reductions equally from existing sources and new sources.” *See* DEIR at 3.8-34. As the DEIR notes, the State’s transportation and electricity sectors are by far the leading causes of GHG emissions in the State. The DEIR’s argument is unavailing for multiple reasons.

First, the DEIR misrepresents the holding in *Newhall Ranch*. The California Supreme Court did not hold that the *only* reason use of a Statewide BAU threshold may be inappropriate for an individual project is that new projects may need to do more than existing projects to ensure the State meets its goals. Instead, the Court merely cites this as “one ready reason to suspect that the [Statewide] percent reduction is *not* the same.” *Newhall Ranch*, 62 Cal.4th at 226. Another great reason why use of the Statewide threshold should not be used is if the project at issue is of a type whose development was unanticipated when the threshold was created. Comparing the actual emissions of a type of project to the emissions the project would have generated under a regulatory framework that was not tailored in any way to address that type of project will likely always result in finding those projects have an insignificant GHG impact. Thus, comparing the Project’s actual emissions to the emissions it would have generated under the 2005 regulatory framework cannot provide substantial evidence the Project’s GHG impacts are insignificant.

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Second, the Court’s stated reason for why use of the Statewide threshold may be inappropriate for individual projects applies with full force here. The Court’s held that new projects may need to do more than existing projects because “[d]esigning new building and infrastructure for maximum energy efficiency and renewable energy use is

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likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems.” *Newhall Ranch*, 62 Cal.4th at 226. Designing new warehouses to incorporate climate-friendly components like photovoltaic solar panels, alternatives to reliance on natural gas and electric vehicle charging infrastructure is much easier than attempting to retroactively require older warehouses to implement such measures. Given this relative ease of implementation, and the serious need to reduce GHG emissions associated with warehouses, new warehouses do, in fact, need to do more than existing warehouses to ensure the State achieves its goals. Thus, even under the DEIR’s inaccurate reading of the *Newhall Ranch* holding, the DEIR has failed to provide substantial evidence demonstrating the Statewide threshold is appropriate for this Project.

The DEIR nonetheless argues that new projects, in general, do not need to do more than existing projects, because the State’s “two most important strategies” for GHG reduction, fuel efficiency and decarbonization of the electricity sector, apply equally to new and existing projects. This argument fails because it does not differentiate warehouses from any other types of projects. Under the DEIR’s logic, the Statewide BAU threshold would be appropriate for *any* project, regardless of its particular characteristics, simply because the State’s fuel efficiency and electricity generation standards apply equally to new and existing development. However, in *Golden Door*, the Court took issue with the metric used by the County because it “allow[ed] the threshold to be applied evenly to most project types” and “d[id] not account for variations between different types of development.” 27 Cal.App.5th at 905. This Project exemplifies this flawed logic. Projects that generate substantial emissions from diesel-fueled trucks, such as warehouses, cannot be lumped in with projects that do not generate diesel-fueled trips, simply because the State’s fuel efficiency standards apply to all vehicles.

Given the explosion of warehouse development, with much of it occurring on agricultural lands, since the creation of the threshold used in the EIR, a 29 percent reduction from BAU is not sufficient to ensure this Project will not create a cumulatively considerable GHG impact. The DEIR must utilize a no net increase significance threshold to ensure this Project will not interfere with the State’s aggressive 2030 goal and its 2045 goal of carbon neutrality. Under this threshold, the Project’s impacts are significant, and must be mitigated with comprehensive measures.

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C. The FEIR Lacks Crucial Analysis of the Project’s Consistency with the State’s Aggressive GHG Reduction Goals and the Project Conflicts with those Plans and Policies.

The EIR concludes that Impact GHG-2, Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing GHG emissions, is less than significant. The DEIR’s qualitative analysis purports to consider the Project’s consistency with the State’s plans, policies and regulations adopted “for the purpose of reducing the emissions of greenhouse gases.” *See* DEIR at 3.8-46. However, the DEIR’s analysis consists of simply listing *some* of the State’s applicable GHG reduction goals, explaining the State’s general regulatory framework, and asserting in a wholly conclusory manner that this regulatory framework will ensure the State meets its various goals. Whether the GHG-intensive nature of this Project will interfere with the State meeting its goal is ignored. Under the logic of the DEIR and FEIR, no Project would ever have a significant GHG impacts. CARB, moreover, has emphasized that its Scoping Plans makes clear “that in CARB’s expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.” Exhibit I at 1 fn 1 (CARB scoping letter on similar warehouse project); *see also* CARB, 2022 Scoping Plan for Achieving Carbon Neutrality at 35. The EIR’s failure to adopt feasible measures to reduce GHG emissions demonstrates that it is not consistent with State plans. *See e.g.*, 2022 Scoping Plan at 110 (deployment of renewable energy and transitioning to electrification is a key component of meeting the state’s goals).

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The DEIR’s omission of two crucial analyses related to the State’s long-term goals is particularly concerning. First, as discussed above, the DEIR entirely omits any analysis of the Project’s consistency with Executive Order 55-0-18 and AB 1279, which set a goal of carbon neutrality for 2045. Similarly, the EIR fails to explain how the Project is consistent with the 2022 CARB Scoping Plan, which is the State’s roadmap to address climate change and cut greenhouse gas emissions by 85% to achieve carbon neutrality in 2045 as required by AB 1279. *See* <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf> and <https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf>. The 2045 goal of carbon neutrality is the most relevant goal here, given the long life-span of the Project and the fact these are the most recently announced Statewide GHG reduction goals. The DEIR’s and FEIR’s failure to analyze the Project’s consistency with this 2045 goal, alone, violates CEQA.

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Second, the DEIR notes that Executive Order S-3-05 set a goal for 2050 of reducing GHGs 80% below 1990 levels, but asserts “at this time it is not possible to quantify the emissions savings from future regulatory measures, as they have not yet been developed.” *See* DEIR at 3.8-51. Nevertheless, the DEIR still concludes that the Project

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“would further” this goal because “it can be anticipated that operation of the project would be required to comply with whatever measures are enacted that State lawmakers decide would lead to an 80 percent reduction.” See DEIR at 3.8-51, 3.8-52. However, the California Supreme Court has explicitly rejected previous attempts to defer analysis by “simply stating information will be provided in the future.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 440-41; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 398-99 (“that precision may not be possible ... does not mean that no analysis is required .. an agency must use its best efforts to find out and disclose all that it reasonably can”).

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Here, the DEIR and FEIR have identified information relevant to determining whether this Project will conflict with the 2050 goal. For example, the DEIR cited studies showing that “aggressive pursuit of technologies in the transportation and energy sectors, including electrification and the decarbonization of fuel, will be required” to meet the 2050 goal. See DEIR at 3.8-47. The DEIR also noted that achieving the State’s GHG goals may be inhibited by “new trends ... such as the increasing importance of web-based shopping... and the increasing effect of web-based applications on transportation choices.” See DEIR at 3.8-49. This Project, a large warehouse development in the Central Valley, is a prime example of the intersection of the increase in warehouse-centered transportation and the need for significant electrification to ensure such transportation does not inhibit the State’s goals. Based on this information alone, there is a possibility the Project will interfere with the State’s achievement of the 2050 goal, absent comprehensive mitigation measures. The City may not simply assert the Project’s impacts are insignificant because the state Legislature *may* enact stringent measures sometime *in the future*. The Project’s impacts must be analyzed, and mitigated for, now. The failure of the DEIR and FEIR to include any such analysis therefore violates CEQA.

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D. The EIR Analysis Underestimated VMT from Warehouse Vehicle Trips.

As described in a previous section of this letter, the FEIR air quality analysis used CalEEMod default parameters for trip length, trip type, and trip percentage to estimate the project’s VMT. According to page 3-44 of the FEIR, the CalEEMod default travel distance of 11.35 miles per trip, on average, was used to estimate emissions from both passenger vehicle and truck trips. However, truck and vehicle trips associated with this particular Project could well exceed those lengths, as described in the Baseline letter. In addition, based on the proposed use of the warehouses, it would be reasonable to assume that 100 percent of the passenger vehicle trips will be worker commute trips at an average distance of 14.7 miles (instead of the 11.35 miles) and all other work-related trips would

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be generated by the warehouse trucks. Therefore, potential emissions are severely underestimated.

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As discussed above, the EIR did not provide substantial evidence to justify the assumptions used (trip distance, in particular) to calculate total VMT generated by the project and it omitted analysis of potential trips. As a result, the EIR's conclusion that impacts would be Less Than Significant is dubious and unsupported.

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IV. The EIR Fails to Properly Analyze Energy Impacts.

The EIR's conclusion that the Project would be consistent with climate change plans and policies, and therefore would have less than significant climate change impacts, is not supported by substantial evidence. The DEIR traffic analysis states that this project will generate approximately 3,205 new daily passenger vehicle trips and 1,510 daily truck trips. Transportation is one of the biggest emitters of GHGs at 27% of total U.S. emissions by economic sector.²² Yet, because of the faulty GHG emissions analysis, insufficient acknowledgement of the Project's contributions to achieving carbon neutrality, and the incorrect conclusion that the Project's GHG emissions are Less Than Significant, the EIR adopts no mitigation measures to reduce GHG emissions from truck and vehicle trips. The EIR contains mitigation measures aimed at achieving a minimum of energy efficiency, but not nearly the potential that could be achieved through a commitment to PV installation and a greater focus on electrification. Without appropriate mitigation, the Project will continue to be served by diesel trucks and gasoline-powered cars, potentially for decades to come. As noted in the Air Quality section of this letter, there are numerous feasible mitigation measures that could improve the project's energy efficiency and reduce the Project's climate change impacts that should be implemented into this EIR.

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This refusal to identify or require any mitigation for these impacts also undermines the EIR's conclusion that the Project will have less than significant energy impacts. A project will have significant energy impacts if the Project will:

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²² US Environmental Protection Agency's Sources of Greenhouse Gas Emissions: <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#:~:text=The%20primary%20sources%20of%20greenhouse,share%20of%20greenhouse%20gas%20emissions.>

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- a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

Because the project includes basic energy efficiency measures and doesn't incorporate renewable energy production on site despite ample opportunity to do so, it cannot be assumed that the project's energy impacts would be less than significant. In fact, *League to Save Lake Tahoe et al. v. County of Placer* (2022) 75 Cal.App.5th 63, 167-68 held that that project's energy analysis was deficient because the EIR failed to analyze the project's potential use of renewable energy. The requirement to analyze renewable energy is thus a procedural requirement of CEQA.

The Tracy Alliance Project will use approximately 446,864 gallons of diesel fuel by construction equipment and approximately 155,123 gallon of gasoline and diesel fuel for employee vehicle travel over the duration of construction. *See* DEIR at 3.6-23. Furthermore, once operational, the Project will utilize 805,478 gallons of gasoline and diesel fuel per year. The Project will use 16,056,160 kWh of electricity per year, in ongoing operations, which is enough electricity to power more than 2,200 average California homes annually²³. The project would also use approximately 21,072,650 kBTU of natural gas per year. *See* DEIR at 3.6-23.

By failing to analyze the project's ability to generate renewable energy through use of solar photovoltaics, the EIR is also failing to assess whether the energy needs of the project could be served by electricity generated on site and either eliminate or reduce the need for electricity from the grid, as well as reduce or eliminate the use of natural gas usage on site. The reduction of natural gas usage at the project site would reduce greenhouse gas emissions by eliminating/reducing gas combustion. Yet the EIR concludes that the Project's operational energy use would not be wasteful because "[t]he design of the proposed project would facilitate the future commitment to renewable energy resources. Therefore, building energy consumption would not be considered wasteful, inefficient, or unnecessary." *See* EIR at 3.6-24. Without considering the potential for generating energy onsite *at the beginning of operations* (as opposed to some point in the future that may or may not materialize) and the reduced need for energy from the grid and reduction or elimination of the need for natural gas, there is absolutely no

²³ U.S. Energy Information Administration:
https://www.eia.gov/consumption/residential/reports/2009/state_briefs/pdf/ca.pdf

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support for the EIR’s conclusion that operational energy use is not wasteful and would have less than significant impacts. The attachments to this letter indicate that it is entirely feasible for warehouse projects such as this to serve all or nearly all of the project’s electricity needs with solar PV panels, rather than electricity from the grid.

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With respect to transportation, the project could be designed to provide ample electric vehicle (EV) charging stations for cars, on-site vehicles and equipment, as well as for heavy-duty trucks to support a rapid accommodation of EVs. The EIR does not evaluate these feasible efforts, contrary to CEQA.

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In short, CEQA requires more when it comes to analyzing a project’s energy impacts and identifying mitigation measures that would support a “less-than-significant” conclusion. Here, the Project would clearly use enormous amounts of energy, and there are numerous feasible mitigation measures referenced earlier in this letter and included as Appendices C through G that could make the Project more energy-efficient.

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V. The Project Does Not Comply with the Tracy General Plan

The Project is inconsistent with numerous General Plan policies related to air quality and GHG emissions, including the following:

AQ-1.2-P3 (“Developers shall implement best management practices to reduce air pollutant emissions associated with the construction and operation of development projects.”). The Final EIR at 4-14 states that the proposed project would be required to implement to reduce air pollutant emissions to the extent feasible. As illustrated in this letter, additional mitigation measures are required in order to accurately suggest that best practices are being followed and implemented. Until such time, the Project remains inconsistent with this policy.

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AQ-1.2-P6 (“Installation of solar voltaic panels on new homes and businesses shall be encouraged.”) The developer has opted to comply with the City’s minimum requirement to design the buildings to structurally accommodate future installation of a rooftop solar system, but is not taking the logical step of installing the panels as noted in the policy. Therefore, the project remains inconsistent with the policy.

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AQ-1.2-P12 (“New sources of toxic air pollutants shall prepare a Health Risk Assessment as required under the Air Toxics “Hot Spots” Act and based on the results of the Assessment, establish appropriate land use buffer zones around those areas posing substantial health risks.”). MM AIR-1h does not specify what an appropriate buffer distance would be or identify what type/amount of vegetation would be sufficient to

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mitigate the impacts of the toxic air contaminants generated by the project on nearby sensitive receptors. Until such time that is done, the Project remains inconsistent with this policy.

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AQ-1.2-P14 (“Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented.”). As identified previously, there remain dozens of additional feasible mitigation measures that could be implemented in order to further reduce the air quality and GHG emissions impacts of the Project. Until such time all feasible additional measures are considered, the Project remains inconsistent with this policy.

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AQ-1.4-P3. (“The City shall be proactive in reducing greenhouse gas emissions from City operations as well as new or renovated development.”).

The EIR fails to demonstrate the Project’s consistency with these policies, and such inconsistencies mean the City cannot, legally, approve the Project. State Planning and Zoning Law (Gov’t Code § 65000 et seq.) requires that development decisions be consistent with the jurisdiction’s general plan. See Gov’t Code §§ 65860 (requiring consistency of zoning to general plan), 66473.5 & 66474 (requiring consistency of subdivision maps to general plan), and 65359 and 65454 (requiring consistency of specific plan and other development plan and amendments thereto to general plan). Thus, “[u]nder state law, the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806. Accordingly, “[t]he consistency doctrine [is] the linchpin of California’s land use and development laws; it is the principle which infuses the concept of planned growth with the force of law.” *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336.

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It is an abuse of discretion to approve a project that “frustrate[s] the General Plan’s goals and policies.” *Napa Citizens for Honest Gov’t v. Napa County* (2001) 91 Cal.App.4th 342, 379. The project need not present an “outright conflict” with a general plan provision to be considered inconsistent; the determining question is instead whether the project “is compatible with and will not frustrate the General Plan’s goals and policies.” *Napa Citizens*, 91 Cal.App.4th at 379. Here, the proposed Project does more than just frustrate the General Plan’s goals. It is directly inconsistent with numerous policies in the General Plan. Consequently, the Project cannot be approved in its current form. Conflict with General Plan policies also presents an environmental impact requiring further CEQA analysis in that the Project does indeed cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation

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adopted for the purpose of avoiding or mitigating an environmental effect (CEQA Guidelines Appendix G “Land Use and Planning” section).

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CONT

VI. Conclusion

As set forth above, the EIR does not satisfy CEQA’s basic requirements. At a fundamental level, it fails to provide an adequate and complete analysis of Project impacts and feasible mitigation measures. For these reasons, the Sierra Club Delta-Sierra Group respectfully requests that the City deny the Tracy Alliance project as proposed. Furthermore, we’d like to reiterate the request that the City of Tracy consider the bigger questions of how much more warehouse development the City and its residents should really be subjected to, and urges the City Council to explore this issue in a more comprehensive fashion.

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Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Heather M. Minner

Exhibits:

- A. Current and Proposed industrial/warehouse development along the I-205 corridor (Tracy/Manteca/Lathrop) dated October 18, 2022.
- B. Sutton, Patrick and Yilin Tian, Air Quality Specialists, Baseline Environmental Consulting. April 10, 2023.
- C. World Logistics Center Settlement Agreement.
- D. CenterPoint Properties Warehouse Project Conditions of Approval. May 2022.
- E. Mariposa Industrial Park Project Mitigation Monitoring and Reporting Program. December 2022.
- F. Mariposa Industrial Park Project Development Agreement.
- G. City of Fontana Ordinance 1891, mandatory measures for warehouse/fulfillment center projects.
- H. Bonta, Rob, Attorney General of California and City of Stockton, *Memorandum of Agreement*. December 2022
- I. California Air Resources Board (CARB), *Comment letter on the Notice of Preparation (NOP) for the Pepper 210 Commerce Center Project DEIR*. February 20, 2023.

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cc: Sierra Club, Delta-Sierra Group of the Motherlode Chapter
Tracy City Manager Michael Rogers (via email)
Tracy City Clerk Adrienne Richardson (via email)

Shute, Mihaly, and Weinberger LLP (SHUTE)

Response to SHUTE-1

The commenter provides introductory statements as well as a general statement of opposition to the proposed project, and also requests that the City pause on approving any new warehouse projects.

This comment is noted and acknowledged. Because it does not raise any specific project-related environmental issues under CEQA, no further response is required.

Furthermore, to the extent the commenter opines on the merits of the proposed project, this is not subject to CEQA. However, the commenter's opinion and/or generalized concerns about the merits of the proposed project as well as other new warehouse projects more generally are hereby noted in this Final EIR for informational purposes and will be provided to the City decision-makers for consideration. No further response is required.

For informational purposes, the following is noted. As discussed in Master Response 1, the City adopted the NEI Specific Plan to implement a balanced growth strategy consistent with the long-term land use vision for the City and its planning area. The NEI Specific Plan directs growth as envisioned by the City in an efficient and cost-effective manner, and balances appropriate land uses with well-planned supporting infrastructure. The NEI Specific Plan is intended to improve the jobs/housing balance by encouraging the development of industrial, retail, and service-related employment opportunities in proximity to existing freeway interchanges, while taking appropriate land use compatibility considerations into account.

As part of the NEI Specific Plan, the northeastern sector of the City has been identified for industrial growth. With direct access to Interstate 205 (I-205) and rail transportation, the NEI Specific Plan area is ideally situated to attract and support business without the need for major infrastructure expenditures, and appropriately directs industrial uses to be sited in proximity to other similar uses and at a safe and reasonable distance from sensitive receptors. This enables the City to facilitate goals of economic development and employment generation, while also helping to ensure the availability of lands in other locations in the City (and its SOI) for non-industrial uses; this encourages an appropriately diverse and balanced approach to land use consistent with the City's General Plan.

The NEI Specific Plan area is intended for high-quality industrial and commercial sites that would attract businesses to the City. It provides a flexible phasing program that allows market forces to dictate reasonable growth increments, while ensuring that agricultural properties remain devoted to agricultural uses until ready to develop. The proposed project is immediately adjacent to the NEI Specific Plan area, which boundary runs along Paradise Road and Grant Line Road. It is consistent with its existing City of Tracy General Plan land use designation of Industrial; this reflects the long-planned urban development vision for the project site, which contemplates a variety of light industrial uses including warehousing and distribution. The project site would be annexed into the NEI Specific Plan area, representing a logical expansion of the NEI Specific Plan vision. The proposed project has been designed to incorporate applicable NEI development standards and design guidelines; accordingly, the proposed project would be consistent with the urban, industrial character of the NEI Specific Plan area.

See also Response to SIERRA 1-11.

Response to SHUTE-2

The commenter describes the proposed project objectives, design, and background information such as anticipated approvals as well as other warehouse development in the area in the City of Tracy as well as the broader San Joaquin Valley. The commenter states that the City should not approve the proposed project, because the cumulative health risk impacts from this project and other similar projects would primarily impact the Banta community, which it states is “currently more burdened than 72 percent of California’s census tracts in terms of air- and waterborne pollutants.” The commenter requests the City to adopt a warehouse ordinance that would set requirements for all warehouse-type development, including the proposed project. The commenter asserts that the Tracy Alliance EIR does not fully analyze the project-related effects on air quality, GHG emissions, and public health, and fails to identify or adopt adequate mitigation measures to reduce the proposed project’s significant impacts (including a failure to conduct an HRA for later phases of the proposed project), and therefore requests that the Draft EIR be recirculated.

To the extent the comment makes general statements about the City’s discretion to consider approval of the proposed project as well as the request for a Citywide warehouse ordinance, and raises policy considerations about approval of new warehouse development in Tracy and the broader San Joaquin Valley generally, these are not within CEQA's purview. These comments are hereby noted in this Final EIR for informational purposes and will be forwarded to City decision-makers for consideration as part of the public hearing process on the project; no further response is required. See also Responses to SIERRA 1-11 and SIERRA 2-3. Regarding the commenter’s statements about the scope of analysis, as described in Response to SIERRA-1-3 and otherwise in this Final EIR (including, without limitation, multiple Responses to San Joaquin Valley Air Pollution Control District [Valley Air District-2] and multiple Responses to GSEJA) as well as the updated Errata, the Draft EIR for the proposed project robustly evaluated all potential air quality and GHG emissions impacts and identified feasible mitigation where necessary. Specifically with respect to potential health risks, the proposed project’s potential to expose sensitive receptors to elevated concentrations of TACs was fully analyzed pursuant to applicable CEQA requirements and feasible mitigation was identified under Impact AIR-3 in the Draft EIR. See also Response to SIERRA-1-4 through SIERRA-1-6, for more details addressing the adequacy of the air quality analysis prepared for the proposed project and related mitigation. The Draft EIR and Final EIR for the proposed project (1) appropriately considered mandated compliance with a robust regulatory framework (including, without limitation, citing relevant General Plan policies as well as guidance from ARB and the Valley Air District) and set forth a thoughtful consistency analysis related thereto; (2) fully disclosed all significant impacts; (3) identified all feasible mitigation measures to mitigate, avoid or reduce the identified significant impacts; and (4) included a summary of all such measures that will be incorporated into a MMRP that will be adopted by the City Council in connection with its certification of the Draft EIR and thereafter imposed on the proposed project as enforceable conditions of approval.

With respect to the health risk impacts, as detailed in the Draft EIR and Response to SHUTE-7, the analysis fully considered and disclosed the health risk impacts associated with all phases of the proposed project. See Response to GSEJA-3 for additional information as to how the health risk

impacts were evaluated and disclosed with respect to each phase of the proposed project, as well as information regarding Environmental Justice considerations.

See Responses to Valley Air District 2 and multiple Responses herein regarding the numerous mitigation measures as well as other enforceable conditions of approval that would be imposed on or otherwise incorporated into the proposed project to reduce health risk and other air quality impacts to the extent feasible. For example, MM AIR-1h imposes a requirement to install vegetative buffers, the specifics of which would be selected by the City. For example, text in MM AIR-1h states, “Examples of vegetative buffers may include, but are not limited to, trees, bushes, shrubs, or a mix thereof.” The commenter’s assertion that high walls or berms would be more appropriate is not accurate because they do not provide substantial evidence explaining how a high wall or berm would be categorically different from a vegetative buffer. A vegetative buffer would achieve the same purpose as a berm or high wall by preventing direct exposure of sensitive receptors to air pollutants. Therefore, as discussed more fully throughout this Final EIR, MM AIR-1h would appropriately and feasibly address the concern related to the proposed project’s potential to locate sources of TACs near sensitive receptors.

In addition, the use of heavy-duty trucks meeting a 2013 low-NO_x standard during project operations, as required by MM AIR-1d, would significantly reduce NO_x and health risk impacts related to TACs, which the commenter identified as a concern. Furthermore, the requirements in MM AIR-1i would ensure the proposed project includes EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2 in all parking areas during operation, which would allow for any future electric trucks or vehicles to charge on-site. See Response to SHUTE-6 for information that explains the basis for the City’s determination that requiring a fully zero-emission truck fleet to be utilized during project operations is not feasible.

Response to SHUTE-3

The commenter states background information about the importance of considering the regional air quality basin and identifies existing sources (such as industrial uses as well as on- and off-road mobile sources) and other factors (such as the mountains surrounding the San Joaquin Valley Air Basin) that contribute to air quality effects. The commenter also notes that the Air Basin is in nonattainment for several standards, and provides examples of how air pollution can trigger or contribute to health problems. The commenter notes that heavy-duty truck operation and the use of diesel-powered generators are sources of air pollution and TACs, and claims that the Draft EIR did not clearly quantify in the emissions calculations the amount of diesel generators to be used at the project site. The commenter also asserts that the Draft EIR failed to disclose that truck refrigeration units (TRUs) or cold storage uses could be included in the proposed project and goes on to state that sources of air pollutants associated with TRUs and cold storage uses were not analyzed in the Draft EIR. The commenter restates the the Draft EIR did not adequately disclose or analyze the proposed project’s air quality impacts or provide feasible mitigation measures to address the foregoing concerns. The commenter refers to a technical analysis that accompanied its comment letter (Baseline analysis) that purports to describe flaws in the Draft EIR’s analysis, such as unsubstantiated and incomplete calculations for evaluating emissions during project operations.

As described in the Project Description of the Draft EIR and Response to GSEJA-31, the proposed project would not include cold storage or the use of TRUs. Moreover, while not required under CEQA, the City has agreed to impose, and the project applicants have agreed to accept an enforceable condition of approval that would prohibit cold storage uses as well as the use of TRUs unless further CEQA review was conducted. (See updated MMRP.) See also Response to SHUTE-5.

As described in the Project Description of the Draft EIR, no diesel generators would be used during operations because the proposed project would connect to electrical power lines and would purchase power from the local energy provider. As such, the air quality analysis prepared for the proposed project as set forth in the Draft EIR did not improperly omit this source in the analysis. See also Response to SHUTE-4.

As described in Responses to AENV-15, SHUTE-5, and other multiple Responses herein, and detailed more fully in Section 3.4 Air Quality of the Draft EIR and as otherwise noted in this Final EIR, many of the mitigation measures the commenter is requesting be imposed would be implemented by the proposed project. In addition to the mitigation measures described in the Draft EIR, the City has agreed to adopt, and the project applicants have agreed to implement, additional mitigation measures and other enforceable conditions of approval that would further reduce emissions in this regard. See MMs AIR-1e, AIR-1f, AIR-1g, AIR-1h, and AIR-1i as well as COAs Nos. 1 through 10 (see updated MMRP). No revisions to the Draft EIR are required.

Response to SHUTE -4

The commenter states that the Draft EIR did not adequately analyze the emissions from diesel generators during operations, and that the HRA prepared for the proposed project is therefore inadequate.

See Response to SHUTE-3. Based on currently available information, it is not anticipated that the proposed project would use diesel generators during operation, and instead as described in Section 3.6 Energy of the Draft EIR, the proposed project would be served electricity by a local provider. Because the proposed project does not contemplate the use of diesel-powered generators during operations, it would be speculative to assume otherwise. Instead, the Draft EIR properly identified another power source, and fully evaluated the potential air quality impacts related thereto as required under CEQA. No further response is necessary.

For informational purposes, the following is noted. To the extent this decision changes in the future, prior to use during project operations, the relevant project applicant would be required to acquire the necessary permits from the Valley Air District and operate the generators according to their specifications, standards and other mandates pursuant to a comprehensive regulatory framework. In the event that a permitted source is included at a later date, the Valley Air District would evaluate potential health risk impacts as part of the permitting process and would require the use of best available technology to reduce environmental exposure to the extent feasible. Moreover, while not required under CEQA, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval that would prohibit the use of diesel-powered generators during operations unless further CEQA review is conducted at the time of the request. (See updated MMRP.)

Response to SHUTE-5

The commenter states that the potential for cold storage and the use of TRUs was not analyzed in the Draft EIR and there should be a mitigation measure or condition of approval prohibiting cold storage and the use of TRUs during operation.

See Response to SHUTE-3. The proposed project would not include cold storage uses or the use of TRUs given the relatively limited market for these types of uses (which already exist primarily in other less expensive areas such as Modesto and Stockton). Because the proposed project does not contemplate cold storage uses or the use of TRUs, the Draft EIR was not required to evaluate the impacts of these uses and to do so would have been speculative. Moreover, CEQA does not require the incorporation of mitigation to prohibit uses not contemplated or reasonably foreseeable to occur. Nevertheless, while not required by CEQA, the City is willing to impose, and the applicants are willing to accept the incorporation of an enforceable condition of approval that prohibits cold storage and the use of TRUs during project operations unless further CEQA review is conducted at the time of the request.

Response to SHUTE-6

The commenter states that the unmitigated NO_x emissions from heavy-duty trucks would be 75 percent lower due to standards in place in 2010 and MM AIR-1d in the Draft EIR would not actually reduce NO_x emissions from heavy-duty trucks by 90 percent, and thus the Draft EIR overestimates the degree of mitigation that would occur. The commenter states that MM AIR-1d should be modified to reflect accurate reductions. The commenter also states that MM AIR-1d should be modified to require the use of heavy-duty trucks equipped with 2014 or later model engine years when using trucks that meet Low NO_x standards is not immediately feasible, and, further, that CEQA requires mitigation that mandates use of zero-emission trucks as they become available as well as mitigation that would reduce emissions from light and medium-duty vehicles.

As explained in detail in the Draft EIR, including in Section 3.3 Air Quality, page 3.3-41, the reduction in NO_x emissions from MM AIR-1d is based on CalEEMod modeling results; contrary to the commenter's assertion, a basic 90 percent reduction in unmitigated NO_x emissions was not applied to determine the mitigated operational NO_x emissions. The FEIR states that MM AIR-1d would require the use of a HHD truck fleet that meets the 2013 Optional Low-NO_x Standard of 0.02 gram of NO_x per brake horsepower-hour, which would represent an approximately 90 percent reduction in NO_x emissions from the current heavy-duty truck NO_x standard of 0.2 gram of NO_x per brake horsepower-hour. As a result, the analysis is simply stating that MM AIR-1d would be more stringent than current regulations. The FEIR does not quantify the reductions that could occur from the implementation of MM AIR-1d.

As explained and expressly noted as a footnote in the Draft EIR, the ARB Heavy-Duty Low NO_x web page (<https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox/about>) details that in 2013 California, "...established optional low-NO_x standards with the most aggressive being 0.02 g/bhp-hr, which is 90 percent below the current standard." The optional NO_x standards were developed to pave the way for mandatory standards by encouraging manufacturers to develop and certify low NO_x engines and incentivizing the purchase of certified low NO_x engines." As the ARB explains, "In its public hearing of August 27, 2020, CARB staff proposed, and the Board approved for adoption the

Omnibus regulation, which established stringent NO_x engine emission standards that are 90 percent below current levels on existing certification cycles and lower NO_x standards on new certification cycles to control emissions over a broader range of vehicle operation, including idling, low load, and highway operation. In addition, the above-referenced regulation revised the heavy-duty in-use testing program to make it more effective in ensuring compliance with the in-use emission standards over a broader range of vehicle operation and lengthened the useful life and emissions warranty period requirements to reflect the longevity of heavy-duty vehicles. The regulation was approved by the Office of Administrative Law on December 22, 2021, with an effective date of December 22, 2021.” Therefore, contrary to the commenter’s suggestion, the assumptions utilized in the modeling were correct and the Draft EIR does not overstate the effects of MM AIR-1d. Additionally, the ARB last updated this standard in 2020, whereas the NOP for the Draft EIR was published in August 2020. As a result, the Draft EIR was prepared according to the most recent information and regulations at the time of publication.

The commenter requests that the City impose an obligation to use zero-emission heavy-duty trucks during operation. Such a measure is not feasible; among other reasons, neither the project applicants nor the City could effectively impose, implement and enforce such an obligation for the life of the proposed project, given the current very significant cost and lack of widespread availability of such vehicles and the fact that the project applicants would not own the truck fleets. Instead, it is reasonable to conclude that project operations, including the truck fleets utilized by project operators, would adhere to the State of California’s comprehensive regulatory framework, including applicable NO_x standards for vehicles. The ARB, as the expert State agency that is charged to promote and protect public health, welfare, and ecological resources, continues to pursue and refine regulations to effectively reduce air pollutants while recognizing and considering effects on the economy. The ARB is the lead agency for climate change programs and oversees all air pollution control efforts in California to attain and maintain health-based air quality standards. For example, the ARB continues to revise the heavy-duty in-use testing program to ensure that newer trucks would still meet the applicable NO_x standards. This Statewide, comprehensive approach, based on robust data evaluated by the public agency with the expertise in this complicated area, is considered the most effective and feasible means of reducing emissions associated with heavy truck use over time.

As described in detail in Responses to AENV-15, SIERRA-1-6, and Section 3.3, Air Quality, the Draft EIR includes MM AIR-1d, which requires the use of a clean truck fleet that meets the ARB’s adopted 2013 Optional Low-NO_x Standard of 0.02 gram of nitrogen oxide (NO_x) per brake horsepower-hour for all heavy-duty trucks during operation of the proposed project. This measure was recommended by the Valley Air District in their NOP comment letter dated September 30, 2020, and the City has already agreed to impose and the project applicants have already agreed to implement this measure. (See updated MMRP.)

In addition, consistent with the commenter’s request, the Draft EIR recommended feasible mitigation to reduce emissions from passenger vehicles. For example, the proposed project would be required to incentivize alternative transportation methods pursuant to MM TRANS-1a, which requires the creation and implementation of a TDM program that incorporates telecommuting for administrative staff, as well as the provision of designated parking spaces for carpool vehicles, a

transit stop along the project frontage at Grant Line Road, the installation of bicycle lanes and sidewalks along the project frontages, the installation of on-site bicycle racks and showers for employees to use, and the incentivizing of carpools. Approval and implementation of the TDM would be required to occur prior to the issuance of the first building permit for the proposed project. The Draft EIR does not specifically address mitigation related to medium-duty trucks and vehicles that could be operated on the project site. However, as detailed in Response to SHUTE-6 and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation is not required under CEQA, because this mitigation could not be feasibly implemented by either the applicant or City. See also Responses to SIERRA 1-5, SIERRA 1-6 and SIERRA 2-2.

Response to SHUTE-7

The commenter asserts that the HRA prepared for the Draft EIR is flawed because (1) it only evaluated impacts from the first phase of the proposed project, and failed to analyze health risks associated with Phases 2 and 3 of the project operations; and (2) it did not analyze health risks from the overlap of construction and operation of the proposed project. For these reasons, the commenter asserts that the HRA's conclusions and analysis are insufficient.

Contrary to the commenter's assertions and as described in detail in Section 3.4, Air Quality, the analysis presents a reasonable worst-case scenario where all phases of project construction were properly considered and disclosed. For purposes of a conservative analysis, the analysis considered the construction-related impacts where all phases occur concurrently and thus overlap. This methodological approach is consistent with the project description and related project objectives, and is particularly necessary and relevant here given there are three different property owners/applicants, each of which would develop its respective specific individual development proposal(s) with independent timing based on numerous considerations. With respect to potential health risks in particular, the proposed project's potential to expose sensitive receptors to elevated concentrations of TACs was fully analyzed and mitigated to the extent feasible under Impact AIR-3 in the Draft EIR. See Responses to Valley Air District 2-5 and GSEJA-3 for a detailed explanation of how the HRA was performed. See also Responses to SIERRA-1-3 and SIERRA-1-6, for more details addressing the adequacy of the air quality analysis prepared for the proposed project.

With respect to the commenter's assertion that the analysis should have evaluated impacts of project construction and project operation concurrently, to ensure a conservative analysis, the Final EIR appropriately considered and disclosed the impacts associated with the concurrent construction of all phases of the proposed project. In addition, Section 3.3, Air Quality, Table 3.3-12 of the Draft EIR discloses the potential operational emissions from all phases of project buildout occurring concurrently. This was necessary and appropriate given the size of the proposed project that is owned by different individuals/entities, which are in different stages of planning, and which necessarily would be built independently over time, taking into account market and other considerations. Given the foregoing, it would not be feasible to constrain the development of one portion of the proposed project by tying the ability of the relevant property owner to move forward to the development of remaining portions thereof, over which it would have no control. For additional information in this regard, see also Response to AENV-16.

Response to SHUTE-8

The commenter states that the emissions modeling did not substantiate the default travel distances used for passenger vehicles and truck trips, especially with respect to Phases 2 and 3 of the proposed project, and should have included more information about trip origins and destinations. The commenter also points to other EIRs for warehouse projects that have used more conservative travel distance (i.e., greater travel distance) assumptions.

The Final EIR includes substantial evidence to support the assumed travel distances used for passenger vehicles and truck trips. See Response to Valley Air District-2-2 for an explanation of the CalEEMod trip length used to model heavy-duty truck trips in the analysis. Assumptions utilized in other EIRs prepared for other projects in other jurisdictions are not relevant here and generalized assertions as to why those assumptions should have been incorporated here do not warrant further response. Specifically, doubling the CalEEMod truck trip length is not based on empirical evidence; furthermore, the Tracy Alliance transportation analysis did not provide specific truck trip lengths. As a result, the air quality analysis prepared for the Draft EIR used project applicant information.

As detailed more fully therein and below, CalEEMod utilizes three separate travel distance metrics by default. In this case, the model's truck trips were divided, with 41 percent assigned to a "H-O or C-NW" trip type with a default distance of 6.6 miles per trip and 59 percent assigned to a "H-W or C-W" trip type with a default distance of 14.7 miles per trip. Therefore, the model's default truck travel distance would be an average 11.35 miles per trip $((14.7 \times 0.59) + (6.6 \times 0.41) = 11.35)$.

Based on information reasonably available as of the preparation of the Draft EIR, the project applicants identified three regionally located intermodal facilities as the most likely origins and destinations for much of their operations: an intermodal facility located at 1000 East Roth Road, Lathrop, California 95231, approximately 12.1 miles from the project site, an Amazon distribution center, located along East Paradise Road approximately 1 mile from the project site, and a UPS distribution center, located along West Shulte Road approximately 10.9 miles from the project site. Considering an even distribution between the three listed product origins and destinations, trucks traveling to and from the project site during operation would travel an average of 8 miles per trip. As the CalEEMod default results in an average truck travel distance of 11.35 miles, as shown in Appendix B of the Draft EIR, the proposed project's trucking activity was conservatively captured in the modeling. In addition, the Draft EIR provided total VMT is based on the CalEEMod results, which utilized the project-specific truck trip length as well as operational vehicle trip rates based on the transportation study prepared for the project. Based on the foregoing, the City has determined, supported by substantial evidence in the record, that no revisions to the analysis are necessary in order to comply with CEQA.

The commenter's assertion that passenger vehicle trip lengths are not sufficiently justified and thus should be changed does not have merit under applicable CEQA provisions. CEQA does not require speculation, but instead the incorporation of appropriate assumptions based on reasonably available information. The CalEEMod model incorporates default assumptions that are to be used unless there is a reasonable basis pursuant to industry standards and other considerations to deviate therefrom. Here, given the nature of the proposed project and based on information reasonably available at the time of the analysis, air quality experts retained by the City determined it would be most

appropriate and accurate to utilize CalEEMod default trip lengths as reflected in the CalEEMod modeling files shown in Appendix B. The CalEEMod operational vehicle trip rates and lengths were based on the TIA prepared by Kimley-Horn and Associates for the proposed project (Appendix J of the Draft EIR), that analyzes the trip generation rates for the proposed project.

Response to SHUTE-9

The commenter briefly summarizes various CEQA requirements, references a General Plan policy and other regulatory planning documents with respect to air quality impacts and related mitigation, and restates generally that the Draft EIR did not properly evaluate all possible mitigation measures to reduce or avoid impacts associated with air quality, public health and GHG emissions.

The comment is noted and acknowledged. It provides a general objection and does not offer any specific mitigation. Responses to comments need not address a list of general suggestions for mitigating an environmental impact that are not concrete or specific to the project. *See, e.g., Santa Clarita Org. for Planning the Env't v City of Santa Clarita* (2011) 197 CA4th 1042. Because this comment is conclusory in nature and does not identify any specific project-related environmental issues under CEQA, no further response is required.

For informational purposes, the following is noted. The Air Quality, GHG, and Energy analyses in the Draft EIR were prepared according to the City of Tracy and Valley Air District requirements and adhered to the guidance described in the GAMAQI, the Valley Air District's recommended set of modeling, and analysis guidance for CEQA land use projects. This comment does not specifically indicate how the Draft EIR underrepresents emissions and health risk impacts. In addition, as shown in Responses to Valley Air District-1 through Valley Air District-21, and as presented in the updated Errata, the proposed project would include additional mitigation measures requested by the Valley Air District (as well as other enforceable conditions of approval) aimed at reducing air pollutant emissions and associated health risks to the extent feasible. See also Responses to AENV-15 and SIERRA-1-3 for a detailed description of the numerous mitigation measures and other enforceable conditions of approval that would be imposed on or otherwise incorporated into the proposed project that reduce GHG and AQ emissions to the extent feasible. See also Response to SHUTE-10.

The City, in its discretion as the Lead Agency, has the authority in the context of an EIR to choose the methodologies and assumptions to be utilized in the analysis, as well as to choose which experts it will rely upon in conducting the CEQA review, so long as these decisions are based on substantial evidence in the record. The City, as Lead Agency, has discretion to determine the appropriate method to analyze environmental impacts in an EIR. Disagreements with an EIR's impact analysis will be resolved in favor of the Lead Agency if there is any substantial evidence in the record supporting the approach used. *See Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 409; *City of Hayward v. Board of Trustees of Cal. State Univ.* (2015) 242 CA4th 833, 840; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 CA4th 899; *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 CA4th 357, 372; *State Water Resources Control Bd. Cases* (2006) 136 CA4th 674, 795; *Anderson First Coalition v. City of Anderson* (2005) 130 CA4th 1173.

Response to SHUTE -10

The commenter briefly summarizes various general CEQA requirements, restates that the Draft EIR did not include all feasible mitigation measures, and reasserts that an EIR must include feasible measures that reduce impacts even if doing so would not reduce impacts to a less than significant level. In addition, the commenter states generally that the GHG impacts described in the Draft EIR are inadequate.

The comment is noted and acknowledged. Responses to comments need not address a list of general suggestions for mitigating an environmental impact that are not concrete or specific to the project. See, e.g., *Santa Clarita Org. for Planning the Env't v City of Santa Clarita* (2011) 197 CA4th 1042. Because the comment is conclusory in nature and does not identify any specific project-related environmental issues under CEQA, no further response is required.

For informational purposes, the following is noted. Contrary to the commenter's assertions, the Draft EIR identifies multiple mitigation measures as well as other enforceable conditions of approval to avoid or reduce, to the extent feasible, the proposed project's air quality and GHG impacts. See, e.g., Responses to Valley Air District-1 through Valley Air District-21, AENV-15, SIERRA-1-3 and SIERRA-1-6 for detailed descriptions of the approach to the analysis and the identification of feasible mitigation measures and other enforceable conditions of approval. See also multiple Responses herein with respect to the Draft EIR's analysis of GHG impacts. See the updated MMRP for all mitigation measures and additional enforceable conditions of approval.

Response to SHUTE-11

The commenter lists three warehouse projects (and attaches related approval documents) in other areas of California that purportedly provide examples of feasible measures to mitigate GHG and air quality impacts and increase transportation and energy efficiency. The commenter also states that other municipalities, such as the City of Fontana, have adopted ordinances that impose similar measures on all warehouse/fulfillment projects.

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

For informational purposes, the following is noted. As noted in Response to SHUTE-10, the Draft EIR contains numerous feasible, effective, and robust mitigation measures and other enforceable conditions of approval that would be imposed on or otherwise incorporated into the proposed project. See Response to SHUTE-12 for additional detail in this regard.

Response to SHUTE-12

The commenter restates its assertion that based on examples of other warehouse projects, the proposed project should be required to implement more robust mitigation measures to incorporate requirements for: (1) context-sensitive site design and facility layout; (2) measures to reduce impacts during ongoing facility construction; and (3) measures to reduce impacts during ongoing facility operation. The commenter then references examples below (as discussed further in Response to SHUTE-13).

To the extent the comment does not raise any specific project-related environmental issues under CEQA, no further response is required.

As detailed further in Response to SHUTE-10 and SHUTE-13 and as otherwise described in this Final EIR (including, without limitation, multiple Responses to Valley Air District-2 and GSEJA) as well as the updated Errata, the Draft EIR robustly evaluated all potential air quality and GHG emissions impacts and identified feasible mitigation where necessary. As detailed more fully in Section 3.3, Air Quality of the Draft EIR, the City, in its discretion, elected to utilize the applicable Valley Air District thresholds and methodologies, which are contained under each impact statement in Section 3.3 and which are based on relevant robust scientific and factual data.

The Draft EIR and Final EIR for the proposed project (1) properly assume compliance with a robust regulatory framework (including, without limitation, citing relevant General Plan policies as well as guidance from the ARB and the Valley Air District) and set forth a thoughtful consistency analysis related thereto; (2) fully disclose all significant impacts; (3) identify all feasible mitigation measures to mitigate, avoid or reduce the identified significant impacts; and (4) include a summary of all such measures that will be incorporated into the MMRP that will be adopted by the City Council in connection with its certification of the Draft EIR and thereafter imposed as enforceable conditions of approval. In addition, the project applicants have voluntarily agreed to implement additional mitigation measures as well as other enforceable conditions of approval to further reduce impacts related to air quality and GHG emissions, to the extent feasible. Collectively, these measures are consistent with many of the measures the commenter requests to be imposed, and in particular, are consistent with the approach taken by the City of Fontana in connection with its warehouse ordinance (as supported by the commenter). Also, see Responses to SIERRA-1-5 and SIERRA-1-6 for additional detail in this regard.

Response to SHUTE-13

The commenter suggests specific mitigation measures that purportedly are feasible and effective that would reduce construction emissions of the proposed project.

As explained at length in Responses to GSEJA-31, SIERRA-1-5, and SIERRA-1-6 and as further detailed below, the commenter’s suggested construction-related mitigation measures were previously considered and have been determined to be either not effective, not substantially different from already identified mitigation measures or other enforceable conditions of approval included in the Final EIR, or not feasible.

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
Construction Measures		
Limiting the use of off-road diesel-powered equipment. Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day was proposed. The FEIR responded to this proposed measure by stating that if this limit was enforced, the construction	COA No. 1.	For the reasons set forth in the Final EIR, it is reasonable to conclude that this measure could not be implemented in a manner that would effectively result in overall construction emissions reductions. Should the construction contractor be limited to utilizing equipment for only 10

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
<p>contractor would simply rent multiple pieces of equipment for concurrent or overlapping use and that this measure would not clearly lessen a significant environmental impact. See FEIR at 3-115. But the City could easily address this concern by limiting the hours of construction that uses off-road diesel-powered equipment to 10 hours per day.</p>		<p>hours per day, that contractor could instead rent multiple pieces of equipment for concurrent operation or lengthened construction schedules and times, resulting in the same or greater construction emissions than was analyzed. The suggested mitigation would not clearly lessen any significant environmental impact.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter’s request.</p>
<p>Requiring on-road heavy-duty haul trucks to be model year 2014 or newer if diesel-fueled.</p>	<p>MM AIR-1d, MM AIR-1i .</p>	<p>On-road heavy-duty haul trucks are regulated by the ARB under the California State On-Road Heavy-Duty Vehicle Program. As described in Section 3.3, Air Quality and these Responses, by January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. The suggested mitigation would not clearly lessen any significant environmental impacts and would not be feasible as detailed in Response to SHUTE-6.</p> <p>See MM AIR-d (Clean Truck Fleet) for the feasible mitigation measure that would be imposed on the proposed project to address this issue. See also MM AIR-1i.</p>
<p>Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.</p>	<p>MM AIR-1b.</p>	<p>MM AIR-1b would significantly reduce the generation of ozone precursor pollutants, such as ROGs, during project construction. In addition, the incorporation of MM AIR-1a would reduce another ozone precursor pollutant, NO_x, generated during construction. These two measures combined would significantly reduce the</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
		<p>generation of particulates or ozone generating pollutants. Moreover, as illustrated in Section 3.3, Air Quality, project construction would not result in an exceedance of particulate emissions. The suggested mitigation would not clearly lessen any significant environmental impacts, would not be feasible given likely substantial impacts on the construction schedule (both in terms of timing and mobilization efforts), nor is the suggested mitigation considerably different from the mitigation measure already evaluated in the Draft EIR.</p>
<p>Providing information on transit and ride sharing programs and services to construction employees.</p>	<p>COA No. 2.</p>	<p>The information that the commenter is referencing is available on the City of Tracy's website. Additionally, as it would be difficult to assess the effectiveness of this type of temporary TDM measure or confirm any quantifiable emission reductions that could reasonably be expected to occur, the suggested mitigation would not clearly lessen any significant environmental impacts. Moreover, the feasibility of effectively implementing this type of temporary TDM measure to result in actual trip reductions is questionable because ride sharing applications have been publicly available for over a decade and transit information is accessible on the City's website as well as provided in map-based phone applications, such as Google maps.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable</p>

Committer-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
		condition of approval consistent with the commenter’s request.
Providing meal options on-site for construction employees to minimize travel during meal breaks.	COA No. 6, No. 8(h).	<p>The suggested mitigation would not clearly lessen any significant environmental impacts. Construction worker vehicle trips would represent a minuscule amount of the overall construction emissions because the majority of emissions are generated by the use of off-road construction equipment. Moreover, any use involving commercial-grade kitchens or the like would be beyond the scope of the proposed project and contemplated uses, and thus not feasible in this regard.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of enforceable conditions of approval consistent with the commenter’s request.</p>

Response to SHUTE -14

The commenter suggests specific mitigation measures that purportedly are feasible and effective and would reduce operational emissions of criteria pollutants and GHG emissions.

As explained at length in Responses to GSEJA-32, GSEJA-33, SIERRA-1-5, and SIERRA-1-6 and as further detailed herein, many of the commenter’s suggested operational measures have already been evaluated and determined to be infeasible, ineffective and/or not substantially different from what the Final EIR already includes. For the reasons set forth in Chapters 3-3 and 3-8 and as further described in the Final EIR (including the updated Errata), the analysis robustly evaluated and disclosed all potential air quality and GHG emissions impacts as required under CEQA. In addition, feasible mitigation was identified, which would be imposed on the proposed project as enforceable conditions of approval and implemented prior to issuance of applicable permits as detailed in the MMRP (which would be adopted in connection with the City Council’s certification of the Final EIR). Furthermore, the applicants have voluntarily agreed to additional enforceable conditions of approval that would be imposed on or otherwise incorporated into the proposed project. The commenter’s suggested mitigation measures are discussed individually below.

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
Operational Measures		
<p>The property owner/tenant/lessee shall ensure that heavy-duty trucks (Class 7 and 8) traveling to and from the project site are model year 2014 or later from start of operations and shall be fully zero-emission by December 31, 2025, with limited exceptions.</p> <p>The FEIR rejected a proposal to require all heavy-duty trucks entering or operating on the project site to be zero-emission beginning in 2030. It claims that “[B]ecause of the volume of trucks anticipated to access the site, practical limitations on the owner’s ability to regulate this item, and the current cost and availability of electric trucks, the suggested mitigation is not feasible.” See FEIR at 3-118. This bald statement is insufficient to support a determination that the requirement is “truly infeasible,” as CEQA requires. Moreover, similar measures are being required at other approved warehouse facilities (See Mariposa MMRP, Exhibit E), so electric truck requirements are feasible and must be fully analyzed in this EIR.</p>	<p>MM AIR-1d, MM AIR-1i.</p>	<p>The Final EIR has explained in detail how the proposed project would be required to ensure the use of a clean truck fleet during operations to the maximum extent feasible, and thus is generally consistent with the commenter’s request. For example, the proposed project would be required to demonstrate compliance with MM AIR-1d, which requires as a condition of issuance of occupancy permit that applicants of each specific individual development proposal document the use of a clean truck fleet that meets the California ARB adopted 2013 Optional Low-NO_x standard of 0.02 gram of NO_x per brake horsepower for all heavy-duty trucks during operation to the maximum extent feasible. Moreover, MM AIR-1i would require the proposed project to include EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2 in all parking areas during operation. Therefore, all development as part of the proposed project would be conditioned to demonstrate that a clean truck fleet would be operational to the maximum extent feasible when the subject project operations begin.</p> <p>The suggested mitigation measure requiring that the property owners/tenants/lessees ensure that all heavy-duty trucks (Class 7 and 8) domiciled on the project site are model year 2014 or later from start of operations is not feasible, as detailed in Response to SHUTE-6. Therefore, based on the</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
		foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation is not required under CEQA.
<p>The property owner/tenant/lessee shall ensure that medium-duty trucks (Class 2 through 6) traveling to and from the project site are zero-emission, with limited exceptions.</p>	<p>MM AIR 1i; COA No. 9(D).</p>	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP. Moreover, the commenter’s suggestion that the project applicant provide clean fleet vehicles for all medium-duty vehicles beyond what has already been identified as appropriate mitigation would be infeasible (see Responses to SHUTE-6, GSEJA-31).</p> <p>The fact that other projects in other jurisdictions have incorporated the requested measure does not demonstrate feasibility since, among other things, different projects have different limitations/parameters (e.g., a project that will be operated by one user that owns and controls its fleet, which is a very limited number of projects). Furthermore, other light and medium vehicles/delivery vans/trucks that would access the project site during operations are anticipated to be from third-party vendors. Because it is not anticipated that future tenants occupying the proposed project would own these vehicles, neither the future tenants nor the City would have control over the vehicles accessing the project site and thus neither would have the ability to enforce any such obligation during the life of the proposed project. Rather, the emissions resulting from the vehicles accessing the project site would largely be influenced by</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter’s request?	Explanation
		<p>regulations (current and future) that would apply to vehicle manufacturers based on determinations made by the ARB, which is the expert public agency charged to address these issues via a comprehensive regulatory framework applied Statewide based on robust data and evaluation with consideration of multiple complicated factors. As described in Response to GSEJA-31, given the volume of medium-duty vehicles that would be involved as part of the tenants’ business operations, practical limitations on the owner’s ability to control and enforce such an obligation, along with the current substantial cost and concerns regarding widespread availability of electric vehicles, the suggested mitigation is not feasible. Moreover, the project applicants would be required to provide electric vehicle (EV) charging infrastructure throughout all parking areas as part of MM AIR-1i, which would improve charging infrastructure in the City and help facilitate the transition to electric vehicles. Furthermore, the suggested measure cannot be enforced in a way that would ensure a reduction of potential health impacts. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the suggested mitigation is not required under CEQA.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
		condition of approval consistent with the commenter's request.
<p>At all times during project operation, owners, operators or tenants shall be required to provide electric charging facilities on the project site sufficient to charge all electric trucks domiciled on the site and such facilities shall be made available for all electric trucks that use the project site.</p>	<p>MM AIR-1i.</p>	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP.</p> <p>The proposed project would be required to comply with MM AIR-1i, which would require the inclusion of EV charging infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2, in all parking areas during operation. Therefore, the proposed project would provide EV charging infrastructure that would support passenger vehicles and the future use of electric trucks. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as the Final EIR, the suggested mitigation would be duplicative and is not required under CEQA.</p>
<p>Prohibit the reliance on natural gas for the facility.</p>	<p>None.</p>	<p>The proposed project would not preclude the use of natural gas appliances, but the overall air pollutant and GHG emissions during project operation from energy sources, such as natural gas appliances or heating. The proposed project would include the use of energy-efficient lighting and heating, ventilation, and air conditioning (HVAC) systems in accordance with then-current City building code and Title 24 standards (which are considered some of the most stringent in the nation). In addition, prohibiting natural gas for future land uses would restrict potential future operations and types of development. Therefore, based on</p>

Committer-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
		the foregoing reasons, the suggested mitigation would not be required under CEQA.
<p>Install solar photovoltaics energy system (or other renewable energy systems) [sic] should be used to power all of the Project's energy needs (all electric vehicle charging stations) unless sufficient usable space is not available. This will also allow the site to support and serve electric trucks, which will reduce NOx and PM emissions, and further reduce the Air Quality impacts of the Project.</p>	<p>COA No. 9(A-C). See Responses to GSEJA-31 and Valley Air District 2-12.</p>	<p>The Final EIR addresses the topic of solar panels on each building as part of the Responses to GSEJA-31 and Valley Air District 2-12. As described therein, the California Building Standards Code (CBC) requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels. The proposed project would be required to comply with the foregoing, thereby contributing to improved air quality and making progress toward reducing greenhouse gas emissions through the facilitation of the future production of solar energy. Furthermore, the use of solar panels would not substantially reduce air pollutant emissions on-site, because energy source emissions described in the Air Quality Analysis (see Section 3.3 of the Draft EIR) are limited to those generated from the on-site combustion of natural gas due to the inter-regional relationship between land use development projects and the facility generating the electricity. As such, the consideration of electricity-related energy source emissions is limited to GHGs. Moreover, the proposed project would not result in any significant impact related to GHG emissions, as discussed in Section 3.8 of the Draft EIR, and thus the City is not required by CEQA to impose this measure. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, the</p>

Committer-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
		<p>suggested mitigation is not required under CEQA.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.</p>
<p>Require that all forklifts, yard trucks and yard equipment used on-site be electrically powered or zero-emission with sufficient on-site charging equipment.</p>	<p>MM AIR-1g.</p>	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP.</p> <p>MM AIR-1g would require all on-site off-road and on-road equipment to be electric powered, including but not limited to forklifts and pallet jacks. The suggested mitigation is not considerably different from the additional mitigation measure already incorporated in the Final EIR (see Errata), and therefore the suggested mitigation is not required under CEQA.</p>
<p>Install and maintain, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time.</p>	<p>None.</p>	<p>The suggested measure of installing one open-source air quality monitoring station near the project site would not reduce any air quality or GHG impact, since monitoring in and of itself does not reduce emissions. Furthermore, the commenter does not provide any information on why monitoring would be beneficial to the community. Because the suggested measure would not reduce an environmental impact caused by the proposed project, there is no legal nexus of this measure to any identified impacts of the proposed project. Therefore, the suggested mitigation is not feasible, would not be effective to reduce any impact from the</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
<p>Require tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.</p>	<p>COA No. 10(f).</p>	<p>proposed project, and is not required under CEQA.</p> <p>The commenter does not provide evidence for why or how this program would reduce emissions. Smartway programs aim to make supply chains more efficient by reducing fuel consumption and energy costs. The suggested mitigation would not result in quantitative reductions in air pollutant or GHG emissions and would be infeasible because it would limit the types of carriers the future tenants could work with.</p> <p>Nevertheless, in an effort to address the concerns of the commenter, the City has agreed to impose, and the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.</p>
<p>Install signs along California Avenue, Paradise Road, and Grant Line Road noting that truck and employee parking is prohibited.</p>	<p>MM AIR-1e; COA No. 8.</p>	<p>The suggested mitigation measure is similar to recommended measures already identified in the Draft EIR as well as the Final EIR, as reflected in the updated MMRP.</p> <p>The suggested mitigation would be included as part of MM AIR-1e Operational Truck Fleet Routing contained in Section 4: Updated Errata. MM AIR-1e would prohibit trucks from accessing Grant Line Road east of the project site.</p> <p>In addition, the project applicants have agreed to voluntarily implement a signage program along project frontage on Grant Line Road to deter trucks from accessing Grant Line Road east of the project site.</p> <p>Moreover, in an effort to address the concerns of the commenter, the City has agreed to impose, and</p>

Commenter-Suggested Mitigation Measure	Which EIR Mitigation Measure or previous response addresses the Commenter's request?	Explanation
		the project applicants have agreed to accept the incorporation of an enforceable condition of approval consistent with the commenter's request.
Designate on-site areas for employee pickup and drop-off.	None.	The commenter does not explain why this measure would significantly reduce emissions, and there is no basis to conclude that the suggested mitigation would clearly lessen any significant environmental impacts. Therefore, imposition of the requested mitigation is not required under CEQA.
Appoint a compliance officer who is responsible for implementing all mitigation measures, and providing contact information for the compliance officer to the City, to be updated annually.	None.	The City of Tracy and the applicant would be responsible for implementing the EIR mitigation measures pursuant to the MMRP. The foregoing is sufficient to ensure compliance with and the enforceability of all mitigation measures and other conditions of approval. The commenter does not explain why this additional measure would be necessary to ensure compliance and thus there is no basis to conclude that it would significantly reduce emissions. Therefore, incorporation of the requested mitigation is not required under CEQA.

Response to SHUTE-15

The commenter restates analysis from the Draft EIR that concluded if project construction of phases were to occur concurrently, then impacts to sensitive receptors related to CO and DPM emissions would be significant and unavoidable. The commenter proposes a mitigation measure that would require phasing restrictions of construction activities to reduce those impacts.

As discussed above, to ensure a conservative analysis, the Final EIR appropriately considered and disclosed the impacts associated with the concurrent construction of all phases of the proposed project. This was necessary and appropriate given the size of the proposed project that is owned by different individuals/entities, which are in different stages of planning, and which necessarily would be built independently over time, taking into account market and other considerations. Given the

foregoing, it would not be feasible to constrain the development of one portion of the proposed project by tying the ability of the relevant property owner to move forward to the development of remaining portions thereof, over which it would have no control. For additional information in this regard, see also Response to AENV-16.

Response to SHUTE-16

The commenter restates analysis from the Draft EIR that project operation could expose sensitive receptors to NO_x and DPM levels that exceed applicable thresholds even after incorporation of identified mitigation. The commenter states that the Draft EIR should modify MM AIR-1i to specify the details for more robust setbacks and buffers to adjacent uses, more stringent clean fleet requirements, and different roadway design features.

See Response to Valley Air District 2-11. Consistent with the comment, Section 3.3, Air Quality, of the Draft EIR evaluates the potential impact of project operations on sensitive receptors; see, e.g., page 3.3-47. In addition, although not required under CEQA, MM AIR-1h has been added to Section 3.3, Air Quality, of the Draft EIR to require the installation of a vegetative barrier at the eastern boundary of the project site, between I-205 and Grant Line Road. Furthermore, as described in Section 3.3, Air Quality, and Section 4 of the Final EIR: Errata, the proposed project would be required to implement MMs AIR-1a, -1e, -1f, and -1g, which would require a clean truck fleet to the maximum extent feasible, limit truck idling, address operational truck routing, and mandate zero-emission on-site equipment, all of which would reduce NO_x and DPM emissions during operation to the extent feasible. Moreover, the project applicants have voluntarily agreed to incorporate additional measures to address buffer issues (see COA No. 7). Also, see Responses to SIERRA-1-3 and SIERRA 1-6. Therefore, the Final EIR analysis already incorporates substantially similar measures as those requested by the commenter in several respects. In terms of more stringent clean fleet requirements, see also Response to SHUTE-6. With respect to changes in the required setbacks and buffers, as discussed in Response to SHUTE-2 and more fully throughout this Final EIR, MM AIR-1h would appropriately and feasibly address the concern related to the proposed project's potential to locate sources of TACs near sensitive receptors. MM AIR-1h would require the installation of a vegetative buffer with trees and other species of plants that would not only screen sensitive receptors from future building operations, but would also create as much physical distance as feasible between buildings and internal roadways and the neighboring sensitive receptors.

See also Responses to SIERRA 1-6 and SIERRA 1-10.

Response to SHUTE-17

The commenter states that an additional mitigation measure should be included in the Draft EIR that establishes a community benefit fund to mitigate air quality impacts on affected residents and the Banta Elementary School, including funding the cost to retrofit or install HVAC and/or air filtration systems on properties impacted by the proposed project. The commenter then dismisses without explanation the City's determination that the foregoing would not be effective or feasible.

The commenter's position as to the City's prior response on this issue is noted. To the extent the comment provides a general objection and does not offer any specific mitigation, no further

response is required. See, e.g., *Santa Clarita Org. for Planning the Env't v City of Santa Clarita* (2011) 197 CA4th 1042.

The following is provided for informational purposes. The City, in its discretion, has determined that CEQA does not require incorporation of the requested mitigation for the following reasons. The fact that other applicants in connection with other projects in other jurisdictions may have agreed to accept such a condition does not equate to substantial evidence as to its feasibility and proper applicability as to the proposed project. As described in Response to SIERRA-1-6, the City of Tracy does not have the legal authority to impose an obligation for the project applicants to provide funds as suggested by the commenter because, among other reasons, there is no legal nexus of this measure to any identified impacts of the proposed project. See Section 3.3 of the Draft EIR as well as this Final EIR for additional detail in this regard. Moreover, the operations of private homes in the Banta community are not under the purview of the owners or operators of the proposed project; thus, there would be no mechanism available to ensure that any such funding would be utilized to install and maintain air filtration systems at sensitive receptor locations within the Banta community. In addition, the suggested measure raises significant implementation issues, e.g., it does not identify which Banta residents would receive such funding, how much would be provided to each recipient, and how such air filtration systems (which heavily rely on continued maintenance and replacing filters) would be effectively maintained. Therefore, based on the foregoing reasons and as further documented in Sections 3.3 and 3.8 of the Draft EIR as well as this Final EIR, there is no basis to conclude this measure would be effective or feasible and therefore the suggested mitigation is not required under CEQA.

Response to SHUTE-18

The commenter restates the language of MM AIR-1a and asserts that this mitigation measure is not effective as written because the measure allows for the possibility that electric construction equipment may not be available, and suggests that the measure include a stipulation that if electric construction equipment is not available, the contractor should use the next best option to reduce construction emissions. MM AIR-1a, from the Final EIR, is provided below.

MM AIR-1a NO_x Reduction Measures

Prior to the issuance of grading permits for each individual development proposal within the project site, the relevant applicant for each development proposal shall provide documentation to the City of Tracy demonstrating the following NO_x reduction measures would be adhered to during construction activities for the relevant development proposal:

- For all construction equipment and vehicles used during project construction that are equal to or greater than 250 horsepower, the contractor shall use construction equipment and vehicles that meet the United States Environmental Protection Agency (EPA) Tier 4 Final engine standards;
- For all construction equipment and vehicles used during project construction that are less than 250 horsepower, the contractor shall use electric construction

equipment and vehicles to the extent feasible, with the exception of handheld generator sets; and

- All generator sets utilized during project construction shall be limited to 5 horsepower and shall only be used to power handheld power tools.

The construction contractor shall maintain reasonable records concerning its efforts to comply with this requirement, including equipment lists. Documentation that each relevant applicant provides to the City shall include, but is not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.

The Final EIR properly discloses that certain aspects of a number of mitigation measures may not be entirely achievable, and thus comes to a significant and unavoidable conclusion, as required under CEQA since full implementation of certain mitigation cannot be guaranteed. Nevertheless, in accordance with mandates under CEQA, even though this may be the case, the Draft EIR still imposes the obligation on project applicants to implement the identified measures to the extent feasible. Therefore, the Draft EIR's analysis properly discloses impacts and mitigation as feasible. Nevertheless, the commenter's suggestion is noted and has been incorporated into the FEIR. See Section 4: Errata.

MM AIR-1a NO_x Reduction Measures

Prior to the issuance of grading permits for each individual development proposal within the project site, the relevant applicant for each development proposal shall provide documentation to the City of Tracy demonstrating the following NO_x reduction measures would be adhered to during construction activities for the relevant development proposal:

- For all construction equipment and vehicles used during project construction that are equal to or greater than 250 horsepower, the contractor shall use construction equipment and vehicles that meet the United States Environmental Protection Agency (EPA) Tier 4 Final engine standards.
- For all construction equipment and vehicles used during project construction that are less than 250 horsepower, the contractor shall use electric construction equipment and vehicles to the extent these are reasonably available. If the applicant can demonstrate that electric equipment and vehicles are not reasonably available, the next best reasonably available piece of equipment or vehicle shall be used, such as, for example, Tier IV final or alternative fueled equipment that is zero-emission. The foregoing requirement to use electric construction equipment shall not apply to handheld generator sets.
- All generator sets utilized during project construction shall be limited to 5 horsepower and shall only be used to power handheld power tools.

The construction contractor shall maintain reasonable records concerning its efforts to comply with this requirement, including equipment lists. Documentation that each relevant applicant provides to the City shall include, but is not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.]

Response to SHUTE-19

The commenter states that MM AIR-1e should be modified to include several additional features to ensure its effectiveness and enforceability, which are listed. The requested modifications include funding to install a large sign on Grant Line Road where trucks would be prohibited and strategies to enforce this prohibition.

For reasons discussed in Response to Valley Air District 2-5, although not required under CEQA, the City has agreed to adopt, and the project applicants have agreed to implement the expanded requirements in MM AIR-1e to include the suggested measure. The updated MM AIR-1e is provided in Section 4, Errata, with additions shown in underline, and is also included in the updated MMRP. See also Response to SIERRA 1-6, and COA No. 8 in updated MMRP (additional enforceable conditions of approval regarding signage and traffic patterns).

Response to SHUTE-20

The commenter asserts that MM AIR-1h lacks specificity and will be ineffective at reducing significant health impacts from project emissions, and requests edits to MM AIR-1h to include specific standards for the recommended vegetative buffer; in addition, the commenter provides examples of specific types of vegetative buffers that have been included as mitigation in another warehouse project in another jurisdiction. Also, the commenter states that MM AIR-1h should be modified to include specific standards based on ARB and State Attorney General Guidance, such as a 1,000-foot buffer from the nearest residence to all on-site truck routes, parking areas, loading docks, and buildings along with specified landscaping buffer treatment.

As a preliminary matter, the commenter does not provide any evidence as to the ineffectiveness of the proposed mitigation or identify any specific ways in which the measure would fail to mitigate the impact; rather, it merely asserts that “bushes and shrubs are insufficient” and that there instead needs to be “full visual screening that will also provide auditory and toxin-absorbing benefits.” Therefore, to the extent no specific CEQA issue has been raised, no further response is necessary.

Furthermore, the following is noted. The proposed project would be required to include a vegetative buffer along the eastern property boundary of the project site pursuant to MM AIR-1h. This mitigation measure was requested by the San Joaquin Valley Air District (Valley Air District) and accepted by the City and the project applicants. This vegetative buffer would not conflict with what is summarized in the State Attorney General guidance document for warehouses mentioned by the commenter, because that document does not specify that all vegetative buffers must include earthen berms or sizable trees.

Furthermore, a vegetative buffer with trees and other species of plants would not only screen sensitive receptors from future building operations, but would also create as much physical distance

as feasible between buildings and internal roadways and the neighboring sensitive receptors, which fulfills the commenter's request. Moreover, the project applicants have voluntarily agreed to incorporate additional enforceable conditions of approval to further address buffer issues (see COA No. 8 in updated MMRP).

With respect to the 1,000-foot distance buffer that the commenter is seeking to impose on the proposed project, see Response to SIERRA-1-6 for information in this regard.

Response to SHUTE -21

The commenter states general propositions related to global climate change effects and cites several court case rulings related to CEQA and GHG impacts, such as the *Newhall Ranch* case. The commenter requests that the Draft EIR use a net-zero GHG emissions threshold to determine whether impacts would be considered significant. The commenter asserts that the Draft EIR failed to explain the relevance of EO 55-18, and why a net-zero threshold was not used.

The City has the discretion, under CEQA, to weigh the evidence relating to the accuracy and sufficiency of the information in the Draft EIR and to decide whether to accept it. The City may adopt the environmental conclusions reached by the experts who prepared the Draft EIR even though others may disagree with the underlying data, analysis, or conclusions. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 408; *State Water Resources Control Board Cases* (2006) 136 CA4th 674, 795). Disagreements or discrepancies in results arising from different methods for assessing environmental issues do not undermine the validity of the Draft EIR's analysis as long as a reasonable explanation supporting the Draft EIR's analysis is provided. (*Planning and Conserv. League v. Castaic Lake Water Agency* (2009) 180 CA4th 210, 243).

With respect to consistency with the goals contained in EO 55-18, the Draft EIR analyzed the proposed project's consistency with SB 32 and the 2017 ARB Scoping Plan as described in the impact analysis for Impact GHG-1 and GHG-2. As described in Impact GHG-2, Executive Order B-30-15 establishes an interim goal to reduce GHG emissions to 40 percent below 1990 levels by 2030. The 2030 goal was codified under SB 32 and is now addressed by the 2017 Scoping Plan Update. As described in Response to AENV-8, each of the project phases would achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements from adopted regulations in their respective operational years. The emission estimates presented in Tables 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this progress and the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target.

As explained in detail in SHUTE-22 through 48, the Final EIR properly evaluated the proposed project's potential GHG impacts.

See also Responses to AENV-3, -4, -5, and -7.

Response to SHUTE-22

The commenter states that the quantitative GHG threshold used in the Draft EIR is outdated and not supported by substantial evidence because these thresholds do not reflect the State’s more recent and aggressive GHG reduction goals. The commenter also states the Draft EIR’s GHG threshold conflicts with the requirements established in the *Newhall Ranch* court case.

As explained in Response to Valley Air District 2-5, the final determination of whether a project would have a significant impact is within the purview of the Lead Agency pursuant to Section 15064(b) of the CEQA Guidelines. The City, in its discretion, has acted in accordance with Valley Air District’s recommendation that its quantitative air pollution thresholds be used to determine the significance of project emissions. The applicable Valley Air District thresholds and methodologies are contained under each impact statement in Section 3.3, which are based on relevant and robust scientific and factual data and the Valley Air District’s expertise in this regard.

See also Responses to SHUTE-24, SHUTE-27, GSEJA-33, AENV-4 and -5, which explain in detail how the Final EIR utilized a proper quantitative threshold to determine the proposed project’s potential GHG impacts.

Response to SHUTE-23

The commenter states that the Draft EIR’s qualitative analysis of project consistency with the State’s long-term GHG reduction goals is insufficient because it does not discuss the State’s most recent 2045 goal of carbon neutrality by 2045, and omits any analysis of the proposed project’s consistency with AB 32’s 2050 goal.

See multiple Responses herein as well as AENV-8 and GSEJA-6, which explain in detail how the Final EIR contains a robust qualitative analysis of the proposed project’s consistency with relevant plans and policies and complies with CEQA’s requirements in this regard.

Response to SHUTE-24

The commenter restates its position that the Draft EIR utilized outdated thresholds to determine potential GHG impacts, and includes text from the Draft EIR related to how the BAU threshold is developed and how the less than significant impact conclusion was supported. It also asserts that “any additional GHG emissions will contribute to a serious and growing climate crisis,” and then goes on to discuss broader policy implications of climate change generally.

To the extent the commenter makes a general policy assertion about the implications of climate change or the need for all projects to ensure no additional GHG emissions, these comments are not within CEQA’s purview but are hereby noted in this Final EIR for informational purposes and will be forwarded to City decision-makers for consideration as part of the public hearing process on the project. No further response is required.

As described in Responses to AENV-2 and AENV-3, CEQA does not require an evaluation of impacts against a threshold that requires net-zero GHG emissions. The Draft EIR evaluated GHG impacts against the appropriate threshold as required by CEQA and as the City determined, in its discretion, to be appropriate (supported, among other things, by reliance on Valley Air District adopted guidance). See also Responses to AENV-4 and AENV-5.

Section 3.8, Greenhouse Gas Emissions, of the Draft EIR robustly evaluates the proposed project's GHG impacts, both from a quantitative and qualitative perspective. Section 3.8.4 describes the significance criteria, assumptions and methodologies used by the City, in its discretion, to conduct this impact analysis. As described in the ARB 2017 Scoping Plan, "achieving net-zero increases in GHG emissions, resulting in no contribution to GHG impacts, may not be feasible or appropriate for every project, however, and the inability of a project to mitigate its GHG emissions to net-zero does not imply the project results in a substantial contribution to the cumulatively significant environmental impact of climate change under CEQA. Lead agencies have the discretion to develop evidence-based numeric thresholds (mass emissions, per capita, or per service population) consistent with this Scoping Plan, the State's long-term GHG goals, and climate change science."

Moreover, as detailed in Section 3.8, Greenhouse Gas Emissions, each of the project phases would achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements based on compliance with mandated regulations in their respective operational years. The emission estimates presented in Tables 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this continued progress toward achieving the State's GHG emission reduction goals and the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target. Furthermore, Table 3.8-12 describes in detail how the proposed project would be consistent with the 2017 Scoping Plan Update measures. Therefore, the City has properly determined that the proposed project would not prohibit or prevent the State of California from achieving the goals set in Executive Order B-55-18 because it would not result in barriers to achieving net-zero emissions. See also Responses to AENV-2, -3, -4, -5, and -7.

Finally, with respect to the commenter's assertion that the Final EIR should have evaluated the proposed project against the final 2022 Scoping Plan, this is not required under CEQA. The foregoing was published in November 2022 and adopted in December 2022, well after commencement of preparation of the Draft EIR (which was published in April 2022). The 2022 Scoping Plan establishes a scenario by which the State may achieve carbon neutrality by 2045 or earlier, and it outlines a technologically feasible, cost-effective, and equity-focused path for achieving this climate target. The 2022 Scoping Plan relies on the aggressive reduction of fossil fuels in all Statewide sectors and accelerating existing carbon reduction programs.

See also Responses to SIERRA 1-11 and SIERRA 2-3.

Response to SHUTE-25

The commenter restates its concern that the Draft EIR used an outdated threshold, noting that the BAU threshold was developed to meet the AB 32 goals; thus, it is no longer relevant because a more recent Executive Order (EO 55-18) and State legislation (AB 1279) have been adopted to further reduce GHG emissions and therefore does not constitute substantial evidence. The commenter concludes that a no net increase GHG threshold should be used by the Draft EIR to determine project impacts, because the BAU threshold would not meet SB 32 or net neutrality goals by 2045.

See Responses to SHUTE-24 as well as AENV-3 and AENV-8.

Response to SHUTE-26

The commenter reiterates its position that the Draft EIR must be revised and recirculated to include a no net increase in GHG emissions threshold, and must include additional mitigation measures, such as, without limitation, clean fleet and clean construction equipment requirements, extensive use of solar panels, and EV charging infrastructure. It also references an attachment listing “proven feasible” measures.

See Responses to SHUTE-24 as well as GSEJA-31, GSEJA-32, GSEJA-36, AENV-8, -9, -10, and -15.

Moreover, see also Response to CALTRANS-11, which lists numerous TDM measures that the proposed project would be required to implement such as:

- Provision of communication and information strategies
- Encouraging telecommuting for administrative staff
- Designating parking spaces for carpool vehicles
- Providing a transit stop along the project frontage on Grant Line Road (if agreed to by the City)
- Providing bike lanes and sidewalks along the project frontage
- Providing on-site bike racks and showers
- Paying toward the City’s VMT Mitigation Banking Fee Program

While these measures are designed to reduce VMT impacts, in so doing they also necessarily would reduce impacts associated with GHG emissions.

Response to SHUTE-27

The commenter restates its concern that the Draft EIR does not comply with the requirements included in the *Newhall Ranch* case. It notes the holding of this case and describes two caveats from the decision. The commenter also notes that the *Newhall Ranch* case is eight years old, and asserts that it is now improper to rely on a threshold for 2020 emissions.

See Responses to SHUTE-25 as well as AENV-4. The analysis of GHG impacts in the Draft EIR was prepared in accordance with the applicable requirements of CEQA as reflected in the relevant case law as well as the statute and regulations, including guidance provided in Section 15064.4 of the State CEQA Guidelines, which states that the lead agency should use a model or methodology to provide a quantified estimate of GHG emissions from a project and that factors that should be considered to determine the significance of GHG emissions on the environment include (1) the extent to which a project will increase GHG emissions compared to the existing environment; (2) whether the project emissions exceeds an applicable threshold of significance; and (3) the extent to which the project complies with regulations or requirements adopted to reduce GHG emissions. The Draft EIR meets these requirements.

In *Newhall Ranch*, the Court notes that then-pending legislation would codify the 2030 limit equivalent to 40 percent below 1990 levels. With approval of SB 32, the 2030 goal was then codified by the legislature. The Draft EIR specifically considers the decision in *Newhall Ranch* and clarifies that for purposes of this analysis, consistent with CEQA Guidelines Appendix G, the three factors identified in CEQA Guidelines Section 15064.4 and the *Newhall Ranch* opinion, the GHG impacts would be considered significant if the proposed project would:

- Conflict with a compliant GHG Reduction Plan if adopted by the lead agency;
- Exceed the San Joaquin Air Pollution Control District (Valley Air District) GHG Reduction Threshold; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of GHGs

The Draft EIR does not state or suggest that the 2017 Scoping Plan does not look beyond 2020 as implied by the comment. Rather, the Draft EIR accurately explains that the 2017 Scoping Plan does not identify a specific pathway to achieve the 2050 target. In several instances, the Draft EIR specifically acknowledges that the 2017 Scoping Plan references the state’s long-term goals (see, e.g., Draft EIR pp. 3.8-32, 3.8-45, 3.8-46.) However, as noted in the Draft EIR, until a new threshold or best performance standards (BPS) are identified for projects constructed after 2020, significance is appropriately evaluated based on making continued progress toward the SB 32 2030 goal. Additionally, the Draft EIR notes that as “[n]o new threshold has been adopted by the City of Tracy for the 2030 target, so in the interim the project must make continued progress toward the 2030 goal.” For the reasons explained in Section 3.8 of the Draft EIR and further discussed in Responses to SHUTE-24 as well as AENV-4, -5, and -7, the Air Quality analysis appropriately addresses consistency with the SB 32 targets and the 2017 Scoping Plan Update. This approach provides estimates of project emissions in the new 2030 milestone year with the existing threshold to show the extent of progress achieved with existing regulations and the incorporation of specific project design features. Contrary to the commenter’s assertion, CEQA does not require that an EIR explain why it did not utilize a particular threshold. Moreover, the referenced Costco EIR did not utilize a net-zero threshold either.

Response to SHUTE-28

The commenter restates its assertion that the Draft EIR fails to analyze the proposed project’s GHG emission impacts on meeting longer term emission reduction targets beyond AB 32’s end date of 2020. The commenter reiterates its position that the Draft EIR incorrectly asserts that it incorporates the State’s GHG reduction goals for 2030, as delineated in SB 32 and CARB’s 2017 Scoping Plan Update. The commenter further elaborates that the Draft EIR’s use of a 21.7 percent BAU threshold does not account for the State’s 2030 reduction goals.

See Responses to SHUTE-24, SHUTE-27, AENV-3, -4, -5, and -7.

Response to SHUTE-29

The commenter states that a 40 percent reduction from 2005 BAU levels does not equate to 40 percent reduction from 1990 levels. The commenter states its belief that a 29 percent reduction in

GHG levels compared to BAU would only meet 1990 levels, and that more of a reduction is necessary (as shown in a graph created and provided by the commenter). It then goes on to reiterate why the commenter believes that a net-zero emissions threshold would be more appropriate, particularly given the proposed project's anticipated lifespan.

To the extent the comments set forth a policy position on the appropriate threshold to be utilized generally based on its belief about the level of reduction necessary to achieve the State's emission reduction goals, such a general policy position does not raise specific CEQA issues and does not warrant a further response.

Furthermore, as detailed more fully in Responses to SHUTE-24 and SHUTE-27, the City is not required to utilize the threshold suggested by the commenter. The City elected, in its discretion, to utilize the identified threshold in accordance with Valley Air District guidance and the mandates of CEQA. See also Responses to AENV-3, -4, -5, and -7. Lead agencies have the discretion to develop evidence-based numeric thresholds (mass emissions, per capita, or per service population) consistent with the applicable Scoping Plan, the State's long-term GHG goals, and climate change science. The City has the discretion, under CEQA, to weigh the evidence relating to the accuracy and sufficiency of the information in the Draft EIR and to decide whether to accept it. The City may adopt the environmental conclusions reached by the experts who prepared the Draft EIR even though others may disagree with the underlying data, analysis, or conclusions. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 408; *State Water Resources Control Board Cases* (2006) 136 CA4th 674, 795). Disagreements or discrepancies in results arising from different methods for assessing environmental issues do not undermine the validity of the Draft EIR's analysis as long as a reasonable explanation supporting the Draft EIR's analysis is provided. (*Planning and Conserv. League v. Castaic Lake Water Agency* (2009) 180 CA4th 210, 243).

As discussed more fully in Section 3.8, Greenhouse Gas Emissions, the Valley Air District "Guidance for Valley Land Use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA," includes thresholds based on whether the project will reduce or mitigate GHG levels by 29 percent from BAU levels compared with 2005 levels. This level of GHG reduction is based on the target established by ARB's AB 32 Scoping Plan, which was approved in 2008. The ARB recognizes that AB 32 establishes an emissions reduction trajectory that will allow California to achieve the more stringent 2050 target: "These [greenhouse gas emission reduction] measures also put the State on a path to meet the long-term 2050 goal of reducing California's GHG emissions to 80 percent below 1990 levels." The Valley Air District guidance recommends using emissions in 2002–2004 in the baseline scenario to represent conditions—as if regulations had not been adopted—to allow the effect of projected growth on achieving reduction targets to be clearly defined. Thus, the BAU scenario is based on 2005 levels.

The GHG analysis in the Draft EIR complies with CEQA, and therefore no revisions are required.

Response to SHUTE-30

The commenter restates its assertion that the Draft EIR does not provide substantial evidence to support the use of the Statewide 29 percent and 21.7 percent BAU thresholds. The commenter states the Draft EIR does not recognize the land use changes that have occurred throughout in the

San Joaquin Valley, which has experienced a significant increase in warehouse development (and related large increase in diesel truck trips), and indicates that the Draft EIR should have considered the potential impacts of replacing climate-friendly agricultural uses (particularly alfalfa), which can contribute to net neutrality by removing GHG emissions from the atmosphere.

See Responses to SHUTE-24, SHUTE-27, SHUTE-30, AENV-3, AENV-4, and AENV-5.

Response to SHUTE-31

The commenter repeats its assertion that the Draft EIR misrepresents the conclusions from the *Newhall Ranch* case. The commenter explains that the *Newhall Ranch* case did not only find the use of a BAU threshold may be inappropriate for an individual project because new projects may need to do more than existing projects to ensure the State meets its goals. The commenter concludes that comparing the proposed project's GHG emissions to the emissions it would have generated under the 2005 regulatory framework is not substantial evidence. The commenter then reiterates its position that a net-zero threshold is more appropriate.

To the extent the comments set forth a policy position on the appropriate threshold to be utilized generally based on its belief about the level of reduction necessary to achieve the State's emission reduction goals, such a general policy position does not raise specific CEQA issues and does not warrant a further response.

The California Supreme Court's decision in *Newhall Ranch* is accurately described and applied throughout Section 3.8 of the Draft EIR. It is important to note that the Court in *Newhall Ranch* did not invalidate the BAU approach entirely. See Responses to SHUTE-27, SHUTE-30, AENV-3 and AENV-8.

CEQA does not require an evaluation of impacts against a threshold that requires net-zero GHG emissions. The Draft EIR evaluated GHG impacts against the appropriate thresholds as required by CEQA. See Responses to AENV-4 and AENV-5. Moreover, as detailed in Section 3.8, Greenhouse Gas Emissions, each of the project phases would achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements from adopted regulations in their respective operational years. The emission estimates presented in Tables 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this progress and the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target. Furthermore, Table 3.8-12 describes how the proposed project would be consistent with the 2017 Scoping Plan Update measures. Therefore, the City has properly determined that the proposed project would not prohibit or prevent the State of California from achieving the goals set in Executive Order B-55-18 because it would not result in barriers to achieving net-zero emissions.

Also, see Response to AENV-15 and multiple Responses herein for a description of mitigation measures included in the Final EIR that would also have the effect of reducing GHG emissions.

Response to SHUTE-32

The commenter restates its belief that designing new warehouses to include the most emission reduction components would be more feasible to reduce GHG emissions and meet Statewide climate targets rather than retrofitting existing buildings. The commenter concludes that the Draft EIR inaccurately represented the holdings of the *Newhall Ranch* case and failed to provide substantial evidence that the Statewide BAU threshold is appropriate. Also, the commenter states that the Draft EIR conflicts with the findings of the *Golden Door* court case because the Draft EIR does not differentiate between different types of development and the proposed project would generate substantially more GHG emissions due to diesel-fueled truck use, compared to other types of land uses that do not use diesel-fueled trucks.

As discussed in multiple Responses herein, the Final EIR includes a stable project description, which was thoughtfully analyzed pursuant to requirements under CEQA. Consistent with the commenter's request, the proposed project is doing significantly more than what could be expected of existing projects (in terms of retrofitting). See numerous Responses herein that detail the mitigation measures and other enforceable conditions of approval that would be imposed on or otherwise incorporated into the proposed project, which would reduce air quality and GHG impacts to the extent feasible. The commenter seeks to distinguish warehouse developments from other types of proposals. However, the Final EIR properly accounts for the type of proposal at issue, identifies feasible mitigation measures, and also notes that emissions associated with light industrial uses such as the proposed project involve emissions primarily from mobile sources (i.e., truck trips) and electricity generation, and thus one of the best ways to feasibly and effectively reduce these emissions will necessarily result from compliance with a comprehensive regulatory framework implemented by expert public agencies such as the ARB.

See also Responses to AENV-8 and AENV-9.

See Responses to SHUTE-24, SHUTE-27 and SHUTE-30 regarding the Draft EIR's proper selection and application of the appropriate thresholds as required by CEQA.

As discussed in Section 3.6 Greenhouse Gas Emissions, under CEQA and as held in the California Supreme Court's decision in *Center for Biological Diversity v. California Department of Fish and Wildlife*, GHG impacts would be considered significant if the proposed project would:

1. Conflict with a compliant GHG Reduction Plan if adopted by the lead agency;
2. Exceed the San Joaquin Valley Air Pollution Control District (Valley Air District) GHG Reduction Threshold; or
3. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of GHGs.

Therefore, the first impact criterion, "conflict with a compliant GHG Reduction Plan if adopted by the lead agency," cannot be applied to the proposed project, because the City of Tracy has not adopted its own GHG thresholds or prepared a Climate Action Plan that can be used as a basis for determining project significance, although it has adopted a Sustainability Action Plan, which is a non-

qualifying GHG Reduction Plan. Moreover, the other two impact criteria presented closely align with the two Appendix G Environmental Checklist questions for GHG emissions. Therefore, the City, in its discretion and in accordance with CEQA requirements (including, without limitation, those set forth in relevant case law such as the *Newhall Ranch* decision), is utilizing Appendix G of the State CEQA Guidelines as thresholds for the proposed project. The Valley Air District Guidance for Valley Land use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA includes thresholds based on whether the project would reduce or mitigate GHG levels by 29 percent from BAU levels compared with 2005 levels. This level of GHG reduction is based on the target established by ARB's AB 32 Scoping Plan, approved in 2008.

Consistent with the *Newhall Ranch* court decision and as further detailed in the robust analysis set forth in Section 3.8, Greenhouse Gas Emissions and explained further herein, a project BAU analysis based on substantial evidence in the record was prepared for the proposed project, which assesses "consistency with AB 32's goal in whole or part by looking to compliance with regulatory programs designed to reduce greenhouse gas emissions from particular activities." As explained in more detail in Section 3.8, Greenhouse Gas Emissions, of the Draft EIR, the proposed project is expected to become operational in phases beginning in 2023 and assumes full buildout in 2025, which is beyond the AB 32 target year. As a result, until a new threshold is identified for projects constructed after 2020, the only adopted threshold to address significance is based on making continued progress toward the SB 32 2030 goal.

Moreover, as detailed in Section 3.8, Greenhouse Gas Emissions and explained further herein, each of the project phases would necessarily achieve reductions beyond the ARB 2020 21.7 percent target and the Valley Air District 29 percent reduction from BAU requirements as a result of compliance with mandates in their respective operational years. The emission estimates presented in Tables 3.8-9 through 3.8-11 demonstrate that the proposed project would achieve greater reductions than the Valley Air District-established threshold of 29 percent, resulting in annual reductions ranging from 43.3 to 44 percent. Based on this continued progress and consistent with the 2017 Scoping Plan Update, it is reasonable to conclude that the proposed project would be consistent with the 2017 Scoping Plan and would make a reasonable fair share contribution to achieving the 2030 target. Furthermore, Table 3.8-12 describes in detail, pointing to specific project features and other relevant information, how the proposed project would be consistent with the applicable 2017 Scoping Plan Update measures. Therefore, the City has properly determined, based on substantial evidence, that the proposed project would not prohibit or prevent the State of California from achieving the goals set in Executive Order B-55-18 because it would not result in barriers to achieving net-zero emissions. See also Responses to SHUTE-24, SHUTE-27, SHUTE-30, AENV-3, -4, -5, and -7.

Response to SHUTE-33

The commenter reiterates that the use of a 29 percent BAU threshold is inadequate and the Draft EIR should use a net-zero GHG emissions threshold to ensure the proposed project is consistent with the States 2030 and 2045 goals.

See multiple Responses herein as well as AENV-3 and AENV-8.

Response to SHUTE-34

The commenter reiterates its position that the Draft EIR does not contain an adequate qualitative analysis, noting that the Draft EIR lists only some of the relevant GHG reduction goals, explains the general regulatory framework, and then provides only conclusory statements about consistency. It states that the Draft EIR's failure to adopt feasible measures to reduce GHG emissions demonstrates inconsistency with the relevant State goals.

See multiple Responses herein as well as Response to AENV-7.

Response to SHUTE-35

The commenter restates its assertion that the Draft EIR improperly omitted analysis of the proposed project's impacts on consistency with EO 55-0-18, AB 1279, and the 2022 Scoping Plan.

See multiple Responses herein as well as Response to AENV-3 through 5, AENV-7, and AENV-8. The City has properly determined that the proposed project would not prohibit or prevent the State of California from achieving the goals set in Executive Order B-55-18 or AB 1279 because the proposed project would not result in barriers to achieving net-zero emissions. In addition, CEQA does not require that the Draft EIR be updated to reflect the final 2022 Scoping Plan (which was published in November 2022 and adopted in December 2022), well after environmental review for the proposed project was commenced.

Response to SHUTE-36

The commenter restates its assertion that the Draft EIR did not adequately evaluate whether the project would conflict with goals of EO S-3-05 for reducing GHGs 80 percent below 1990 levels by 2050 and the Draft EIR conflicts with the findings of the *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* court case by improperly deferring analysis.

The Draft EIR did not improperly defer analysis. Rather, the evaluation concluded that it would be speculative to quantify the amount of emission reductions that would occur due to future regulatory measures since such measures have not yet been identified and adopted, but noted that the proposed project would be required to comply with any such future regulations as part of the implementation of a comprehensive regulatory scheme. As detailed more fully herein and otherwise in the Final EIR, the proposed project's potential GHG emissions impacts were fully analyzed both quantitatively and qualitatively, utilizing the adopted quantitative threshold recommended by Valley Air District (the public agency charged with regulating air quality and GHG emissions in the San Joaquin Valley). The Draft EIR explains why it would be speculative to do anything different. See also Responses to AENV-5 and AENV-8.

Response to SHUTE-37

The commenter restates its assertion that both the DEIR and FEIR failed to analyze whether the project would conflict with the Statewide 2050 climate goals and the project must include mitigation and not rely on future State legislation.

See multiple Responses herein as well as Responses to AENV-5 and AENV-10.

Response to SHUTE-38

The commenter restates its assertion that the Draft R underestimated mobile source emissions due to the use of the CalEEMod default values for passenger vehicle and truck trips; instead, the Draft EIR should have used different assumptions.

See Response to SHUTE-8. The Draft EIR properly utilized the CalEEMod default values. The commenter provides no basis for different assumptions except for a bare assertion that trip lengths “could well exceed those lengths.” The City has the discretion, under CEQA, to weigh the evidence relating to the accuracy and sufficiency of the information in the Draft EIR and to decide whether to accept it. The City may adopt the environmental conclusions reached by the experts who prepared the Draft EIR even though others may disagree with the underlying data, analysis, or conclusions. (Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal. (1988) 47 C3d 376, 408; State Water Resources Control Board Cases (2006) 136 CA4th 674, 795). Disagreements or discrepancies in results arising from different methods for assessing environmental issues do not undermine the validity of the Draft EIR's analysis as long as a reasonable explanation supporting the Draft EIR's analysis is provided. (Planning and Conserv. League v. Castaic Lake Water Agency (2009) 180 CA4th 210, 243).

Response to SHUTE-39

The commenter restates its position that the Draft EIR underestimated trip length from project mobile sources.

The Draft EIR's modeling is accurate for the purposes of this analysis and is supported by substantial evidence in the record. See Responses to SHUTE-8 and SHUTE-38.

Response to SHUTE-40

The commenter restates its position that the Draft EIR failed to properly analyze climate change plan and policy impacts and failed to include feasible mitigation measures that would reduce mobile source emissions, and therefore the Draft EIR's evaluation of energy impacts is inadequate. The basis for this assertion is the Draft EIR's flawed GHG analysis. The commenter recognizes that the Draft EIR contains mitigation measures that are aimed at achieving a minimum of energy efficiency but then asserts that more could be done by imposing measures through a commitment to PV installation and a greater focus on electrification.

This comment merely reiterates the commenter's position that the GHG analysis is flawed and that additional mitigation should be imposed. See multiple Responses herein as well as Responses to AENV-5 and AENV-10 that address these concerns at length, and confirm that the Draft EIR contains a robust GHG analysis and identifies numerous feasible mitigation measures that would have the effect of reducing GHG emissions as well as air quality impacts.

Response to SHUTE-41

The commenter restates its assertion that the Draft EIR is required to include mitigation measures to reduce energy impacts, and indicates that the Draft EIR “refuses to identify or require any mitigation” for GHG impacts which undermines its conclusion with respect to energy. The commenter further states that a discussion of the potential ability of the proposed project to produce renewable energy is a procedural requirement. The commenter restates its position that

the proposed project should be required to include renewable energy production or design features, such as solar panels, summarizes the applicable CEQA energy threshold, and then lists the Draft EIR's findings about the amount of gasoline and diesel fuel that would be used during project construction and operation.

The commenter correctly lists the applicable energy threshold and the information disclosed by the Draft EIR in terms of the estimated gasoline and diesel fuel to be used during project construction and operation.

See multiple Responses herein, which explain at length the Draft EIR's approach to the GHG analysis and the basis for its less than significant conclusion, as well as identify numerous mitigation measures and other enforceable conditions of approval that would be imposed on and otherwise incorporated into the proposed project that would reduce air pollutant and GHG emissions and enhance energy efficiency. For example, among others, the proposed project would be required to comply with then-current City and Title 24 requirements to include solar-ready rooftop infrastructure, which would allow for the future installation of solar panels. The proposed project would not preclude the use of natural gas appliances, but the overall GHG emissions during project operation from energy sources, such as natural gas appliances, is expected to be relatively nominal due to the incorporation of highly efficient improvements and infrastructure. The proposed project would be required to include the use of energy-efficient lighting and HVAC systems in accordance with then-current applicable City building code and Title 24 standards.

This Final EIR addresses the topic of solar panels on each building as part of the Responses to GSEJA-31, Valley Air District 2-12, and Sierra 1-6. As described therein, the California Building Standards Code (CBC) requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels. The proposed project would be required to comply with the foregoing, thereby contributing to improved air quality and making progress toward reducing greenhouse gas emissions through the production of solar energy. Furthermore, the use of solar panels would not substantially reduce air pollutant emissions on-site, because energy source emissions described in the Air Quality Analysis (see Section 3.3 of the Draft EIR) are limited to those generated from the on-site combustion of natural gas due to the inter-regional relationship between land use development projects and the facility generating the electricity. As such, the consideration of electricity-related energy source emissions is limited to GHGs. Moreover, the proposed project would not result in any significant impact related to GHG (or energy) emissions and therefore the City is not required by CEQA to impose this type of mitigation, as discussed at length in Section 3.8 of the Draft EIR (see also Responses to Valley Air District 2-12, 2-13). Nevertheless, the project applicants have voluntarily agreed to incorporate additional enforceable conditions of approval to address this concern (see COA No. 9 in updated MMRP).

Response to SHUTE-42

The commenter restates its position that the Draft EIR did not evaluate the use of EV charging stations for on-site vehicles and equipment as well as trucks and passenger vehicles.

The commenter's statement is inaccurate. The Draft EIR evaluated the use of EV charging stations, and identified MM AIR-1i that would require the proposed project to include EV charging

infrastructure pursuant to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2 in all parking areas during operation. Therefore, all development as part of the proposed project would be conditioned to demonstrate a clean truck fleet would be operational to the maximum extent feasible when the subject individual development proposal operations begin. Moreover, the project applicants have voluntarily agreed to incorporate additional enforceable conditions of approval to address this concern (see COA No. 9(D) in updated MMRP).

Response to SHUTE-43

The commenter restates its position that the Draft EIR should not conclude energy impacts would be less than significant and should include additional mitigation measures to require the use of renewable energy production and other design features.

See Responses to SHUTE-41 and -42.

Response to SHUTE-44

The commenter states that the Draft EIR is inconsistent with General Plan Policy AQ-1.2-P3 because it believes additional mitigation measures should be included.

The City Council, as the legislative body that adopted its General Plan, has the discretion to interpret its General Plan in determining consistency. The fact that the commenter believes that another conclusion would be more appropriate does not undermine the ability of the City Council to exercise its discretion in making a consistency finding. The law gives deference to the City's interpretation of its General Plan. The City and its consultants, based on substantial evidence in the record, provided a thoughtful and robust consistency analysis, as set forth in detail in Impact LAND-2.

Here, Section 3.3, Air Quality, in the Draft EIR and Section 4, Errata, document in detail the basis for a consistency finding with the above-referenced policy as well as other relevant General Plan goals, policies, and objectives. See also multiple Responses herein, which document the numerous

mitigation measures and other enforceable conditions of approval that would be imposed on and otherwise incorporated into the proposed project that would be required to reduce air pollutant emissions to the extent feasible. In addition, as described in Section 3.3, Air Quality, the proposed project would be required to adhere to the applicable federal, State, and local laws and regulations, which include BMPs to reduce air pollutant emissions associated with the construction and operation of the proposed project. Also, see Responses to SIERRA-1-3, GSEJA-8, and GSEJA-11.

Response to SHUTE-45

The commenter states that the Draft EIR is inconsistent with General Plan Policy AQ-1.2-P6 because the project is fulfilling the minimum requirement of structurally accommodating the future installation of solar panels, but should install solar panels.

See Response to SHUTE-44.

As described more fully therein, the proposed project would be required to design the proposed buildings according to Subchapter 6, Part 6 of the Title 24 standards, to structurally accommodate

future installation of a rooftop solar system. As such, the design of the proposed project would facilitate the future commitment to renewable energy resources.

See also Responses to GSEJA-8, GSEJA-11.

Response to SHUTE-46

The commenter states that the Draft EIR is inconsistent with General Plan Policy AQ-1.2-P12 because EIR MM AIR-1h does not specify what an appropriate buffer distance would be and what type or amount of vegetation would be sufficient to mitigate the impacts of TAC emissions generated by the project.

See Response to SHUTE-44.

See also multiple Responses herein, which explain at length the HRA that was conducted for the proposed project, as detailed in Section 3.3, Air Quality, of the Draft EIR; as well as detailing numerous mitigation measures and enforceable conditions of approval that would be imposed on and otherwise incorporated into the proposed project. For example, the implementation of BMPs and MMs AIR-1a through 1i would reduce air quality emissions (along with having the concomitant effect of reducing GHG emissions) to the maximum amount feasible. In addition, in terms of a land use buffer zone, MM AIR-1h, as provided in Section 4, Errata of the Final EIR, requires a vegetated project site buffer in the area of the sensitive receptors in compliance with this policy. The City has agreed to adopt, and the project applicants have agreed to implement this additional mitigation measure.

See also Responses to GSEJA-3, GSEJA-8, GSEJA-11.

Response to SHUTE-47

The commenter states that the Draft EIR is inconsistent with General Plan Policy AQ-1.2-P14 based on its repeated assertion that the proposed project does not properly include additional measures the commenter lists in this comment letter and attachment.

See Response to SHUTE-44.

See also Responses to SIERRA-1-3 and SIERRA-1-4.

Response to SHUTE-48

The commenter states that the Draft EIR is inconsistent with General Plan Policy AQ-1.4-P3 based on its repeated assertion that the Draft EIR does not demonstrate the proposed project is consistent with the appropriate plans and policies related to GHG emissions reduction goals. The commenter further elaborates that because the proposed project would be inconsistent with General Plan policies, it would conflict with several course case rulings, such as *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* and *Napa Citizens for Honest Gov't v. Napa County* (2001).

See Response to SHUTE-44.

See also Responses to AENV-4, -5, -7, and -9. Response to SHUTE-49

The commenter concludes that the Draft EIR does not fulfill CEQA requirements and the City should deny the project approval.

To the extent the comment expresses its position on the merits of the proposed project and/or a general policy position that the City should consider broader policy questions regarding approval of large warehouse projects generally, such statements have been noted and will be provided to the City Council for its consideration and no further response is required.

This comment reflects a summary of its position that the Draft EIR does not satisfy requirements under CEQA. See multiple Responses herein.

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From: Genna McIntosh <gennamcintosh15@gmail.com>
Sent: Monday, August 29, 2022 6:18 PM
To: Victoria Lombardo <Victoria.Lombardo@cityoftracy.org>
Subject: Comments on Tracy Alliance Project EIR (SCH NO. 20200805524)

August 29, 2022

Victoria Lombardo, Senior Planner
City of Tracy Development Services
333 Civic Center Plaza
Tracy, California 95376

Subject: Comments on Tracy Alliance Project EIR (SCH NO. 20200805524)

Dear Ms. Lombardo,

During the May 25th 2022 Planning Commission meeting, I spoke about the project on the north east corner of our city, the Tracy Alliance Project. Since that meeting some things have come to my attention.

What is concerning is the lack of addressing an Environmental Justice element.

1

In 2016, Senate Bill 1000 signed in 2016, requires all cities and counties in California to include environmental justice goals and policies to their General Plan. <https://oag.ca.gov/environment/sb1000>

SB 1000 references that in local land use planning, cities are required to update their General Plan to include an Environmental Justice element when 2 or more elements have been amended/updated which would have occurred with our land use and housing general plan element updates. <https://www.cityoftracy.org/home/showpublisheddocument/906/637451218789130000>

When I spoke at that May 25th meeting I was unaware of how my community is considered a Disadvantaged Community on CalEnviroScreen and it raises the following questions:

2

Where are the environmental justice elements to this EIR?
Has the City reviewed and or adopted any of the AG Warehouse Project Best Practices?
<https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>

Is the city utilizing the CalEnviroScreen to identify Disadvantaged Communities? (CalEPA's SB 535 "Disadvantaged Communities" Mapping Tool).

3

Did the public comment period reflect the OAG best practice of community engagement?
<https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf>

4

As Tracy strives to build an economically, diverse, healthy and robust community the residents expect full transparency, accountability and communication to be more actively engaged. Concerned Citizens for Tracy Alliance Project, Concerned Citizens for TAP, requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to ConcernedCitizensforTAP@gmail.org

5

Respectfully,
Genna McIntosh

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Individual

Genna McIntosh (MCINTOSH-3)

Response to MCINTOSH-3-1

The commenter notes participation at a May 25, 2022 Planning Commission meeting, and notes a lack of an Environmental Justice Element.

This comment does not raise any specific project-related environmental issues under CEQA and therefore no further response is required. However, for informational purposes, the following is noted.

A General Plan must include an Environmental Justice element when the local jurisdiction proposes to adopt or revise at least two elements concurrently, pursuant to SB 1000.

Since SB 1000 went into effect, the City of Tracy has updated only the Land Use Element of its General Plan. The Housing Element was updated in 2016, prior to SB 1000. Therefore, because the City has not updated more than one element concurrently since SB 1000 went into effect on January 1, 2018, the requirement to include an Environmental Justice element has not been triggered. If and to the extent such requirement is triggered in the future, the City will be required to comply with applicable law.

Response to MCINTOSH-3-2

The commenter noted a previous lack of awareness that her community (unincorporated Banta) is identified as a Disadvantaged Community on CalEnviroScreen. The commenter also noted that this raises several questions regarding inclusion of an Environmental Justice analysis in the Draft EIR, and whether the City has reviewed and/or adopted the “AG Warehouse Project Best Practices.”

This comment is noted and acknowledged, but because it does not raise any specific project-related environmental issues under CEQA, no further response is required. However, for informational purposes, the following is noted.

While the Banta community may experience some existing pollution burden, the Banta community is not identified as part of an area which has different significance thresholds from those recommended by the Valley Air District. Refer to Response to GSEJA-3 and GSEJA-26 regarding Environmental Justice; see also Responses to Mcintosh 3-3 and SHUTE-2. Regarding the California Attorney General’s *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, the Attorney General’s letter provides examples of the AG’s position with respect to best practices for siting warehouses but does not constitute legally enforceable requirements on facility siting. The Draft EIR, Section 3.3, Air Quality, included feasible mitigation measures to reduce potential air quality impacts. Furthermore, as discussed in Response to Valley Air District-2-5 and multiple Responses to SHUTE, to further reduce potential health impacts to the nearest sensitive receptors, new MM AIR-1e is added to Section 3.3, Air Quality, of the Draft EIR. These changes can be seen in Section 3.1 of the Errata. No further analysis or mitigation measures are required under CEQA.

Response to MCINTOSH-3-3

The commenter raises the question whether the City is utilizing the CalEnviroScreen to identify disadvantaged communities (Cal/EPA's SB 535 "Disadvantaged Communities" Mapping Tool).

This comment is noted and acknowledged, but because it does not raise any specific project-related environmental issues under CEQA, no further response is required. However, for informational purposes, the following is noted.

CalEnviroScreen is a general mapping tool developed by the California Office of Environmental Health Hazard Assessment (OEHHA) to help identify California communities that are most affected by sources of pollution.

The environmental effects of the proposed project are fully evaluated in the Draft EIR, and feasible mitigation measures are identified to reduce identified significant impacts. An adjacent area (Banta) is designated by Cal/EPA as being part of a disadvantaged community for the purpose of SB 535; however, Banta is outside of the City's SOI. The City of Tracy does not have any disadvantaged communities within its SOI. SB 535 targets disadvantaged communities in California for investment of proceeds from the State's Cap and Trade Program to improve public health, quality of life, and economic opportunity in California's most burdened communities, while also reducing pollution. The CalEnviroScreen general mapping tool was not developed for use in evaluating potential impacts under CEQA, and utilizing this tool is not required under CEQA.

The proposed project entails the development of three industrial warehouse and distribution buildings and related improvements, which would bring jobs and other economic opportunities to the local area without State assistance. The environmental effects of the proposed project are fully evaluated in the Draft EIR, and feasible mitigation measures are identified for the identified significant impacts that are within the City of Tracy's jurisdictional authority to impose and enforce as required by CEQA. The Draft EIR provides a disclosure of localized impacts. As described in the methodology section under Section 3.3, Air Quality, the Draft EIR's analysis was based on the applicable Valley Air District guidelines and thresholds and is supported by substantial evidence based, in part, on project-specific information. Furthermore, as discussed in Response to Valley Air District-2-5 and multiple Responses to SHUTE, to further reduce potential health impacts to the nearest sensitive receptors, new MM AIR-1e is added to Section 3.3, Air Quality, of the Draft EIR. These changes can be seen in Section 3.1 of the Errata. Additionally, refer to Response to GSEJA-3.

Response to MCINTOSH-3-4

The commenter raises the question whether community engagement occurred during the public comment period as recommended by the Attorney General.

This comment is noted and acknowledged, but because it does not raise any specific project-related environmental issues under CEQA, no further response is required. However, for informational purposes, the following is noted.

Opportunities for public participation are a mandated and essential part of the CEQA process. Pursuant to CEQA, the City held a duly noticed public scoping meeting on September 9, 2020, at which no public comments were submitted. Additionally, the City's Planning Commission held a duly

noticed public meeting on May 25, 2022, for the purpose of receiving oral and written comments on the Draft EIR, and opportunities to review and comment on the Draft EIR and related appendices were provided both electronically and via hard copies. Therefore, the environmental review process for the proposed project exceeds CEQA's requirements for public participation.

Response to MCINTOSH-3-5

The commenter requested that Concerned Citizens for Tracy Alliance Project (TAP) be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

Comment is noted and acknowledged. Concerned Citizens for TAP will be included in future notices for the proposed project. No further response is required.

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SECTION 4: ERRATA

The following are revisions to the Draft EIR for the Tracy Alliance Project. These revisions are minor typographical errors, 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 EIR or otherwise require recirculation of the Draft 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

Revisions to Sources

The footnote sources for the Tracy Municipal Services Review are updated to the following to provide a working link:

De Novo Planning Group. 2019. Tracy Municipal Services Review. Website: https://www.sjgov.org/docs/default-source/local-agency-formation-commission-documents/municipal-services-and-spheres-of-influence/cities/tracy---july-2019.pdf?sfvrsn=aa988a63_2. Accessed: July 25, 2022.

Executive Summary

Page ES-3-4

Significant Unavoidable Adverse Impacts

- **Project-Level Impact Related to Implementation of the Applicable Air Quality Plan:** The proposed project is consistent with the site's General Plan designation which means the proposed industrial use was accounted for in the Air Quality Plan (AQP) land use projections. However, the proposed project could create a localized violation of State or federal air quality standards, significantly contribute to cumulative nonattainment pollutant violations, and expose sensitive receptors to substantial pollutant concentrations. The proposed project would be required to implement MM AIR-1a through MM AIR-41j; however, because full implementation of the mitigation cannot be guaranteed due to potential technical and/or financial infeasibility, the proposed project's potentially significant impact is conservatively identified as significant and unavoidable. Therefore, the proposed project is inconsistent with Criterion 1 of the AQP even after the incorporation of mitigation. The impact would be significant and unavoidable.
- **Project-Level Impact Related to Cumulatively Considerable Net Increase of reactive organic gases (ROG) and carbon monoxide (CO) During Construction, and ROG and oxides of nitrogen (NO_x) During Operation:** The construction schedule for the proposed project assumed that none of the three project phases would overlap. In this scenario, after the incorporation of MMs AIR-1a and AIR-1b, construction of the proposed project would not exceed the San Joaquin Valley Air Pollution Control District (Valley Air District) daily emission screening levels for an Ambient Air Quality Analysis (AAQA), pursuant to District Rule 2201.

However, the potential remains for project phases to be constructed concurrently. If the three phases of construction occur concurrently, emissions of ROG and CO would exceed the Valley Air District’s significance thresholds ~~if all three project phases were constructed concurrently~~. As such, this impact would remain significant and unavoidable after implementation of identified mitigation.

During operation, unmitigated emissions would exceed Valley Air District thresholds of significance for ROG_s and NO_x. Therefore, MM AIR-1c ~~through MM AIR-1j and MM AIR-1d~~ would be required to mitigate operational emissions to below Valley Air District thresholds. However, the full implementation of MM AIR-1c ~~through MM AIR-1j and MM AIR-1d~~ cannot be guaranteed during project operation; therefore, the reasonable worst-case operational emissions would exceed the Valley Air District’s significance thresholds for ROG and NO_x and this impact would remain significant and unavoidable.

- Project-Level Impact Related to Exposing Sensitive Receptors to Substantial Pollutant Concentrations:** During construction, if all three project phases were constructed concurrently, the proposed project would expose sensitive receptors to CO and diesel particulate matter (DPM) emissions that exceed applicable thresholds even with mitigation incorporated. During operation, the proposed project would expose sensitive receptors to ROG_s, NO_x, and DPM levels that exceed applicable thresholds even after incorporation of identified mitigation resulting in a significant and unavoidable impact.

Page ES-50, Table ES-1: Executive Summary Matrix

Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
Impact AIR-1: The proposed project could conflict with or obstruct implementation of the applicable air quality plan.	Potentially Significant	MM AIR-1a: NO_x Reduction Measures Prior to the issuance of grading or building permits for each individual development proposal within the project site, the relevant applicant for each development proposal shall provide documentation to the City of Tracy demonstrating the following NO _x reduction measures would be adhered to during construction activities for the relevant development proposal: <ul style="list-style-type: none"> For all construction equipment and vehicles used during project construction that are equal to or greater than 250 horsepower, the contractor shall use construction equipment and vehicles that meet the United States Environmental Protection Agency (EPA) Tier 4 Final engine standards; For all construction equipment and vehicles used during project construction that are less than 250 horsepower, the contractor shall use electric construction equipment and vehicles. <u>If the applicant can demonstrate that electric equipment and vehicles are not reasonably available, the next best reasonably available piece of equipment or vehicle shall be used, such as, for example, Tier IV final or alternative fueled equipment</u> 	Significant and Unavoidable

Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		<p><u>that is zero-emission. The foregoing requirement to use electric construction equipment shall not apply to handheld generator set to the extent feasible, with the exception of handheld generator sets; and</u></p> <ul style="list-style-type: none"> All generator sets utilized during project construction shall be limited to 5 horsepower and shall only be used to power handheld power tools. <p>The construction contractor shall maintain reasonable records concerning its efforts to comply with this requirement, including equipment lists. Documentation that each relevant applicant provides to the City shall include, but is not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.</p> <p>MM AIR-1b: “Super-Compliant” Architectural Coatings Prior to the issuance of grading or building permits for each individual development proposal within the project site, the relevant applicant for each development shall provide the City with documentation demonstrating the use of “Super-Compliant” architectural coatings, as defined by the South Coast Air Quality Management District (South Coast AQMD), during construction of the proposed project. “Super-Compliant” architectural coatings, as defined by the South Coast AQMD, are paints which do not exceed 10 grams of reactive organic gas (ROG) per liter of paint.</p> <p>MM AIR-1c: “Zero-VOC” Consumer Products <u>Prior to issuance of building permits for each individual development proposal within the project site, the relevant applicant for each development shall provide the City with documentation requiring</u> the consumer products purchased by the building occupant(s) or by the cleaning business contracted by the building occupant(s) for on-site use shall consist of water-based or “zero volatile organic compound [VOC]” consumer products, to the maximum extent feasible. “Consumer products,” as referred to in this mitigation measure, shall include detergents, cleaning compounds, polishes, and floor finishes. “Consumer products,” as referred to in this mitigation measure, shall not include parking lot degreasers, architectural coatings, pesticides, or fertilizers.</p> <p>MM AIR-1d: Clean Truck Fleet Prior to the issuance of the certificate of occupancy for each individual development proposal within the project</p>	

Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		<p>site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating the use of a clean truck fleet that meets the California Air Resources Board’s adopted 2013 Optional Low-NO_x Standard of 0.02 gram of nitrogen oxide (NO_x) per brake horsepower hour for all heavy-duty trucks during operation of the proposed project, to the maximum extent feasible. If the relevant applicant does not own the truck fleet that will be used during operation of the subject individual development, the relevant applicant shall provide the City with reasonable documentation from the truck fleet owner demonstrating that trucks utilized for operation of the subject individual development will meet the California 2013 Optional Low-NO_x Standard, to the maximum extent feasible. If any change occurs where a new truck fleet is utilized during operation of the subject individual development, the relevant applicant shall provide the City with reasonable documentation demonstrating that the new truck fleet meets the California 2013 Optional Low-NO_x Standard of 0.02 gram per brake horsepower hour, to the maximum extent feasible. Prior to the issuance of the certificate of occupancy for each phase of the proposed project, the relevant applicant for the individual development proposal within the project site shall provide the City with reasonable documentation demonstrating the use of a clean truck fleet that meets the California Air Resources Board’s adopted 2013 Optional Low-NO_x Standard of 0.02 gram of nitrogen oxide (NO_x) per brake horsepower hour for all heavy-duty trucks during operation of the proposed project, to the maximum extent feasible. If the relevant applicant does not own the truck fleet that will be used during operation of each phase of the proposed project, the relevant applicant shall provide the City with reasonable documentation from the truck fleet owner demonstrating that trucks utilized for operation of the individual development at issue will meet the California 2013 Optional Low-NO_x Standard, to the maximum extent feasible. If any change occurs where a new truck fleet is utilized during operation of the individual development at issue, the relevant applicant shall provide the City with reasonable documentation demonstrating that the new truck fleet meets the California 2013 Optional Low-NO_x Standard of 0.02 gram per brake horsepower hour, to the maximum extent feasible.</p>	

	<p>MM AIR-1e: Operational Truck Fleet Routing <u>Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that trucks used during project operation for the subject individual development proposal shall be prohibited from accessing Grant Line Road east of the project site, such as plans illustrating intended truck routes. Additionally:</u></p> <p><u>A. Prior to the issuance of grading permit, the project applicant shall submit to the City of Tracy Engineering Department plans or designs that show where the project’s private drive intersects with Grant Line Road, the applicant shall use a combination of raised concrete medians (or islands) and/or bollards to prevent trucks from entering the left turn pocket. Truck drivers shall be directed into a dedicated right turn lane onto Grant Line Road. Signage and roadway striping within the project will also direct drivers to the appropriate lanes as they approach the intersection. The design shall be reviewed and approved by the City of Tracy Engineering Department.</u></p> <p><u>B. Prior to the issuance of occupancy permit for the first building, the Phase I Developer shall demonstrate to the City of Tracy Public Works Department that the development shall include new signage placed along Grant Line Road, warning truck drivers that truck travel through the Community of Banta is not permitted and is a finable offense shall be placed along Grant Line Road. Specifically, two signs shall be placed on the north and south sides of Grant Line Road near its intersection with the proposed project’s private drive and visible to east bound traffic. The exact locations, design and text of the signs shall be approved by the City of Tracy Public Works Department.</u></p> <p><u>All trucks used during project operation shall use routes that circumvent the use of Grant Line Road east of the project site.</u></p> <p>MM AIR-1f: Idling Limitation <u>Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that on-site truck idling during project operation for the subject individual development proposal shall be limited to no greater than 3 minutes. The documentation provided to the City shall include photos or a map of signage posted in strategic locations on-site identifying that truck idling does not exceed 3 minutes. The signage shall include a</u></p>	
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Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		<p><u>phone number to contact at the facility regarding idling violation complaints, and corrective action shall occur within 48 hours of receipt of the complaint.</u></p> <p><u>MM AIR-1g: Electric On-site Off-Road and On-Road Equipment</u> <u>Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that all on-site off-road and on-road equipment to be used during project operation of the subject individual development proposal shall be electric-powered. On-site off-road and on-road equipment shall include, but are not limited to, forklifts and pallet jacks.</u></p> <p><u>MM AIR-1h: Vegetated Project Site Buffer</u> <u>Prior to the issuance of building permit(s) for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall demonstrate on their site plans the inclusion of a vegetative buffer along the eastern property line of the project site adjacent to sensitive receptors. Examples of vegetative buffers may include, but are not limited to, trees, bushes, shrubs, or a mix thereof.</u></p> <p><u>MM AIR-1i: Tier 2 CALGreen Electric Vehicle Charging Infrastructure</u> <u>Prior to the issuance of building permit(s) for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation (e.g., shown on-site plans) showing that the proposed parking areas for passenger automobiles and trucks for project operation of the subject individual development proposal are designed and shall be built to include electric vehicle (EV) charging stations. At a minimum, the parking shall be designed to include a number of EV charging stations equal to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2.</u></p>	
<p>Impact AIR-2: The proposed project could result in a cumulatively considerable net increase of any criteria pollutant</p>	<p>Potentially Significant</p>	<p>MM AIR-1a through MM AIR-1d <u>MM AIR-1i</u></p>	<p>Significant and Unavoidable</p>

Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
for which the region is in nonattainment under an applicable federal or State ambient air quality standard.			
Impact AIR-3: The proposed project could expose sensitive receptors to substantial pollutant concentrations.	Potentially Significant	MMs AIR-1d <u>through AIR-1i</u> .	Significant and Unavoidable
Cumulative Impact	Potentially Significant	MM AIR-1a through MM AIR-1 <i>j</i>	Significant and Unavoidable
Impact TRANS-1: The proposed project would result in a substantial increase in vehicle miles traveled.	Potentially Significant	<p>MM TRANS-1(a): Transportation Demand Management Measures</p> <p>Prior to issuance of the first building permit for the relevant individual development proposal, the relevant applicant for the individual development proposal at issue shall submit to the City of Tracy Planning Department a transportation demand management (TDM) program that incorporates all of the following six measures (as explained further in Table 3.14-6 of the Draft EIR):</p> <ol style="list-style-type: none"> 1. Communication and Information Strategies—4 percent reduction; 2. Telecommuting for administrative staff (5 percent of staff population)—1 percent reduction; 3. Designated parking spaces for carpool vehicles—1 percent reduction; 4. Provide a transit stop along the project frontage on Grant Line Road, if agreed to by the City—2 percent reduction; 5. Provide bike lanes and sidewalks along the project frontage—1 percent reduction; and 6. Provide on-site bike racks and showers—1 percent reduction. <p>Provided, however, that if the relevant applicant determines that one of more of the foregoing six TDM measures is not feasible in connection with the individual development proposal at issue, then the relevant applicant may obtain approval from the City of Tracy</p>	Significant and Unavoidable

Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		<p>Planning Department of acceptable substitute TDM measure(s) pursuant to Table 3.14-6 of the Draft EIR.</p> <p>The relevant applicant’s TDM program, as described above, shall reflect a 10 percent reduction in VMT for the relevant individual development proposal.</p> <p>MM TRANS-1(b): Payment of Applicable Banking Fee. In addition to the TDM program required in MM TRANS-1(a), each applicant for an individual development proposal shall pay <u>its fair share of</u> the applicable fee as set forth in the adopted VMT Mitigation Banking Fee in place and effective at the time the relevant applicant seeks to obtain building permits for its individual development proposal. Provided, however, that if the City Council has not adopted the Mitigation Banking Fee Program such that it is effective and in place at the time an applicant for an individual development proposal seeks to obtain a building permit, <u>then the relevant applicant shall implement additional VMT reduction measures in order to meet the total minimum VMT reduction requirement of 15 percent. then payment of \$633.11 (cost per VMT reduction for the relevant individual development proposal) shall constitute compliance with this MM TRANS 1(b) then the relevant applicant shall implement additional VMT reduction measures in order to meet the minimum VMT reduction requirement of 15 percent.</u></p>	

Section 3.3 Air Quality

Page 3.3-20

San Joaquin Valley Air Pollution Control District Rules and Regulations

The following Valley Air District rules and regulations are relevant to this analysis:

Rule 2010—Permits Required. This rule requires operators of emission sources to obtain an Authority to Construct and Permit to Operate from the District.

Rule 2201—New and Modified Stationary Source Review. This rule requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology, such as requiring a backup generator to meet Tier 4 emission standards.

Rule 2520—Federally Mandated Operating Permits. The purpose of this rule is to issue operating permits for new and modified sources of air contaminants pursuant to the requirements of 40 Code of Federal Regulations, Part 70.

Rule 4002—National Emissions Standards for Hazardous Air Pollutants. The purpose of this rule is to protect the public from uncontrolled emissions of asbestos by requiring a thorough inspection for asbestos before any demolition or renovation activities occur.

Rule 4102—Nuisance. The purpose of this rule is to protect the health and safety of the public and applies to any source operation that emits or may emit air contaminants or other materials.

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Regulation VIII—Fugitive PM₁₀ Prohibitions. Rules 8011-8081 are designed to reduce PM₁₀ emissions (predominantly dust/dirt) generated by human activity, including construction and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and trackout, etc. All development projects that involve soil disturbance are subject to at least one provision of the Regulation VIII series of rules.

Rule 9410—Employer Based Trip Reduction. This rule applies to projects that result in the employment of 100 or more “eligible” employees and requires the employer to establish an Employer Trip Reduction Implementation Plan that encourages employees to reduce single-occupancy vehicle trips.

Rule 9510—Indirect Source Review. This rule reduces the impact of NO_x and PM₁₀ emissions from growth within the Air Basin. The rule places application and emission reduction requirements on development projects meeting applicability criteria in order to reduce emissions through on-site mitigation, off-site Valley Air District-administered projects, or a combination of the two. The proposed project must comply with Rule 9510 because it would develop more than 25,000 square feet of light industrial uses.

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MM AIR-1e Operational Truck Fleet Routing

Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that trucks used during project operation for the subject individual development proposal shall be prohibited from accessing Grant Line Road east of the project site, such as plans illustrating intended truck routes. Additionally:

- A. Prior to the issuance of grading permit, the project applicant shall demonstrate to the City of Tracy Engineering Department plans or designs that show where the project’s private drive intersects with Grant Line Road, the applicant shall use a combination of raised concrete medians (or islands) and/or bollards to prevent trucks from entering the left turn pocket. Truck drivers shall be directed into a dedicated right turn lane onto Grant Line Road. Signage and roadway striping within the project will also direct drivers to the appropriate lanes as they approach the intersection. The design shall be reviewed and approved by the City of Tracy Engineering Department.

B. Prior to the issuance of occupancy permit for the first building, the Phase I Developer shall demonstrate to the City of Tracy Public Works Department that the development shall include new signage warning truck drivers that truck travel through the Community of Banta is not permitted and a finable offense shall be placed along Grant Line Road. Specifically, two signs shall be placed on the north and south sides of Grant Line Road near its intersection with the proposed project's private drive and visible to east bound traffic. The exact locations, design and text of the signs shall be approved by the City of Tracy Public Works Department.

~~All trucks used during project operation shall use routes that circumvent the use of Grant Line Road east of the project site.~~

MM AIR-1f Idling Limitation

Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that on-site truck idling during project operation for the subject individual development proposal shall be limited to no greater than 3 minutes. The documentation provided to the City shall include photos or a map of signage posted in strategic locations on-site identifying that truck idling does not exceed 3 minutes. The signage shall include a phone number to contact at the facility regarding idling violation complaints, and corrective action shall occur within 48 hours of receipt of the complaint.

MM AIR-1g Electric On-site Off-Road and On-Road Equipment

Prior to the issuance of the certificate of occupancy for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation demonstrating that all on-site off-road and on-road equipment to be used during project operation of the subject individual development proposal shall be electric-powered. On-site off-road and on-road equipment shall include, but are not limited to, forklifts and pallet jacks.

MM AIR-1h Vegetated Project Site Buffer

Prior to the issuance of building permit(s) for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall demonstrate on their site plans the inclusion of a vegetative buffer along the eastern property line of the project site adjacent to sensitive receptors. Examples of vegetative buffers may include, but are not limited to, trees, bushes, shrubs, or a mix thereof.

MM AIR-1i Tier 2 CALGreen Electric Vehicle Charging Infrastructure

Prior to the issuance of building permit(s) for each individual development proposal within the project site, the relevant applicant for the subject individual development proposal shall provide the City with reasonable documentation (e.g., shown on-site plans) showing that the proposed parking areas for passenger automobiles and trucks for project operation of the subject individual development proposal are designed and shall be built to include electric vehicle (EV) charging stations. At a minimum, the parking shall be designed to include a number of EV charging stations equal to the Tier 2 Nonresidential Voluntary Measures of the California Green Building Standards Code, Section A5.106.5.3.2.

Level of Significance After Mitigation

Significant and unavoidable impact.

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As shown in Table 3.3-12, unmitigated operational emissions would exceed Valley Air District thresholds of significance for ROG and NO_x. Therefore, MMs AIR-1c, ~~and AIR-1d, AIR-1e, AIR-1f, AIR-1g, AIR-1h, and AIR-1i~~ would be required to mitigate operational emissions to the extent feasible ~~to~~ below Valley Air District thresholds.

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Nonetheless, the full implementation of MM AIR-1c and MM AIR-1d cannot be guaranteed during project operation; therefore, the emission estimates provided in Table 3.3-14 demonstrate a reasonable worst-case scenario for project operation after incorporation of identified mitigation. In addition, MM AIR-1f would restrict on-site vehicle idling to no greater than 3 minutes. MM AIR-1g would require the use of electric on-site on- and off-road equipment in place of non-electric alternatives. MM AIR-1i would require the installation of EV charging stations which meet the Tier 2 standards set forth in Section A5.106.5.3 of Appendix A5 – Nonresidential Voluntary Measures of CALGreen of the 2019 California Building Code. The inclusion of MMs AIR-1f, AIR-1g, and AIR-1i would help further incrementally reduce emissions below those disclosed in this Draft EIR; however, the quantified reductions from these measures cannot be accurately identified and guaranteed at this time. Because the operational emissions shown ~~therein~~ above would exceed the Valley Air District's significance thresholds for ROG and NO_x ~~and~~ this impact would remain significant and unavoidable.

Operational Ambient Air Quality Analysis

Valley Air District Rule 2201 requires that an AAQA be conducted for a project when that project's maximum daily emissions exceed 100 pounds for any single criteria or precursor pollutant after incorporation of all mitigation. As shown in Table 3.3-14, due to the uncertainty of full implementation of MM AIR-1c and MM AIR-1d, and the uncertain extent and efficacy of quantified reductions resulting from MM AIR-1f, MM AIR-1g, MM AIR-1i, the potential emission reductions resulting from ~~MM AIR-1c and MM AIR-1d~~ identified mitigation are not considered in the proposed project's mitigated operational emissions. As such, maximum daily operational emissions generated by all phases of the proposed project would exceed the Valley Air District's screening threshold for

an AAQA for NO_x emissions. As a result, this impact would remain significant and unavoidable after mitigation is incorporated.

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Mitigation Measures

Implement MMS AIR-1a, AIR-1b, AIR-1c, ~~to~~ AIR-1d, AIR-1f, AIR-1g, and AIR-1i.

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The implementation of MM AIR-1d would contribute to the minimization of DPM emissions generated from trucking emissions; however, full implementation of MM AIR-1d cannot be guaranteed. In addition, MM AIR-1e would restrict truck traffic from accessing Grant Line Road east of the project site, where many sensitive receptors are located. MM AIR-1f would restrict on-site vehicle idling to no greater than 3 minutes. MM AIR-1g would require the use of electric on-site on- and off-road equipment in place of non-electric alternatives. MM AIR-1h would require the installation of a vegetated buffer around specified portions of the project site to reduce the potential off-site dispersion of TACs generated at the project site during operation. MM AIR-1i would require the installation of EV charging stations which meet the Tier 2 standards set forth in Section A5.106.5.3 of Appendix A5 – Nonresidential Voluntary Measures of CALGreen of the 2019 California Building Code. The inclusion of MMs AIR-1f, AIR-1g, and AIR-1i would help incrementally reduce emissions below those disclosed in this Draft EIR; however, the quantified reductions from these measures cannot be accurately identified and guaranteed at this time. As a result, this impact would be significant and unavoidable after the incorporation of mitigation.

Level of Significance Before Mitigation

Potentially Significant Impact

Mitigation Measures

MMs AIR-1d through AIR-1i.

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... constructed concurrently. In addition, because the full implementation of MMs AIR-1c and AIR-1d cannot be guaranteed during project operation, and the potential emission reduction from inclusion of MMs AIR-1f, AIR-1g, and AIR-1i cannot be accurately identified and guaranteed at this time, the proposed project could result in potentially significant impacts related to regional emissions significance thresholds for ROG_s and NO_x, both ozone precursor pollutants, during project operation.

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Mitigation Measures

MMs AIR-1a to AIR-1i and MM AIR-3

Section 3.8 Greenhouse Gas Emissions

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Table 3.8-5: Summary of Applicable Greenhouse Gas Regulations

Regulation	Project Applicability
Title 24 Energy Efficiency Standards	Project buildings would be required to be constructed to meet the latest version of Title 24 (currently 2019), <u>which, among other standards, requires that nonresidential projects construct their roofs to be solar-ready to accommodate the future installation of solar panels.</u> Reduction applies only to energy consumption subject to the regulation.
Green Building Code Standards	The project would be required to include water conservation features mandated by the standard.
Water Efficient Land Use Ordinance	The project landscaping would be required to comply with the regulation.
Renewable Portfolio Standard	Electricity purchased for use at the project site is subject to the 33 percent RPS mandate.
Solid waste	The solid waste service provider would be required to provide programs to increase diversion and recycling to meet the 75 percent mandate, to which the project would be required to adhere.

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Accordingly, taking into account the proposed project’s emissions, and the progress being made by the State toward reducing emissions in key sectors such as transportation, industry, and electricity through the adoption and implementation of a comprehensive regulatory framework, the project would be consistent with State GHG Plans and would further the State’s goals of reducing GHG emissions 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050, and does not obstruct their attainment.

Consistency with RTP/SCS

The San Joaquin COG 2018 RTP establishes regional transportation policy for San Joaquin County based on specific transportation goals and objectives. The RTP focuses on achieving a coordinated and balanced multimodal transportation system, while maintaining the integrity of the existing system. The RTP includes projects located throughout San Joaquin County for all forms or modes of transportation, including automobiles, transit, nonmotorized (including bicycle), passenger rail, freight, and aviation facilities. The goals and objectives contained in the RTP are focused on transportation initiatives, infrastructure, planning, and funding on the regional level. The proposed project would support these policies and strategies.

Policy 1 of the RTP/SCS would enhance the environment for existing and future generations and conserve energy. The Draft EIR evaluates the proposed project’s impacts on the environment and provides feasible mitigation to address these potential impacts. As analyzed in Section 3.6, Energy, the proposed project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or

operation (Impact ENER-1) or conflict with or obstruct a State or local plan for renewable energy of energy efficiency (Impact ENER-2). The project site has a land use designation of “Industrial” in the City of Tracy General Plan, and the proposed project, which consists of the buildout of warehousing and other industrial space, is consistent with this land use designation. The RTP/SCS accounts for growth in the project site and vicinity, including industrial developments such as the proposed project. Strategy 3 is to improve air quality by reducing transportation-related emissions. Though the proposed project would result in significant and unavoidable impacts with respect to air quality and VMT, the proposed project would be required to implement feasible mitigation (MM AIR-1d, MM AIR-1e, MM AIR-1f, MM AIR-1i, MM TRANS-1a, and MM TRANS-1b), which would reduce transportation-related emissions to the maximum extent feasible thereby improving air quality, consistent with Strategy 3. Strategy 4 is to improve the regional transportation system efficiency. As described in Chapter 2, Project Description, and throughout the Draft EIR, the proposed project would set aside approximately 12.51 acres in the northwest corner of the project site, which would be sufficient to accommodate improvements to the City’s expressway system, as well as a future I-205/Paradise Road/Chrisman Road interchange as shown in Exhibit 2-7c in Chapter 2, Project Description of the Draft EIR, consistent with the City of Tracy Transportation Master Plan (TMP). As noted in the TMP, it provides a comprehensive review of the City’s transportation system and serves as a blueprint that can be utilized to identify and implement required improvements to the existing roadway system as well as expand upon the system to accommodate future development consistent with the General Plan. As an interstate, I-205 serves the region, and, therefore, the future I-205/Paradise Road/Chrisman Road interchange would improve the regional transportation system and support Strategy 4. Similarly, Strategy 8 requires the improvement of major transportation corridors to minimize impacts on rural roads. While these specific future regional transportation improvements would be considered and implemented as part of a separate process subsequent to approval of the proposed project, the approximately 12.51 acres of land set aside that would facilitate the improvements to the City’s expressway system and the future I-205/Paradise Road/Chrisman Road interchange would result in such improvements by providing infrastructure for automobiles and trucks entering and exiting the project site. Furthermore, as discussed in Section 14, Transportation, of the Draft EIR, the proposed project would implement the following travel demand measures to reduce project VMT as is required by MM TRANS-1(a).

1. Utilize communication and information strategies—4 percent reduction;
2. Offer telecommuting for administrative staff (5 percent of staff population)—1 percent reduction;
3. Designate parking spaces for carpool vehicles—1 percent reduction;
4. Provide a transit stop along the project frontage on Grant Line Road, if agreed to by the City—2 percent reduction;
5. Provide bike lanes and sidewalks along the project frontage—1 percent reduction; and
6. Provide on-site bike racks and showers—1 percent reduction.

Through the implementation of project design features and required mitigation measures, as discussed above, the proposed project is considered to be consistent with the RTP/SCS.

Section 3.11 Land Use and Planning

Page 3.11-27 and -28, Table 3.11-3

Element	Goal/Objective/Policy		Consistency Determination
	No.	Text	
10—Air Quality	Goal AQ-1	Improved air quality and reduced greenhouse gas emissions.	Consistent: The proposed project would be subject to various regulatory measures adopted to ensure ambient air quality standards are met to the extent feasible. The proposed project would <u>implement MMs AIR-1a through AIR-1i to reduce emissions generated during construction and operation to the extent feasible</u> not be a source of significant toxic or hazardous air pollutants and odors , and was not found to have a significant impact with respect to GHG <u>or odors</u> . Refer to Section 3.3, Air Quality and Section 3.8, Greenhouse Gas, for further discussion. <u>In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address air quality and GHG emissions issues (see updated MMRP).</u>
	AQ-1.2 P1	The City shall assess air quality impacts using the latest version of the CEQA Guidelines and guidelines prepared by the San Joaquin Valley Air Pollution Control District.	Consistent: The proposed project would be subject to various regulatory measures adopted to ensure ambient air quality standards are met. This Draft EIR evaluated the proposed project’s potential air quality impacts pursuant to CEQA and San Joaquin Valley Air Pollution Control District (Valley Air District) Guidelines. Refer to Section 3.3, Air Quality, for further discussion.
	<u>AQ-1.2 P3</u>	<u>Developers shall implement best management practices to reduce air pollutant emissions associated with the construction and operation of development projects.</u>	Consistent. Section 3.3, Air Quality, in the Draft EIR and Section 4, Errata, <u>include mitigation measures that the proposed project would be required to implement to reduce air pollutant emissions to the extent feasible</u> . In addition, as described in Section 3.3, Air Quality, the proposed project would adhere <u>to the applicable federal, State, and local laws and regulations, which include BMPs to reduce air pollutant emissions associated with the construction and operation of the proposed project</u> . Moreover, the project applicants have <u>voluntarily agreed to the incorporation of enforceable conditions of approval to further address air quality issues (see updated MMRP).</u>
	AQ-1.2 P4	New development projects should incorporate energy efficient design features for HVAC, lighting systems and insulation that exceed Title 24.	Consistent: The proposed project’s buildings, including the HVAC, lighting systems, and insulation, would be designed and constructed in accordance with the City’s latest adopted energy efficiency standards, which are based on the State’s

Element	Goal/Objective/Policy		Consistency Determination
	No.	Text	
			Building Energy Efficiency Standards. These are widely regarded as the most advanced and stringent building energy efficiency standards and compliance would ensure that building energy consumption would not be wasteful, inefficient, or unnecessary. <u>In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address energy efficiency issues (see updated MMRP).</u>
	<u>AQ-1.2 P6</u>	<u>Installation of solar voltaic panels on new homes and businesses shall be encouraged.</u>	Consistent. The installation of solar voltaic panels is not a City of Tracy requirement for industrial development. As described in Draft EIR Section 3.6, Energy page 24, the proposed project would be required to design the proposed buildings according to Subchapter 6, Part 6 of the Title 24 standards, to structurally accommodate future installation of a rooftop solar system. As such, the design of the proposed project would facilitate the future commitment to renewable energy resources. The Draft EIR was prepared based on Valley Air District guidance and, with the implementation of BMPs, MMs AIR-1a through 1i, the proposed project would reduce air quality and GHG emissions to the maximum amount feasible. <u>In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address air quality, GHG emissions, and energy efficiency issues (see updated MMRP).</u>
	AQ-1.2 P7	Trees should be planted on the south- and west-facing sides of new buildings or building undergoing substantial renovation in order to reduce energy usage.	Consistent. Project landscaping trees are included in the project design and would be consistent with the NEI Specific Plan requirements for placing one tree per five parking spaces, and otherwise would comply with all applicable landscaping requirements. <u>In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address buffer, landscaping, and energy efficiency issues (see updated MMRP).</u>
	<u>AQ-1.2 P12</u>	<u>New sources of toxic air pollutants shall prepare a Health Risk Assessment as required under the Air Toxics “Hot Spots” Act and based on the results of the Assessment,</u>	Consistent. A Health Risk Assessment (HRA) is provided in Section 3.3, Air Quality, of the Draft EIR, and the Draft EIR concluded that the proposed project would exceed the San Joaquin Valley Air Pollution Control District’s (Valley Air District’s) significance thresholds, resulting in significant and

Element	Goal/Objective/Policy		Consistency Determination
	No.	Text	
		<u>establish appropriate land use buffer zones around those areas posing substantial health risks.</u>	<u>unavoidable impacts. However, with the implementation of BMPs, MMs AIR-1a through 1i, the proposed project would reduce air quality and GHG emissions to the maximum amount feasible. For purposes of clarification and amplification, in terms of a land use buffer zone, MM AIR-1h, as provided in Section 4, Errata of the Final EIR, requires a vegetated project site buffer along the east property boundary near the sensitive receptors in compliance with this policy. The City has agreed to adopt, and the project applicants have agreed to implement this additional mitigation measure. In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address air quality, buffer, and health impact issues (see updated MMRP).</u>
	AQ-1.2 P13	<u>Dust control measures consistent with the San Joaquin Valley Air Pollution Control District rules shall be required as a condition of approval for subdivision maps, site plans, and grading permits.</u>	<u>Consistent. Valley Air District Rule 8021 includes basic dust control measures as noted in Section 3.3, Air Quality in the Draft EIR. In compliance with this policy, these measures would be included as an enforceable condition of approval for the proposed project.</u>
	AQ-1.2 P14	<u>Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented.</u>	<u>Consistent.</u> <u>As described in Section 3.3, Air Quality, of the Draft EIR there are several significant, unavoidable air quality impacts. However, the proposed project would be required to implement all feasible MMs AIR-1a through MM AIR-1i. The basis for these determinations is detailed more fully in Section 3.3, Air Quality. In addition, the project applicants have voluntarily agreed to the incorporation of enforceable conditions of approval to further address air quality issues (see updated MMRP).</u>
	AQ-1.2 P15	<u>Encourage businesses to electrify loading docks or implement idling-reduction systems so that trucks transporting refrigerated goods can continue to power cab cooling elements during loading, layovers, and rest periods.</u>	<u>Consistent.</u> <u>The proposed project would not include refrigerated units. Therefore, no trucks transporting refrigerated goods would be accessing the site. Although not required to do so, the project applicants have voluntarily agreed to prohibit to use of TRUs or cold storage pursuant to COA No. 4 (see updated MMRP).</u> <u>In addition, the City has agreed to adopt, and the project applicants have agreed to implement MM AIR-1f, which would restrict on-site vehicle idling in any event to no greater than 3 minutes. (See also updated MMRP, COA No. 8(D).)</u>

Section 3.14 Transportation

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As noted above, the City is currently pursuing a VMT Mitigation Banking Fee Program; the draft program currently calculates the cost per one (1) VMT reduction as \$633.11. However, the VMT Mitigation Banking Fee Program has not yet been finalized and adopted; accordingly, the applicable fee would be the amount provided for under the Mitigation Banking Fee Program adopted by the City Council and effective at the time the relevant applicant for an individual development proposal within the project site obtained building permits. Provided, however, that if the Council has not adopted the Mitigation Banking Fee Program such that it is effective and in place at the time an applicant for an individual development proposal seeks to obtain a building permit, then payment of \$633.11 (cost per one (1) VMT reduction) shall constitute compliance for the payment component of MM TRANS-1(b) then the relevant applicant shall implement additional VMT reduction measures in order to meet the minimum VMT reduction requirement of 15 percent.

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MM TRANS-1(b) Payment of Applicable Banking Fee

In addition to the Transportation Demand Management (TDM) program required in MM TRANS-1(a), each applicant for an individual development proposal shall pay its fair share of the applicable fee as set forth in the adopted Vehicle Miles Traveled (VMT) Mitigation Banking Fee in place and effective at the time the relevant applicant seeks to obtain building permits for its individual development proposal. Provided, however, that if the City Council has not adopted the Mitigation Banking Fee Program such that it is effective and in place at the time an applicant for an individual development proposal seeks to obtain a building permit, then payment of \$633.11 (cost per VMT reduction for the relevant individual development proposal) shall constitute compliance with this MM TRANS-1(b) then the relevant applicant shall implement additional VMT reduction measures in order to meet the total minimum VMT reduction requirement of 15 percent.

Section 6 Alternatives

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6.2—Significant Unavoidable Impacts

- **Project-Level Impact Related to Implementation of the Applicable Air Quality Plan:** The proposed project is consistent with the site's General Plan designation which means the proposed industrial use was accounted for in the Air Quality Plan (AQP) land use projections. However, the proposed project could create a localized violation of State or federal air quality standards, significantly contribute to cumulative nonattainment pollutant violations, and expose sensitive receptors to substantial pollutant concentrations. The proposed project would be required to implement MM AIR-1a through MM AIR-41j; however, because full implementation of the mitigation cannot be guaranteed due to potential technical and/or financial infeasibility, the proposed project's potentially significant impact is conservatively

identified as significant and unavoidable. Therefore, the proposed project is inconsistent with Criterion 1 of the AQP even after the incorporation of mitigation. The impact would be significant and unavoidable.

- **Project-Level Impact Related to Cumulatively Considerable Net Increase of reactive organic gases (ROG) and carbon monoxide (CO) During Construction, and ROG and oxides of nitrogen (NOX) During Operation:** The construction schedule for the proposed project assumed that none of the three project phases would overlap. In this scenario, after the incorporation of MMs AIR-1a and AIR-1b, construction of the proposed project would not exceed the San Joaquin Valley Air Pollution Control District (Valley Air District) daily emission screening levels for an Ambient Air Quality Analysis (AAQA), pursuant to District Rule 2201. However, the potential remains for project phases to be constructed concurrently. If the three phases of construction occur concurrently, emissions of ROG and CO would exceed the Valley Air District's significance thresholds if all three project phases were constructed concurrently. As such, this impact would remain significant and unavoidable after implementation of identified mitigation.

During operation, unmitigated emissions would exceed Valley Air District thresholds of significance for ROG_s and NO_x. Therefore, MM AIR-1c ~~through MM AIR-1i and MM AIR-1d~~ would be required to mitigate operational emissions to below Valley Air District thresholds. However, the full implementation of MM AIR-1c ~~through MM AIR-1i and MM AIR-1d~~ cannot be guaranteed during project operation; therefore, the reasonable worst-case operational emissions would exceed the Valley Air District's significance thresholds for ROG and NO_x and this impact would remain significant and unavoidable.

Appendix E

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Tracy Alliance Sunnyvale FCII Project Energy Use Summary

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