

**COMMENTS AND RESPONSE TO COMMENTS  
ON THE INITIAL STUDY AND MITIGATED NEGATIVE  
DECLARATION PREPARED FOR THE DESIGN REVIEW (DR  
05-19) TENTATIVE TRACT MAP (TTM 082738)  
MULTI-TENANT WAREHOUSE DEVELOPMENT.**

**4304 TEMPLE CITY BOULEVARD  
EL MONTE, CALIFORNIA 91731**



**LEAD AGENCY:**

**CITY OF EL MONTE  
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
11333 VALLEY BOULEVARD  
EL MONTE, CALIFORNIA 91731**

**REPORT PREPARED BY:**

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**JULY 21, 2022**

ELMT 034

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## 1. INTRODUCTION

The purpose of this document is to provide a public record of those comment that were received regarding the construction and subsequent operation of a new proposed warehouse building that is proposed at 4304 Temple City Boulevard. This Initial Study analyzes the environmental impacts associated with the proposed construction and operation of a multi-tenant industrial warehouse development within the City of El Monte, The project would consist of two new buildings with a total floor area of 63,428 square feet within a 2.89-acre lot (prior to the required street dedication). There would be a total of four units (tenant spaces) in two separate buildings. Building 1 would contain Units 1 and 2 and would have a total floor area of 44,207 square feet and would consist of 33,825 square feet of warehouse space, 3,490 square feet of office space and 5,976 square feet of mezzanine office space. Building 2 would contain Units 3 and 4 and would have a total floor area of 19,221 square feet and would consist of 14,219 square feet of warehouse space, 2,179 square feet of office space and 2,565 square feet of mezzanine office space. A total of 69 parking spaces would be provided. Of this total, 65 parking spaces would be standard parking spaces and 4 would be accessible parking spaces. Access to the project site would be provided by one driveway connection along Temple City Boulevard. In addition, the proposed project would include 4,077 square feet of landscaping.<sup>1</sup> The project Applicant is D&K Well Team, 2227 North Merced Avenue, South El Monte, California 91733.

The Mitigated Negative Declaration was submitted to the State Clearinghouse on May 19, 2022 and was circulated for the mandatory minimum of 30-days. The review period concluded on June 18, 2022. A total of three comment letters and an attachment were received from the following:

Scott Reimers, Community Development Director  
City of Temple City  
9701 Las Tunas Drive | Temple City, CA 91780  
(with attachments)

Los Angeles County Sanitation Districts County  
Los Mandy Huffman, Environmental Planner Facilities Planning Department  
1955 Workman Mill Road  
Whittier, California 90601

Mitchell M. Tsai, Attorney At Law  
139 South Hudson Avenue, Suite 200  
Pasadena, California 91101  
(with attachments)

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<sup>1</sup> Space Light Structure Design. *D & K Well Team LLC, Site Plan*. March 9, 2022.

## **2. COMMENTS AND RESPONSES TO COMMENTS**

A total of three comment letters and an attachment were received from the following:

Scott Reimers, Community Development Director  
City of Temple City  
9701 Las Tunas Drive | Temple City, CA 91780  
(with attachments)

Los Angeles County Sanitation Districts County  
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1955 Workman Mill Road  
Whittier, California 90601

Mitchell M. Tsai, Attorney At Law  
139 South Hudson Avenue, Suite 200  
Pasadena, California 91101  
(with attachments)

Amalia Bowley Fuentes  
LOZEAU | DRURY LLP.  
1939 Harrison Street, Suite 150  
Oakland, CA 94618

## **Letter 1**

**Scott Reimers, Community Development Director**  
**City of Temple City**  
**9701 Las Tunas Drive | Temple City, CA 91780**  
**Letter dated July 21, 2022**

### **Comment 1.1**

Development impacting the surrounding roadway system must take into account and mitigate the additional traffic volumes and the altering of existing traffic patterns. In addition to designing appropriate access for the proposed development, planners and developers must strive to maintain a satisfactory transportation level of service and safety for all roadway users. Traffic mitigation concerns will take into account the recommendations of the approved traffic impact study as performed by a State of CA licensed traffic engineer.

### **Response 1.1**

The comment is noted for the record. Trip generation estimates for the proposed project were developed using the trip rates contained in the Institute of Transportation Engineers' (ITE) Trip Generation, 10<sup>th</sup> Edition based on the industrial land use category (ITE Code 150). This ITE information was used to estimate future traffic generated and this information is summarized in Table 3-6 included in the IS/MND. As indicated in Table 3-6, the new industrial warehouse development is anticipated to generate approximately 106 daily trips, with approximately 18 trips occurring during the AM peak hour, and 20 trips occurring during the PM peak hour. The addition of 18 AM peak hour trips and 20 PM peak hour trips will not add a significant number of vehicles to the road nor alter the Level of Service (LOS) of any of the nearby roadway intersections. Therefore, the potential impacts are anticipated to be less than significant.

### **Comment 1.2**

The project applicant should either provide 75' in stacking distance between the gate and sidewalk or the slide gate to the buildings should remain open during business hours. No trucks will be allowed to queue on Temple City Boulevard waiting for the gate to be opened.

### **Response 1.2**

No queuing will be permitted on Temple City Boulevard. This will be a *Conditional of Approval*. The truck route maps will be forwarded to the City of Temple City Public Works Department.

### **Comment 1.3**

All truck deliveries and movement to and from the Site by trucks should be restricted to designated truck routes in the Cities of Temple City, El Monte and Rosemead. The applicant should provide and submit to the City a truck route plan showing the estimated route of trucks to and from the I-10 freeway and major routes such as Lower Azusa Road and Valley Boulevard.

### **Response 1.3**

This will be a *Conditional of Approval*. The truck route maps will be forwarded to the City of Temple City Public Works Department.

### **Comment 1.4**

Efforts to reduce employee vehicle miles traveled (VMT) to the impact threshold of 16.35 VMT per employee or less by applying the following specific actions:

- a. The project owner, through continued TDM actions to be carried out by the site tenants, should achieve the target VMT for each annual reporting period, for a period of five years from the issuance of a Certificate of Occupancy by the City.
- b. The site owner shall submit to the City Traffic Engineer on an annual basis an Employee VMT Monitoring Summary, as approved by the City Traffic Engineer, that identifies the implemented program details and verifies through a survey effort of employees the project VMT.
- c. The survey will determine the commute distances for each employee and will be conducted by managers within each tenant space. The employee mode of travel (auto, carpool, transit, bicycle, or other means) and trip length will be used to determine the average home-based work trip distance per employee and average VMT based on the number of total related vehicle trips.
- d. In the event that the applicant is not in compliance with the target maximum VMT value, the applicant will be required to increase efforts to bring the VMT value to the target value or better. If the target level is not reached, however, then the program would need to be re-evaluated to determine if efforts need to be changed, embellished, and/or increased, in coordination with the City. Monitoring of the TDM Plan and VMT reduction measures should verify that major categories of trip reduction measures are being implemented, but every measure does not need to be mandated as long as the target VMT has been reached. The primary goal of the monitoring is to verify that the VMT value for the project is at the target level or lower.

### **Response 1.4**

The additional 18 AM and 20 PM peak hour trips will not be sufficient enough to require a traffic study pursuant to the Los Angeles County Congestion Management Program (CMP). According to the CMP, a project will require a traffic study if it results in 50 or more trips during a peak hour at a CMP intersection. The City of El Monte has adopted screening thresholds pursuant to Resolution No. 10172 that are designed to assist in making a determination of significant impacts relative to vehicle miles travelled (VMT). Based on the adopted screening criteria, the proposed project's VMT impacts will be less than significant based on the following criteria:

- The proposed new building is small in floor area (63,428 square feet) with the resulting daily and peak hour traffic generation being 18 AM peak hour trips and 20 PM peak hour trips. This traffic generation will not translate into a net increase of 15 percent increase in the baseline or cumulative traffic numbers.

- The proposed project's net daily traffic generation will not result in a net increase (106 daily trips) in the regional VMT compared to the baseline conditions for the project's opening year.
- The proposed project is consistent with the City of El Monte General Plan and Zoning Ordinance as it applies to the project site. Therefore, the proposed project is consistent with the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

As a result, the VMT impacts will be less than significant.

### **Comment 1.5**

The following are Public Works conditions and shall be incorporated into submittal plans, show the conditions on site plans and on grading plans (No handwritten notes, stickers etc. shall be accepted):

1. Rehabilitate existing AC street pavement along the length of the property frontage to the centerline of the street as indicated below, and as directed by the City Engineer or his/her designee:  
  
Pay in-lieu fee in the amount of \$12,600 for the required rehab to the City. City will use the in-lieu fees in the future for street rehabilitations as necessary.
2. Remove and replace broken and off grade curb and gutter in accordance with SPPWC Standard Plan 120-2, and as directed by the City Engineer or his/her designee.
3. Project shall be reviewed and approved by the City Traffic Engineer, prior to the issuance of permits. Any mitigation measures shown on the traffic study if any shall be made at the sole cost to the property owner/developer.
4. Development impacting the surrounding roadway system must take into account and mitigate the additional traffic volumes and the altering of existing traffic patterns. In addition to designing appropriate access for the proposed development, planners and developers must strive to maintain a satisfactory transportation level of service and safety for all roadway users. Traffic mitigation concerns will take into account the recommendations of the approved traffic impact study as performed by a State of CA licensed traffic engineer.
5. The project applicant should either provide 75' in stacking distance between the gate and sidewalk or the slide gate to the buildings should remain open during business hours. No trucks will be allowed to queue on Temple City Boulevard waiting for the gate to be opened.
6. All truck deliveries and movement to and from the Site by trucks should be restricted to designated truck routes in the Cities of Temple City, El Monte and Rosemead. The applicant should provide and submit to the City a truck route plan showing the estimated route of trucks to and from the I-10 freeway and major routes such as Lower Azusa Road and Valley Boulevard.

7. Efforts to reduce employee vehicle miles traveled (VMT) to the impact threshold of 16.35 VMT per employee or less by applying the following specific actions:
  - a. The project owner, through continued TDM actions to be carried out by the site tenants, should achieve the target VMT for each annual reporting period, for a period of five years from the issuance of a Certificate of Occupancy by the City.
  - b. The site owner shall submit to the City Traffic Engineer on an annual basis an Employee VMT Monitoring Summary, as approved by the City Traffic Engineer, that identifies the implemented program details and verifies through a survey effort of employees the project VMT.
  - c. The survey will determine the commute distances for each employee and will be conducted by managers within each tenant space. The employee mode of travel (auto, carpool, transit, bicycle, or other means) and trip length will be used to determine the average home-based work trip distance per employee and average VMT based on the number of total related vehicle trips.
  - d. In the event that the applicant is not in compliance with the target maximum VMT value, the applicant will be required to increase efforts to bring the VMT value to the target value or better. If the target level is not reached, however, then the program would need to be re-evaluated to determine if efforts need to be changed, embellished, and/or increased, in coordination with the City. Monitoring of the TDM Plan and VMT reduction measures should verify that major categories of trip reduction measures are being implemented, but every measure does not need to be mandated as long as the target VMT has been reached. The primary goal of the monitoring is to verify that the VMT value for the project is at the target level or lower.

#### **Response 1.5**

As part of the project's consideration, the decision-making body will consider the above relevant Conditions of Approval.

## **Letter 2**

**Los Angeles County Sanitation Districts County**  
**Los Mandy Huffman, Environmental Planner Facilities Planning Department**  
**1955 Workman Mill Road**  
**Whittier, California 90601**  
**Letter Dated June 7, 2022**

### **Comment 2.1**

*Section 3.19 Utilities and Service Systems, Response to Question D, page 89:* The response stated that “The Puente Hills Landfill was permanently closed in October 2013 and is only currently accepting clean dirt.” Please note that since the Puente Hills Landfill is closed, it is not accepting any dirt from the public.

### **Response 2.1**

The above comments are noted for the record. The requested changes are noted herein in Section 3 herein (Errata and Revisions).

### **Comment 2.2**

*Section 3.19 Utilities and Service Systems, Response to Question D, page 89:* The response stated that “... the Los Angeles County Sanitation District selected the Mesquite Regional Landfill in Imperial County as the new target destination for the County’s waste. The Mesquite Regional Landfill in Imperial County has a 100-year capacity at 8,000 tons per day.” Please note that the use of the Mesquite Regional Landfill (MRL) is postponed; no waste has been accepted at the MRL. The Districts’ Puente Hills Materials Recovery Facility, Downey Area Recycling and Transfer Facility, South Gate Transfer Station, Scholl Canyon Landfill, and Calabasas Landfill are open and accepting solid waste.

### **Response 2.2**

The above comments are noted for the record. The requested changes are noted herein in Section 3 herein (Errata and Revisions).

### **Comment 2.3**

The wastewater flow originating from the proposed project will discharge to a local sewer line, which is not maintained by the Districts, for conveyance to the Districts’ Santa Anita Outfall Trunk Sewer, located in Temple City Boulevard, between Ellis Lane and Abilene Street. The Districts 18-inch diameter trunk sewer has a capacity of 6.3 million gallons per day (mgd) and conveyed a peak flow of 2.1 mgd when last measured in 2013.

### **Response 2.3**

The above comments are noted for the record. The requested changes are noted herein in Section 3 herein (Errata and Revisions).

### **Comment 2.4**

The expected average wastewater flow from the project site, described in the MND as a total of 48,044 square feet of warehouse space and 14,210 square feet of office space, is 4,043 gallons per day. For a copy of the Districts' average wastewater generation factors, go to [www.lacsd.org](http://www.lacsd.org), under Services, then Wastewater Program and Permits, select Will Serve Program, and scroll down to click on the [Table 1, Loadings for Each Class of Land Use](#) link.

### **Response 2.4**

The above comments are noted for the record. The requested changes are noted herein in Section 3 herein (Errata and Revisions). The IS/MND indicated the future development is projected to generate 1,711 gallons of effluent on a daily basis. Using the Sanitation District's newest loading rate, the revised generation would be 1,586 gallons per day.

### **Comment 2.5**

The wastewater generated by the proposed project will be treated at the San Jose Creek Water Reclamation Plant located adjacent to the City of Industry, which has a capacity of 100 mgd and currently processes an average flow of 61.2 mgd.

### **Response 2.5**

The above comments are noted for the record. The requested changes are noted herein in Section 3 herein (Errata and Revisions).

### **Comment 2.6**

The Districts are empowered by the California Health and Safety Code to charge a fee to connect facilities (directly or indirectly) to the Districts' Sewerage System or to increase the strength or quantity of wastewater discharged from connected facilities. This connection fee is used by the Districts for its capital facilities. Payment of a connection fee may be required before this project is permitted to discharge to the Districts' Sewerage System. For more information and a copy of the Connection Fee Information Sheet, go to [www.lacsd.org](http://www.lacsd.org), under Services, then Wastewater (Sewage) and select Rates & Fees. In determining the impact to the Sewerage System and applicable connection fees, the Districts will determine the user category (e.g. Condominium, Single Family Home, etc.) that best represents the actual or anticipated use of the parcel(s) or facilities on the parcel(s) in the development. For more specific information regarding the connection fee application procedure and fees, the developer should contact the Districts' Wastewater Fee Public Counter at (562) 908-4288, extension 2727.

**Response 2.6**

The above comment is noted for the record.

**Comment 2.7**

In order for the Districts to conform to the requirements of the Federal Clean Air Act (CAA), the capacities of the Districts' wastewater treatment facilities are based on the regional growth forecast adopted by the Southern California Association of Governments (SCAG). Specific policies included in the development of the SCAG regional growth forecast are incorporated into clean air plans, which are prepared by the South Coast and Antelope Valley Air Quality Management Districts in order to improve air quality in the South Coast and Mojave Desert Air Basins as mandated by the CAA. All expansions of Districts' facilities must be sized and service phased in a manner that will be consistent with the SCAG regional growth forecast for the counties of Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial. The available capacity of the Districts treatment facilities will, therefore, be limited to levels associated with the approved growth identified by SCAG. As such, this letter does not constitute a guarantee of wastewater service, but is to advise the developer that the Districts intend to provide this service up to the levels that are legally permitted and to inform the developer of the currently existing capacity and any proposed expansion of the Districts facilities.

**Response 2.7**

The above comment is noted for the record.

## Letter 3

**Mitchell M. Tsai, Attorney At Law**  
**139 South Hudson Avenue, Suite 200**  
**Pasadena, California 91101**  
**Letter Dated June 15, 2022**

### Comment 3.1

On behalf of the Southwest Regional Council of Carpenters (“Southwest Carpenter” or “SWRCC”), my Office is submitting these comments for the City of El Monte’s (“City”) Initial Study/Mitigated Negative Declaration for the 4304 Temple City Boulevard Warehouse Development Project (“Project”).

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects. Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

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

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

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

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

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

**Response 3.1**

The comment has been noted for the record.

**Comment 3.2**

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

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

Local skilled and trained workforce requirements and policies have significant environmental benefits since they improve an area’s jobs-housing balance, decreasing the amount of and length of job commutes and their associated greenhouse gas emissions. Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup>

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

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

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

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would

be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.<sup>6</sup>

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

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits. The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

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

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>

<sup>3</sup> City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, *available at* [https://www.hayward-ca.gov/sites/default/files/documents/General\\_Plan\\_FINAL.pdf](https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf). <sup>4</sup> City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

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

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

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

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

### **Response 3.2**

The comment has been noted for the record.

### **3. ERRATA AND REVISIONS TO THE IS/MND**

The following revisions are made by reference to Section 3.19 Utilities and Service Systems in response to the comments made by the Los Angeles County Sanitation Districts:

*Revision 1, Response to Question D:* The response stated that “The Puente Hills Landfill was permanently closed in October 2013 and is only currently accepting clean dirt.” Please note that since the Puente Hills Landfill is closed, it is not accepting any dirt from the public.

*Revision 2, Response to Question D:* The response stated that “... the Los Angeles County Sanitation District selected the Mesquite Regional Landfill in Imperial County as the new target destination for the County’s waste. The Mesquite Regional Landfill in Imperial County has a 100-year capacity at 8,000 tons per day.” Please note that the use of the Mesquite Regional Landfill (MRL) is postponed; no waste has been accepted at the MRL. The Districts’ Puente Hills Materials Recovery Facility, Downey Area Recycling and Transfer Facility, South Gate Transfer Station, Scholl Canyon Landfill, and Calabasas Landfill are open and accepting solid waste.

*Revision 3:* The wastewater flow originating from the proposed project will discharge to a local sewer line, which is not maintained by the Districts, for conveyance to the Districts’ Santa Anita Outfall Trunk Sewer, located in Temple City Boulevard, between Ellis Lane and Abilene Street. The Districts 18-inch diameter trunk sewer has a capacity of 6.3 million gallons per day (mgd) and conveyed a peak flow of 2.1 mgd when last measured in 2013.

*Revision 4.* The expected average wastewater flow from the project site, described in the MND as a total of 48,044 square feet of warehouse space and 14,210 square feet of office space, is 4,043 gallons per day. For a copy of the Districts’ average wastewater generation factors, go to [www.lacsd.org](http://www.lacsd.org), under Services, then Wastewater Program and Permits, select Will Serve Program, and scroll down to click on the [Table 1, Loadings for Each Class of Land Use](#) link. The MND indicated the future development is projected to generate 1,711 gallons of effluent on a daily basis. Using the Sanitation District’s newest loading rate, the revised generation would be 1,586 gallons per day.

*Revision 5.* The wastewater generated by the proposed project will be treated at the San Jose Creek Water Reclamation Plant located adjacent to the City of Industry, which has a capacity of 100 mgd and currently processes an average flow of 61.2 mgd.

## Letter 4

**Amalia Bowley Fuentes**  
**LOZEAU | DRURY LLP.**  
**1939 Harrison Street, Suite 150**  
**Oakland, CA 94618**

### Comment 4.1

#### **A. The MND Fails to Adequately Disclose the Project's Potential Hazards and Hazardous Materials Impacts.**

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the environment must be analyzed. CEQA requires a finding that a project has a "Significant effect on the environment" if "the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." PRC §21083(b)(3). As the Court of Appeal recently stated, "[a] new project located in an area that will expose its occupants to preexisting dangerous pollutants can be said to have substantial adverse effect on human beings." Cal. Building Industry Assn. v. Bay Area Air Quality Mgm't Dist. ("CBIA v. BAAQMD"), 2013 Cal. App. LEXIS 644, \*46 (Cal. Ct. App. 2013). The existence of toxic soil contamination at a project site is a significant impact requiring review and mitigation in the EIR. (McQueen v. Bd. of Dirs. (1988) 202 Cal.App.3d 1136, 1149; Assoc. For A Cleaner Env't v. Yosemite Comm. College Dist. ("ACE v. Yosemite") (2004) 116 Cal.App.4th 629.)

Here, the MND violates CEQA because it failed to disclose hazardous conditions at the Project site, which precluded accurate analysis and mitigation of the Project's impacts. The MND found that there would be a less-than-significant impact from hazards and hazardous materials. However, the Project site is a Cortese List site under active investigation by the California Department of Toxic Substances Control ("DTSC") as part of the Crown City Plating Company due to the site's historical use as "drum storage." Ex. A, p. 2. The MND fails to disclose this vital information. Id.

A Phase II Environmental Site Assessment ("ESA") was completed for the Project Site in 2012 which found soil vapor concentrations of perchloroethylene (PCE), trichloroethylene (TCE), and 1,2-dichloroethane (1,2-DCA) which were above industrial use scenario screening levels. Id. According to the U.S. Environmental Protection Agency ("EPA"), PCE and TCE are human carcinogens, and 1,2-DCA is a probable human carcinogen. Id. at 2-3. These toxic concentrations of PCE, TCE, and 1,2-DCA have the potential to affect humans by introducing contaminated vapors into the indoor air of buildings overlying the vapor plume. Id. at 3. However, the MND fails to address this potential human exposure, even despite explicit recommendations of further investigation in the Phase II ESA. Id. Additionally, the MND does not provide for mitigation of the Volatile Organic Compounds of PCE, TCE, and 1,2-DCA, instead addressing only methane in the form of a vapor barrier. Id. An EIR must be prepared for the Project which discloses the Project site's status as being on the Cortese list, especially due to the fact that there are ongoing investigations into the site which may require access to the site and cleanup activities. Id. Further, DTSC must be notified of the proposed development on the Project site so that DTSC can ensure that the land use is appropriate for the site and that adequate mitigation measures have been put in place. Id

#### **Response 4.1**

The studies cited in the above comment were disclosed in the IS/MND included the IS/MND.”

“Alpha Environmental (Alpha) has completed a Limited Phase II Environmental Site Assessment (ESA) of the project site. The purpose of the ESA is to evaluate if subsurface soils at the project site have been impacted by Volatile Organic Compounds (VOCs) such as PCE (perchloroethylene) and TCE (trichloroethylene) from previous on-site and/or off-site industrial activity. To accomplish this on December 3, 2012, Alpha drilled 20 soil borings at the facility to a maximum depth of 15 feet below ground surface (bgs) and collected soil vapor samples at 5 and 15 feet bgs. The soil vapor samples were analyzed on-site in a mobile laboratory provided by an independent State-certified laboratory. The soil cuttings examined for this investigation indicated that the project site is underlain predominantly by brown silty sand to approximately 15 feet bgs (the maximum depth explored). No petroleum hydrocarbon or other chemical odors or staining were observed in any of the soil cutting examined. Groundwater was not encountered at a depth of 15 feet bgs. A total of 40 soil vapor samples were collected from the 20 borings drilled for this investigation. All soil vapor samples were analyzed for VOCs and Oxygenates. The concentrations of PCE, TCE and 1,2-Dichloroethane exceeded California Human Health Screening Levels (CHHSLs) in some soil gas samples at depths of 5 and 15 feet bgs, both for residential and commercial/industrial sites. TCE and 1,2 Dichloroethane are byproducts of the degradation of PCE over time, therefore the detected contaminants likely originate from the same source. It was Alpha’s opinion that no further sub-surface assessment or remediation is warranted at this time based on the following:

- Considering the result of the subsurface investigation conducted by ARCADIS in February 2012, that involved soil sampling in multiple areas of concern at the project site indicated no elevated concentration of VOCs. The concentrations did not exceed the Regional screening levels and did not warrant further investigation;
- Concentrations for PCE, TCE, and 1,2-Dichloroethane in soil vapor samples during this ESA were found to be slightly elevated as compared to CHHSLs for industrial site use. However, considerable attenuation of concentrations of PCE and TCE was noted as compared to concentration found during previous soil vapor investigations by other consultants (Glenfos, Inc.) in 2004;
- The project site is zoned for industrial use and is completely paved with no structures that are enclosed or inhabitable at the present time. Hence, vapor intrusion into the building is not currently a health and safety concern.
- The project site is situated in an area of regional groundwater contamination with PCE and TCE (Superfund site). Hence, low levels of PCE and TCE found in soil vapor/gas phase at the project site are typical in this area and can be attributed to the regional impacted groundwater. As per ARCADIS, project site owners, Union Pacific Railroad (UPRR) indicated that the groundwater beneath the project site has reportedly been investigated as a part of the El Monte Operable Unit of the San Gabriel Valley Superfund site. UPRR also indicated that the groundwater issue has been settled with the United States Environmental Protection Agency (USEPA).

Alpha recommends no further investigation related to soil/groundwater at this time. However, it recommends installation of vapor barrier or other engineering controls for new and existing enclosed building structures to mitigate potential VOC vapor intrusion.”

#### **Comment 4.2**

##### **The IS/MND Relied on Unsubstantiated Input Parameters to Estimate Project Emissions and Thus the Project May Result in Significant Air Quality Impacts.**

SWAPE found that the IS/MND incorrectly estimated the Project's construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project's impacts on local and regional air quality. The MND relies on emissions calculated from the California Emissions Estimator Version 2020.4.0 ("CalEEMod"). IS/MND, p. 33. This model, which is used to generate a project's construction and operational emissions, relies on recommended default v

values based on site specific information related to a number of factors. Ex. A, p. 3. CEQA requires any changes to the default values to be justified by substantial evidence. Id

SWAPE reviewed the IS/MND's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the MND. Ex. A, p. 4. As a result, the IS/MND's air quality analysis cannot be relied upon to determine the Project's emissions.

Specifically, SWAPE found that the following values used in the IS/MND's air quality analysis were either inconsistent with information provided in the IS/MND or otherwise unjustified:

1. Failure to Consider Potential Cold Storage Requirements. Ex. A, p. 4-5.
2. Failure to Substantiate Amount of Material Import or Export. Ex. A, p. 5.
3. Failure to Include Any Amount of Demolition. Ex. A, p. 6-7.

Significantly, SWAPE points out that the IS/MND failed to provide the CalEEMod annual output file, which the CalEEMod User Guide points out is used to calculate construction emissions and operational emissions of a Project, as well as greenhouse gas emissions. Ex. A, p. 7. Without this file, SWAPE is unable to evaluate the accuracy of the Project's annual Diesel Particulate Matter ("DPM") or greenhouse gas emissions. Id. This omission represents a significant gap in the information provided in the MND, and the MND should therefore not be relied upon to determine the significance of the Project's impacts. An EIR should be prepared which corrects the values pointed out by SWAPE and which includes the CalEEMod output files.

#### **Response 4.2**

The independent variable reflected the floor area values for both the existing and future development. The construction assumptions were also identified in both the project description and the analysis of air quality impacts. The project construction would occur over a nine-month period. The assumptions regarding the length of construction followed the construction characteristics identified in Section 2.4.2. The analysis of construction and operational emissions was prepared utilizing the California Emissions Estimator Model (CalEEMod V.2016.3.2). As shown in Table 3-1, daily construction emissions are not anticipated to exceed the SCAQMD significance thresholds.

#### **Comment 4.3**

##### **The Project Would Have a Disproportionate Health Risk Impact on Surrounding Communities.**

Next, SWAPE determined in its review that the Project would result in “disproportionate health risk impacts on community members living, working, and going to school within the immediate area of the Project site.” Ex. A, p. 7. The Southern California Air Quality Management District (“SCAQMD”) has found that “[t]hose living within a half mile of warehouses are more likely to include communities of color, have health impacts such as higher rates of asthma and heart attacks, and a greater environmental burden.” Id., quoting “South Coast AQMD Governing Board Adopts Warehouse Indirect Source Rule.” SCAQMD, May 2021, available at: <http://www.aqmd.gov/docs/default-source/news-archive/2021/board-adopts-waisr-may7-2021.pdf?sfvrsn=9>. Other expert reports from Metro Freight Center of Excellence and the University of Redlands have made similar findings, concluding that neighborhoods of color and which are lower-income are more likely to contain warehouse facilities. Ex. A at 8.

With regard to the City of El Monte in particular, SWAPE found that the City has “long borne a disproportionately high pollution burden compared to the rest of California.” Id. SWAPE consulted the California Environmental Protection Agency’s CalEnviroScreen screening tool, which ranks each census tract in the State for pollution and socioeconomic vulnerability. Id. According to CalEnviroScreen 4.0, the Project site is in the 92nd percentile of the most polluted census tracts in the State. Id., see image on p. 9. SWAPE also consulted SCAQMD’s Data Visualization Tool for Mates V and found that the City exhibits a heightened residential carcinogenic risk from exposure to air toxics. Id. at 9, see image on p. 10. SWAPE therefore concludes that development of the Project would “disproportionately contribute to and exacerbate the health conditions of residents in El Monte.” Id. at 10

As for Los Angeles County more generally, the American Lung Association ranked the County as the third worst for ozone pollution in the nation. Id. at 10. This is due in large part to ground-level ozone, which is the main component of smog and which the U.S. EPA states can aggravate lung diseases and increase the frequency of asthma attacks, particularly in children. Id. Similarly, the California Air Resources Board has found that children are at greater risk from inhaled pollutants due to factors including tendency to play on the ground with dirt which contains toxicants, and children’s less-developed natural biological defenses. Id. at 10-11.

The MND for the proposed Project states that the nearest sensitive receptors include residential units which are between 600-700 feet to the north, west, and south of the Project site. Id. at 11. SWAPE also consulted Google Earth and found that the Project site is approximately 0.66- and 0.48-miles from the Encinitas Elementary School and Shirpser Elementary School, respectively. Id., see images on p. 12. SWAPE concludes that this poses a significant threat due to children’s vulnerability to air pollution impacts. Id. at 12. SWAPE states: “the Project would have detrimental shortterm and long-term health impacts on local residents and children if approved.” Id. These findings represent substantial evidence of a fair argument that the Project would have disproportionate and significant air quality impacts on local residents and children in the Project vicinity. The City must analyze this impact as part of its assessment of whether the Project would expose sensitive receptors to substantial pollutant concentrations. See, CEQA Appendix G. Further, SWAPE states that a Health Risk Assessment (“HRA”) should be prepared to assess the cumulative air quality impacts from the “several warehouse projects proposed or built in a one-mile radius of the Project site.” Id. at 13. An EIR must be prepared in order to adequately assess and mitigate these impacts.

### **Response 4.3**

The IS/MND acknowledged the location and extent of sensitive receptors in the area. The nearest sensitive receptors to the project site include residential uses located in between 600 and 700 feet to the north, west and south of the project site. These nearby sensitive receptors are shown in Exhibit 3-1.

### **Comment 4.4**

### **The MND Failed to Evaluate Diesel Particulate Matter Emissions from the Project.**

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter (“DPM”), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1 micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board (“CARB”), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease. <sup>1</sup> The IS/MND failed to conduct a quantified construction or operational health risk analysis (“HRA”), and also failed to mention or evaluate Project-generated Toxic Air Contaminant (“TAC”) emissions. SWAPE states that this is incorrect for the following three reasons.

First, in failing to prepare an HRA, the IS/MND also fails to make a reasonable effort to connect emissions to health impacts. Ex. A at 13. SWAPE identifies potential emissions from both the exhaust stacks of construction equipment and daily vehicle trips. Id. In failing to connect TAC emissions to potential health risks to nearby receptors, the Project fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health cause by those emissions. Id.; See *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.

Second, the California Department of Justice recommends the preparation of a quantitative HRA pursuant to the Office of Environmental Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines. OEHHA released its most recent guidance document in 2015 describing which types of projects warrant preparation of an HRA. See “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: [http://oehha.ca.gov/air/hot\\_spots/hotspots2015.html](http://oehha.ca.gov/air/hot_spots/hotspots2015.html). OEHHA recommends that projects lasting at least 2 months be evaluated for cancer risks to nearby sensitive receptors, a time period which this Project easily exceeds. Ex. A at 13. The OEHHA document also recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. Id. at 13-14. Based on its extensive experience, SWAPE reasonably assumes that the Project will last at least 30 years, and therefore recommends that health risk impacts from the project be evaluated. Id. at 14. An EIR is therefore required to analyze these impacts. Id.

Third, the IS/MND’s claim that there will be a less than significant impact without having conducted a qualified construction or operational HRA for nearby sensitive receptors also fails under CEQA requirements. An EIR or at least an MND should be prepared to quantify the cumulative excess cancer risk posed by the Project’s construction and operation to nearby, existing receptors, and compare it to the SCAQMD threshold of 10 in one million. Id.

SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction and operation using air quality dispersion model AERSCREEN. Id. at 14-15. SWAPE applied a sensitive receptor distance of 200 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. Id. at 14-18.

SWAPE found that the excess lifetime cancer risk over the course of a Project operation of 30 years is approximately 10.7 in one million, which exceeds SCAQMD’s threshold of 10 in one million. Id. at 17-18.

SWAPE's analysis constitutes substantial evidence that the Project may have a significant health impact as a result of diesel particulate emissions. A health risk assessment must be prepared disclosing the health risk impacts from toxic air contaminants.

#### **Response 4.4**

Trip generation estimates for the proposed project were developed using the trip rates contained in the Institute of Transportation Engineers' (ITE) Trip Generation, 10<sup>th</sup> Edition based on the industrial land use category (ITE Code 150). This ITE information was used to estimate future traffic generated and this information is summarized in Table 3-6 included in the IS/MND. As indicated in Table 3-6, the new industrial warehouse development is anticipated to generate approximately 106 daily trips, with approximately 18 trips occurring during the AM peak hour, and 20 trips occurring during the PM peak hour. Of the total number of trips, no more than 20% would be large trucks. The building would include only two dock high loading docks and four at grade doors. As a result, the truck traffic on any given day will be minimal (approximately 20, 5-axle trucks per day).

Because the project site is located in Southern California, the majority (if not all) of the diesel trucks travelling to and from the site will be employing clean diesel technology to reduce diesel particulates. The U.S. trucking fleet is transitioning to newer clean diesel technology which translates into fuel savings, lower greenhouse gas emissions and a reduction in diesel particulate emissions. This newest generation of clean diesel trucks will have NOx emissions that are 99 percent lower than previous generations of larger trucks along with 98 percent fewer diesel particulate emissions, resulting in significant clean air benefits. Beginning in 2011, all heavy-duty diesel trucks sold had to meet NOx emissions of no more than 0.20 grams per brake horsepower hour (g/BHP-hr.). This is in addition to particulate emissions levels of no more than 0.01 g/HP-hr. established in 2007. The new more restrictive emissions requirements, together with the SCAQMD's regulations limiting truck idling times to 5 minutes will mitigate potential impacts related to truck diesel emissions.

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**Mitchell M. Tsai, Attorney At Law**  
**139 South Hudson Avenue, Suite 200**  
**Pasadena, California 91101**  
**Letter Dated June 27,2022**

**Comment 5.1**

On behalf of the Southwest Regional Council of Carpenters (“Southwest Carpenter” or “SWRCC”), my Office is submitting these comments regarding the City of El Monte’s (“City”) 4303 Temple City Boulevard Warehouse Project (“Project”), Agenda Item No. 8.3. The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including California, and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects. Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts. SWRCC expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); Bakersfield Citizens for Local Control v. Bakersfield (2004) 124 Cal. App. 4th 1184, 1199-1203; see Galante Vineyards v. Monterey Water Dist. (1997) 60 Cal. App. 4th 1109, 1121. SWRCC incorporates by reference all comments raising issues regarding the IS/MND submitted prior to certification of the IS/MND for the Project. Citizens for Clean Energy v City of Woodland (2014) 225 Cal. App. 4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, SWRCC requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“CEQA”), Cal Public Resources Code (“PRC”) § 21000 et seq, and the California Planning and Zoning Law (“Planning and Zoning Law”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body. The City should require the use of a local skilled and trained workforce to benefit the community’s economic development and environment. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California. Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

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

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling. Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

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

Local skilled and trained workforce requirements and policies have significant environmental benefits since they improve an area’s jobs-housing balance, decreasing the amount of and length of job commutes and their associated greenhouse gas emissions. Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup> Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”<sup>3</sup> In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to require that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, . . .”<sup>4</sup> In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”<sup>5</sup> Locating jobs closer to residential areas can have significant environmental benefits. . As the California Planning Roundtable noted in 2008:

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

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

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city

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is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

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

**Response 5.1**

The comment mis noted for the record.

## **COMMENT LETTERS**

**City of Temple City**  
**JN220622**  
**4304 TEMPLE CITY BLVD.**  
**PUBLIC WORKS CONDITIONS**

Address/Location: 4304 TEMPLE CITY BLVD.  
Scope of Work: New 63,956 SF Multi-Tenant Industrial/Warehouse Development  
OFFICE USE ONLY:  
Conditions Required

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Comments/Conditional Requirements:

The following are Public Works conditions and shall be incorporated into submittal plans, show the conditions on site plans and on grading plans (No handwritten notes, stickers etc. shall be accepted):

1. Rehabilitate existing AC street pavement along the length of the property frontage to the centerline of the street as indicated below, and as directed by the City Engineer or his/her designee:  
  
Pay in-lieu fee in the amount of \$12,600 for the required rehab to the City. City will use the in-lieu fees in the future for street rehabilitations as necessary.
2. Remove and replace broken and off grade curb and gutter in accordance with SPPWC Standard Plan 120-2, and as directed by the City Engineer or his/her designee.
3. Project shall be reviewed and approved by the City Traffic Engineer, prior to the issuance of permits. Any mitigation measures shown on the traffic study if any shall be made at the sole cost to the property owner/developer.
4. Development impacting the surrounding roadway system must take into account and mitigate the additional traffic volumes and the altering of existing traffic patterns. In addition to designing appropriate access for the proposed development, planners and developers must strive to maintain a satisfactory transportation level of service and safety for all roadway users. Traffic mitigation concerns will take into account the recommendations of the approved traffic impact study as performed by a State of CA licensed traffic engineer.
5. The project applicant should either provide 75' in stacking distance between the gate and sidewalk or the slide gate to the buildings should remain open during business hours. No trucks will be allowed to queue on Temple City Boulevard waiting for the gate to be opened.
6. All truck deliveries and movement to and from the Site by trucks should be restricted to designated truck routes in the Cities of Temple City, El Monte and Rosemead. The

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applicant should provide and submit to the City a truck route plan showing the estimated route of trucks to and from the I-10 freeway and major routes such as Lower Azusa Road and Valley Boulevard.

7. Efforts to reduce employee vehicle miles traveled (VMT) to the impact threshold of 16.35 VMT per employee or less by applying the following specific actions:
  - a. The project owner, through continued TDM actions to be carried out by the site tenants, should achieve the target VMT for each annual reporting period, for a period of five years from the issuance of a Certificate of Occupancy by the City.
  - b. The site owner shall submit to the City Traffic Engineer on an annual basis an Employee VMT Monitoring Summary, as approved by the City Traffic Engineer, that identifies the implemented program details and verifies through a survey effort of employees the project VMT.
  - c. The survey will determine the commute distances for each employee and will be conducted by managers within each tenant space. The employee mode of travel (auto, carpool, transit, bicycle, or other means) and trip length will be used to determine the average home-based work trip distance per employee and average VMT based on the number of total related vehicle trips.
  - d. In the event that the applicant is not in compliance with the target maximum VMT value, the applicant will be required to increase efforts to bring the VMT value to the target value or better. If the target level is not reached, however, then the program would need to be re-evaluated to determine if efforts need to be changed, embellished, and/or increased, in coordination with the City. Monitoring of the TDM Plan and VMT reduction measures should verify that major categories of trip reduction measures are being implemented, but every measure does not need to be mandated as long as the target VMT has been reached. The primary goal of the monitoring is to verify that the VMT value for the project is at the target level or lower.

Reviewed by: JR/AJ/DT  
Date: 6/21/22

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June 7, 2022

Ref. DOC 6579157

Mr. Tony Bu, Senior Planner  
City of El Monte  
Community and Economic Development Department  
Planning Division  
11333 Valley Boulevard  
El Monte, CA 91731

Dear Mr. Bu:

**NOI Response to 4304 Temple City Boulevard Warehouse Development (Tentative Tract Map No. 082738)**

The Los Angeles County Sanitation Districts (Districts) received a Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration (MND) for the subject project on May 23, 2022. The proposed project is located within the jurisdictional boundaries of District No. 15. We offer the following comments:

1. **Section 3.19 Utilities and Service Systems, Response to Question D, page 89:** The response stated that “The Puente Hills Landfill was permanently closed in October 2013 and is only currently accepting clean dirt.” Please note that since the Puente Hills Landfill is closed, it is not accepting any dirt from the public.
2. **Section 3.19 Utilities and Service Systems, Response to Question D, page 89:** The response stated that “... the Los Angeles County Sanitation District selected the Mesquite Regional Landfill in Imperial County as the new target destination for the County’s waste. The Mesquite Regional Landfill in Imperial County has a 100-year capacity at 8,000 tons per day.” Please note that the use of the Mesquite Regional Landfill (MRL) is postponed; no waste has been accepted at the MRL. The Districts’ Puente Hills Materials Recovery Facility, Downey Area Recycling and Transfer Facility, South Gate Transfer Station, Scholl Canyon Landfill, and Calabasas Landfill are open and accepting solid waste.
3. The wastewater flow originating from the proposed project will discharge to a local sewer line, which is not maintained by the Districts, for conveyance to the Districts’ Santa Anita Outfall Trunk Sewer, located in Temple City Boulevard, between Ellis Lane and Abilene Street. The Districts’ 18-inch diameter trunk sewer has a capacity of 6.3 million gallons per day (mgd) and conveyed a peak flow of 2.1 mgd when last measured in 2013.
4. The expected average wastewater flow from the project site, described in the MND as a total of 48,044 square feet of warehouse space and 14,210 square feet of office space, is 4,043 gallons per day. For a copy of the Districts’ average wastewater generation factors, go to [www.lacsd.org](http://www.lacsd.org), under Services, then Wastewater Program and Permits, select Will Serve Program, and scroll down to click on the [Table 1, Loadings for Each Class of Land Use](#) link.
5. The wastewater generated by the proposed project will be treated at the San Jose Creek Water Reclamation Plant located adjacent to the City of Industry, which has a capacity of 100 mgd and currently processes an average flow of 61.2 mgd.

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Mr. Tony Bu

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June 7, 2022

6. The Districts are empowered by the California Health and Safety Code to charge a fee to connect facilities (directly or indirectly) to the Districts' Sewerage System or to increase the strength or quantity of wastewater discharged from connected facilities. This connection fee is used by the Districts for its capital facilities. Payment of a connection fee may be required before this project is permitted to discharge to the Districts' Sewerage System. For more information and a copy of the Connection Fee Information Sheet, go to [www.lacsd.org](http://www.lacsd.org), under Services, then Wastewater (Sewage) and select Rates & Fees. In determining the impact to the Sewerage System and applicable connection fees, the Districts will determine the user category (e.g. Condominium, Single Family Home, etc.) that best represents the actual or anticipated use of the parcel(s) or facilities on the parcel(s) in the development. For more specific information regarding the connection fee application procedure and fees, the developer should contact the Districts' Wastewater Fee Public Counter at (562) 908-4288, extension 2727.
  
7. In order for the Districts to conform to the requirements of the Federal Clean Air Act (CAA), the capacities of the Districts' wastewater treatment facilities are based on the regional growth forecast adopted by the Southern California Association of Governments (SCAG). Specific policies included in the development of the SCAG regional growth forecast are incorporated into clean air plans, which are prepared by the South Coast and Antelope Valley Air Quality Management Districts in order to improve air quality in the South Coast and Mojave Desert Air Basins as mandated by the CAA. All expansions of Districts' facilities must be sized and service phased in a manner that will be consistent with the SCAG regional growth forecast for the counties of Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial. The available capacity of the Districts' treatment facilities will, therefore, be limited to levels associated with the approved growth identified by SCAG. As such, this letter does not constitute a guarantee of wastewater service, but is to advise the developer that the Districts intend to provide this service up to the levels that are legally permitted and to inform the developer of the currently existing capacity and any proposed expansion of the Districts' facilities.

If you have any questions, please contact the undersigned at (562) 908-4288, extension 2743, or [mandyhuffman@lacsd.org](mailto:mandyhuffman@lacsd.org).

Very truly yours,

*Mandy Huffman*

Mandy Huffman  
Environmental Planner  
Facilities Planning Department

MNH:mnh

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**Mitchell M. Tsai**  
Attorney At Law

139 South Hudson Avenue  
Suite 200  
Pasadena, California 91101

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**VIA E-MAIL**

June 15, 2022

Tony Bu, Senior Planner  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731  
Em: [tbu@elmonteca.gov](mailto:tbu@elmonteca.gov)

**RE: City of El Monte's Initial Study/Mitigated Negative Declaration for 4304 Temple City Boulevard Warehouse Development Project (SCH#: 2022050437)**

Dear Mr. Bu,

On behalf of the Southwest Regional Council of Carpenters ("Southwest Carpenter" or "SWRCC"), my Office is submitting these comments for the City of El Monte's ("City") Initial Study/Mitigated Negative Declaration for the 4304 Temple City Boulevard Warehouse Development Project ("Project").

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

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

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

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

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

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

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

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

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

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

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce

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can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.<sup>1</sup>

Local skilled and trained workforce requirements and policies have significant environmental benefits since they improve an area’s jobs-housing balance, decreasing the amount of and length of job commutes and their associated greenhouse gas emissions. Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup>

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

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

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

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>

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

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

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to “utilize apprentices from state-approved, joint labor-management training programs.”<sup>5</sup>

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

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

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

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

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

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

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

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

Sincerely,



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Talia Nimmer  
Attorneys for Southwest Regional  
Council of Carpenters

Attached:

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

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

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*Via Email*

June 28, 2022

Amy Wong, Chairperson  
Alfredo Nuño, Vice-Chairperson  
Cesar Peralta, Commissioner  
Rafael Gonzalez, Commissioner  
Pablo Tamashiro, Commissioner  
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Cathi A. Eredia, City Clerk  
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**Re: MND for 4304 Temple City Boulevard Warehouse (Tentative Tract Map No. 082738, Design Review No. 05-19)**

Dear Chairperson Wong, Vice-Chairperson Nuño, and Honorable Members of the Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the 4304 Temple City Boulevard Warehouse Project (Tentative Tract Map No. 082738, Design Review No. 05-19), including all actions related or referring to the proposed construction of a multi-tenant industrial warehouse development consisting of two buildings with a total floor area of 63,428 square feet, located at 4304 Temple City Boulevard in the City of El Monte ("Project").

After reviewing the IS/MND, we conclude the IS/ND fails as an informational document, and that there is a fair argument that the Project may have adverse environmental impacts. Therefore, we request that the City of El Monte ("City") prepare an environmental impact report ("EIR") for the Project pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000, et seq.

This comment has been prepared with the assistance of environmental consulting firm Soil/Water/Air Protection Enterprise ("SWAPE"). SWAPE's comment and

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the consultants' curriculum vitae are attached as Exhibit A hereto and are incorporated herein by reference in their entirety.

## I. PROJECT DESCRIPTION

The proposed project involves construction and operation of a multi-tenant industrial warehouse development. The project would consist of two new buildings with a total floor area of 63,428 square feet within a 2.89-acre lot. There would be a total of four units in two separate buildings.

Building 1 would contain Units 1 and 2 and would have a total floor area of 44,207 square feet and would consist of 33,825 square feet of warehouse space, 3,490 sf of office space, and 5,976 sf of mezzanine office space. Building 2 would contain Units 3 and 4 and would have a total floor area of 19,221 sf and would consist of 14,219 sf of warehouse space, 2,179 sf of office space, and 2,565 sf of mezzanine office space. There would be a total of 69 parking spaces. The project would also include 4,077 sf of landscaping.

The project will require demolition of the foundation and other existing on-site improvements, followed by grading, construction, paving, landscaping and finishing. The project site is zoned M-2 (General Manufacturing), and has a General Plan designation of Industrial/Business Park.

The Project requires the following discretionary approvals: (1) Design Review to review the design of a new multi-tenant industrial warehouse development; (2) Tentative Tract Map to allow for the subdivision of the project site for the ownership of the individual units and a shared driveway/comment lot; and (3) Approval of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

The properties surrounding the Project Site include a mix of industrial, commercial, and residential uses in the form of single-family homes.

## II. LEGAL STANDARD

As the California Supreme Court has held “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” *Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 (*CBE v. SCAQMD*) (citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505). “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” Pub. Res. Code (“PRC”) § 21068; *see also* 14 CCR § 15382. An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” *No Oil, Inc.*, 13 Cal.3d at 83. “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as

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to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Communities for a Better Env’t v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109 (*CBE v. CRA*).

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a reasonable possibility of a significant effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland’s etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing

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evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency's decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273–74. The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is de novo, with a preference for resolving doubts in favor of environmental review.” *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

### III. DISCUSSION

#### A. The MND Fails to Adequately Disclose the Project’s Potential Hazards and Hazardous Materials Impacts.

Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the IS/MND’s analysis of the Project’s impacts on hazards and hazardous materials, air quality, health risk, and greenhouse gases. SWAPE’s comment letter and CVs are attached as Exhibit A and their comments are briefly summarized here.

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the environment must be analyzed. CEQA requires a finding that a project has a “significant effect on the environment” if “the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” PRC §21083(b)(3). As the Court of Appeal recently stated, “[a] new project located in an area that will expose its occupants to preexisting dangerous pollutants can be said to have substantial adverse effect on human beings.” *Cal. Building Industry Assn. v. Bay Area Air Quality Mgm’t Dist.* (“*CBIA v. BAAQMD*”), 2013 Cal. App. LEXIS 644, \*46 (Cal. Ct. App. 2013). The existence of toxic soil contamination at a project site is a significant impact requiring review and mitigation in the EIR. (*McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1149; *Assoc. For A Cleaner Env’t v. Yosemite Comm. College Dist.* (“*ACE v. Yosemite*”) (2004) 116 Cal.App.4th 629.)

Here, the MND violates CEQA because it failed to disclose hazardous conditions at the Project site, which precluded accurate analysis and mitigation of the Project’s impacts.

The MND found that there would be a less-than-significant impact from hazards and hazardous materials. However, the Project site is a Cortese List site under active investigation by the California Department of Toxic Substances Control (“DTSC”) as part of the Crown City Plating Company due to the site’s historical use as “drum storage.” Ex. A, p. 2. The MND fails to disclose this vital information. *Id.*

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A Phase II Environmental Site Assessment (“ESA”) was completed for the Project Site in 2012 which found soil vapor concentrations of perchloroethylene (PCE), trichloroethylene (TCE), and 1,2-dichloroethane (1,2-DCA) which were above industrial-use scenario screening levels. *Id.* According to the U.S. Environmental Protection Agency (“EPA”), PCE and TCE are human carcinogens, and 1,2-DCA is a probable human carcinogen. *Id.* at 2-3. These toxic concentrations of PCE, TCE, and 1,2-DCA have the potential to affect humans by introducing contaminated vapors into the indoor air of buildings overlying the vapor plume. *Id.* at 3. However, the MND fails to address this potential human exposure, even despite explicit recommendations of further investigation in the Phase II ESA. *Id.* Additionally, the MND does not provide for mitigation of the Volatile Organic Compounds of PCE, TCE, and 1,2-DCA, instead addressing only methane in the form of a vapor barrier. *Id.*

An EIR must be prepared for the Project which discloses the Project site’s status as being on the Cortese list, especially due to the fact that there are ongoing investigations into the site which may require access to the site and cleanup activities. *Id.* Further, DTSC must be notified of the proposed development on the Project site so that DTSC can ensure that the land use is appropriate for the site and that adequate mitigation measures have been put in place. *Id.*

**B. The IS/MND Relied on Unsubstantiated Input Parameters to Estimate Project Emissions and Thus the Project May Result in Significant Air Quality Impacts.**

SWAPE found that the IS/MND incorrectly estimated the Project’s construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project’s impacts on local and regional air quality. The MND relies on emissions calculated from the California Emissions Estimator Version 2020.4.0 (“CalEEMod”). IS/MND, p. 33. This model, which is used to generate a project’s construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors. Ex. A, p. 3. CEQA requires any changes to the default values to be justified by substantial evidence. *Id.*

SWAPE reviewed the IS/MND’s CalEEMod output files and found that the values input into the model were inconsistent with information provided in the MND. Ex. A, p. 4. As a result, the IS/MND’s air quality analysis cannot be relied upon to determine the Project’s emissions.

Specifically, SWAPE found that the following values used in the IS/MND’s air quality analysis were either inconsistent with information provided in the IS/MND or otherwise unjustified:

1. Failure to Consider Potential Cold Storage Requirements. Ex. A, p. 4-5.
2. Failure to Substantiate Amount of Material Import or Export. Ex. A, p. 5.
3. Failure to Include Any Amount of Demolition. Ex. A, p. 6-7.

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Significantly, SWAPE points out that the IS/MND failed to provide the CalEEMod annual output file, which the CalEEMod User Guide points out is used to calculate construction emissions and operational emissions of a Project, as well as greenhouse gas emissions. Ex. A, p. 7. Without this file, SWAPE is unable to evaluate the accuracy of the Project's annual Diesel Particulate Matter ("DPM") or greenhouse gas emissions. *Id.* This omission represents a significant gap in the information provided in the MND, and the MND should therefore not be relied upon to determine the significance of the Project's impacts. An EIR should be prepared which corrects the values pointed out by SWAPE and which includes the CalEEMod output files.

**C. The Project Would Have a Disproportionate Health Risk Impact on Surrounding Communities.**

Next, SWAPE determined in its review that the Project would result in "disproportionate health risk impacts on community members living, working, and going to school within the immediate area of the Project site." Ex. A, p. 7. The Southern California Air Quality Management District ("SCAQMD") has found that "[t]hose living within a half mile of warehouses are more likely to include communities of color, have health impacts such as higher rates of asthma and heart attacks, and a greater environmental burden." *Id.*, quoting "South Coast AQMD Governing Board Adopts Warehouse Indirect Source Rule." SCAQMD, May 2021, available at: <http://www.aqmd.gov/docs/default-source/news-archive/2021/board-adopts-waisr-may7-2021.pdf?sfvrsn=9>. Other expert reports from Metro Freight Center of Excellence and the University of Redlands have made similar findings, concluding that neighborhoods of color and which are lower-income are more likely to contain warehouse facilities. Ex. A at 8.

With regard to the City of El Monte in particular, SWAPE found that the City has "long borne a disproportionately high pollution burden compared to the rest of California." *Id.* SWAPE consulted the California Environmental Protection Agency's CalEnviroScreen screening tool, which ranks each census tract in the State for pollution and socioeconomic vulnerability. *Id.* According to CalEnviroScreen 4.0, the Project site is in the 92nd percentile of the most polluted census tracts in the State. *Id.*, see image on p. 9. SWAPE also consulted SCAQMD's Data Visualization Tool for Mates V and found that the City exhibits a heightened residential carcinogenic risk from exposure to air toxics. *Id.* at 9, see image on p. 10. SWAPE therefore concludes that development of the Project would "disproportionately contribute to and exacerbate the health conditions of residents in El Monte." *Id.* at 10.

As for Los Angeles County more generally, the American Lung Association ranked the County as the third worst for ozone pollution in the nation. *Id.* at 10. This is due in large part to ground-level ozone, which is the main component of smog and which the U.S. EPA states can aggravate lung diseases and increase the frequency of asthma attacks, particularly in children. *Id.* Similarly, the California Air Resources Board has found that children are at greater risk from inhaled pollutants due to factors

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including tendency to play on the ground with dirt which contains toxicants, and children's less-developed natural biological defenses. *Id.* at 10-11.

The MND for the proposed Project states that the nearest sensitive receptors include residential units which are between 600-700 feet to the north, west, and south of the Project site. *Id.* at 11. SWAPE also consulted Google Earth and found that the Project site is approximately 0.66- and 0.48-miles from the Encinitas Elementary School and Shirpsier Elementary School, respectively. *Id.*, see images on p. 12. SWAPE concludes that this poses a significant threat due to children's vulnerability to air pollution impacts. *Id.* at 12. SWAPE states: "the Project would have detrimental short-term and long-term health impacts on local residents and children if approved." *Id.*

These findings represent substantial evidence of a fair argument that the Project would have disproportionate and significant air quality impacts on local residents and children in the Project vicinity. The City must analyze this impact as part of its assessment of whether the Project would expose sensitive receptors to substantial pollutant concentrations. See, CEQA Appendix G. Further, SWAPE states that a Health Risk Assessment ("HRA") should be prepared to assess the cumulative air quality impacts from the "several warehouse projects proposed or built in a one-mile radius of the Project site." *Id.* at 13. An EIR must be prepared in order to adequately assess and mitigate these impacts.

**D. The MND Failed to Evaluate Diesel Particulate Matter Emissions from the Project.**

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter ("DPM"), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1 micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board ("CARB"), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease.<sup>1</sup>

The IS/MND failed to conduct a quantified construction or operational health risk analysis ("HRA"), and also failed to mention or evaluate Project-generated Toxic Air Contaminant ("TAC") emissions. SWAPE states that this is incorrect for the following three reasons.

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<sup>1</sup> See CARB Resources - Overview: Diesel Exhaust & Health, available at <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>).

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First, in failing to prepare an HRA, the IS/MND also fails to make a reasonable effort to connect emissions to health impacts. Ex. A at 13. SWAPE identifies potential emissions from both the exhaust stacks of construction equipment and daily vehicle trips. *Id.* In failing to connect TAC emissions to potential health risks to nearby receptors, the Project fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health cause by those emissions. *Id.*; See *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.

Second, the California Department of Justice recommends the preparation of a quantitative HRA pursuant to the Office of Environmental Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines. OEHHA released its most recent guidance document in 2015 describing which types of projects warrant preparation of an HRA. See “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: [http://oehha.ca.gov/air/hot\\_spots/hotspots2015.html](http://oehha.ca.gov/air/hot_spots/hotspots2015.html). OEHHA recommends that projects lasting at least 2 months be evaluated for cancer risks to nearby sensitive receptors, a time period which this Project easily exceeds. Ex. A at 13. The OEHHA document also recommends that if a project is expected to last over 6 months, the exposure should be evaluated throughout the project using a 30-year exposure duration to estimate individual cancer risks. *Id.* at 13-14. Based on its extensive experience, SWAPE reasonably assumes that the Project will last at least 30 years, and therefore recommends that health risk impacts from the project be evaluated. *Id.* at 14. An EIR is therefore required to analyze these impacts. *Id.*

Third, the IS/MND’s claim that there will be a less than significant impact without having conducted a qualified construction or operational HRA for nearby sensitive receptors also fails under CEQA requirements. An EIR or at least an MND should be prepared to quantify the cumulative excess cancer risk posed by the Project’s construction and operation to nearby, existing receptors, and compare it to the SCAQMD threshold of 10 in one million. *Id.*

SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction and operation using air quality dispersion model AERSCREEN. *Id.* at 14-15. SWAPE applied a sensitive receptor distance of 200 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. *Id.* at 14-18.

SWAPE found that the excess lifetime cancer risk over the course of a Project operation of 30 years is approximately 10.7 in one million, which exceeds SCAQMD’s threshold of 10 in one million. *Id.* at 17-18.

SWAPE’s analysis constitutes substantial evidence that the Project may have a significant health impact as a result of diesel particulate emissions. A health risk assessment must be prepared disclosing the health risk impacts from toxic air contaminants.

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**IV. CONCLUSION**

For the foregoing reasons, SAFER believes that the MND prepared for the Project is wholly inadequate. SAFER requests that the City prepare an Environmental Impact Report (“EIR”) to analyze and mitigate the Project’s significant adverse environmental impacts. Thank you.

Sincerely,



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**VIA E-MAIL**

June 27, 2022

El Monte Planning Commission  
City of Santa El Monte  
11333 Valley Blvd.  
El Monte, CA 91731  
Em: [planning@elmonteca.gov](mailto:planning@elmonteca.gov)

**RE: Agenda Item No. 8.3: 4304 Temple City Blvd. Warehouse Project**

Dear Chairperson Wong and Honorable Commissioners,

On behalf of the Southwest Regional Council of Carpenters (“Southwest Carpenter” or “SWRCC”), my Office is submitting these comments regarding the City of El Monte’s (“City”) 4303 Temple City Boulevard Warehouse Project (“Project”), Agenda Item No. 8.3.

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

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

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

SWRCC incorporates by reference all comments raising issues regarding the IS/MND submitted prior to certification of the IS/MND for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal. App. 4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

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

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

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

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

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

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce

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Development Board and the UC Berkeley Center for Labor Research and Education concluded:

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

Local skilled and trained workforce requirements and policies have significant environmental benefits since they improve an area’s jobs-housing balance, decreasing the amount of and length of job commutes and their associated greenhouse gas emissions. Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup>

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

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to require that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint

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

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.sqmad.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

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

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negotiating corporate participation in First Source as a condition of approval for development permits.

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

Sincerely,



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Talia Nimmer  
Attorneys for Southwest Regional  
Council of Carpenters

Attached:

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