

Final Environmental Impact Report

Menifee Commerce Center Project

SCH No. 2021060247

Lead Agency



City of Menifee
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Menifee, CA 92586
(951) 769-8520

CONSULTANT



Kimley-Horn and Associates, Inc.
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AUGUST 2022

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Section 1.0 Introduction

1.1 INTRODUCTION

The City of Menifee (City) has prepared this Final Environmental Impact Report (FEIR) in compliance with the California Environmental Quality Act (CEQA) for the Menifee Commerce Center Project (Project). The City is required, after completion of a Draft EIR (DEIR) (State Clearinghouse No. 2021060247), to consult with and obtain comments from public agencies having jurisdiction by law with respect to the Project and provide the general public with an opportunity to comment on the DEIR. This FEIR has been prepared to respond to comments received on the DEIR, which was circulated for public review from June 7, 2022 through July 21, 2022. The preceding Table of Contents provides a list of all persons, organizations, and public agencies who commented on the DEIR.

The City will evaluate comments on environmental issues from persons who reviewed the DEIR and will prepare a written response, pursuant to CEQA Guidelines §15088(a). The written response must address any significant environmental issues raised. In addition, there must be a good faith and reasoned analysis in the written response. However, lead agencies need only respond to significant environmental issues associated with the Project and do not need to provide all the information requested by commenters, as long as a good faith effort at full disclosure is made in the EIR (State CEQA Guidelines §15204, §15088). Those comments are responded to in **Section 2.0, Comments on the Draft EIR and Responses to Comments**.

State CEQA Guidelines §15088 recommends that where a response to comment makes important changes in the information contain in the text of the DEIR, that the Lead Agency either revise the text of the DEIR or include marginal notes showing that information. Added or modified text is shown in **Section 3.0, Errata**, by underlining (example) while deleted text is shown by striking (~~example~~). The additional information, corrections, and clarifications are not considered to substantively affect the conclusions within the EIR and therefore the City has determined that recirculation of the DEIR is not required as none of the criteria for recirculation under CEQA Guidelines Section 15088.5 have been met.

CEQA Guidelines §15132 indicates that the contents of a FEIR shall consist of:

- (a) The DEIR or a revision of the draft.
- (b) Comments and recommendations received on the DEIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the DEIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

Pursuant to CEQA Guidelines §15088(b), the City will provide written responses to comments to any public agency that commented on the DEIR, at least ten (10) days prior to the City Council consideration of certifying the EIR as adequate under CEQA. Written responses to comments will also be provided to non-

public agency individuals, organizations, and entities that commended on the DEIR. In addition, the FEIR will be made available to the general public at the City's Planning Division office and on the City's website a minimum of 10 days prior to the Planning Commission public hearing.

The FEIR, along with other relevant information and public testimony at the Planning Commission and City Council's public hearings, will be considered by the City's Council.

1.2 ORGANIZATION OF EIR

This FEIR provides the requisite information required under CEQA and is organized as follows:

- **Section 1.0: Introduction.** This section provides an introduction to the FEIR, including the requirements under CEQA, the organization of the document, as well as a brief summary of the CEQA process activities to date.
- **Section 2.0: Comments on the Draft EIR and Responses to Comments.** This section provides a list of public agencies, organizations, and individuals commenting on the DEIR, provides a copy of each written comment received, and any response required under CEQA.
- **Section 3.0: Errata to the Draft EIR.** This section presents clarifications, amplifications, and insignificant modifications to the EIR, identifying revisions to the text of the document.

1.3 CEQA PROCESS HISTORY

The City has complied with relevant Public Resources Code provisions and CEQA Guidelines regarding the preparation and processing of the Project EIR. A brief summary of the Project's CEQA process is as follows:

- A Notice of Preparation (NOP) informing interested parties and agencies of the Project was distributed on June 11, 2021.
- Written and verbal comments were given at a public scoping meeting held for the Project on June 29, 2021.
- Following a Notice of Completion (NOC), the DEIR and Notice of Availability was distributed for public review and comment for a 45-day period, beginning June 7, 2022. The public review period closed on July 21, 2022.

1.4 CHANGES TO THE DRAFT EIR

As previously stated, **Section 3.0, Errata to the Draft EIR**, details the changes to the DEIR. In response to public comments, text changes have been made to DEIR sections to clarify and amplify the analysis or mitigation measures, and to make insignificant modifications to the DEIR. This information does not rise to the level of significant new information as the resulting impact analysis and alternatives considered remain essentially unchanged, and no new or more severe impacts have been identified. These changes do not warrant DEIR recirculation pursuant to California Public Resources Code §21092.1 and CEQA Guidelines §15088.5. As discussed herein and as elaborated upon in the respective Response to Comments, none of the clarifications or changes made in the Errata reflect a new significant environmental impact, a "substantial increase" in the severity of an environmental impact for which

mitigation is not proposed, or a new feasible alternative or mitigation measure that would clearly lessen significant environmental impacts but is not adopted, nor do the Errata reflect a “fundamentally flawed” or “conclusory” DEIR. In all cases, as discussed in individual responses to comments and DEIR Errata, these minor clarifications and modifications do not identify new or substantially more severe environmental impacts that the City has not committed to mitigate. Therefore, the public has not been deprived of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or an unadopted feasible Project alternative or mitigation measure. Instead, the information added supports the existing analysis and conclusions, and responds to inquiries made from commenters. Therefore, this FEIR is not subject to recirculation prior to certification.

CEQA Guidelines §15088.5 describes when an EIR requires recirculation prior to certification, stating in part:

- “(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. *“Significant new information” requiring recirculation include, for example, a disclosure showing that:*
 - (1) *A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
 - (2) *A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
 - (3) *A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to apply it.*
 - (4) *The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (Mountain Lion Coalition v. Fish and Game Com. (1989) 214 Cal.App.3d 1043).*
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.”

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Section 2.0 Comments and Responses to Draft EIR

This section includes all comments received by the City on the Draft Environmental Impact Report (DEIR), including written comments and comments submitted online via email to the City. The City circulated the DEIR for a 45-day review period as required by CEQA. The review period ran from June 7, 2022 through July 21, 2022.

2.1 INTRODUCTION TO COMMENTS AND RESPONSES

In accordance with CEQA Guidelines §15132, **Table 2-1, Comments from Public Agencies and Organizations** below provides a list of those parties that provided written comments on the DEIR during the public review period. Copies of the written comments are provided in this section and have been annotated with the assigned letter along with a number for each comment. Each comment is followed by a written response which corresponds to each commenter.

Table 2-1: Comments from Public Agencies and Organizations

Reference	Commenter	Date
A	California Department of Fish and Wildlife Heather Pert, Acting Environmental Program Manager	July 19, 2022
B	Blum Collins & Ho, LLP, Attorneys at Law Gary Ho	July 21, 2022
C	Adams Broadwell Joseph & Cardozo Aidan P. Marshall	July 8, 2022
D	Advocates for the Environment Dean Wallraff, Executive Director	July 19, 2022
E	City of Perris, Planning and Economic Development Department Patricia Brenes, Planning Manager	July 21, 2022
F	Peggy Tuttle	July 21, 2022
G	Linda Jones	July 21, 2022
H	Adam Salcido	July 22, 2022
I	Adams Broadwell Joseph & Cardozo Sheila M. Sannadan	June 17, 2022
J	Riverside Transit Authority Mauricio Alvarez, MBA	June 28, 2022

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Comment Letter A – California Department of Fish and Wildlife

Heather Pert, Acting Environmental Program Manager



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 19, 2022
Sent via email

Mr. Brett Hamilton, Senior Planner
City of Menifee Community Development Department
29844 Haun Road
Menifee, CA 92586-1409

Subject: Draft Environmental Impact Report
Menifee Commerce Center Project
State Clearinghouse No. 2021060247

Dear Mr. Hamilton:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the City of Menifee for the Menifee Commerce Center Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

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

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proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, et seq., of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. The City of Menifee is a permittee to the MSHCP and is responsible for implementation of the MSHCP and its associated Implementation Agreement. CDFW is hereby providing comments as they relate to the Project's consistency with the MSHCP and CEQA.

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PROJECT DESCRIPTION SUMMARY

Project Location

The Project site is in the City of Menifee within Riverside County, California, in Section 16 of Township 6 South, Range 3 West, of the U.S. Geological Survey (USGS) 7.5" Perris, California topographic quadrangle map. The Project is located south of Ethanac Road, east of Trumble Road, west of Dawson Road, and north of a Riverside County Flood Control channel along McLaughlin Road. The Project is located within Assessor's Parcel Numbers (APNs) 331-110-035, 331-110-027, 331-110-041, 331-140-010, 331-140-018, 331-140-021, and 331-140-025.

Project Description

The Project includes the construction of two concrete tilt-up buildings (Building 1 and Building 2) on 72 acres. Building 1 will total 1,254,160 square feet (sq. ft.) and include parking spaces for 679 automobiles and 369 truck trailers. Building 2 will total 385,970 sq. ft. and include parking spaces for 232 automobiles and 154 truck trailers. Additional Project activities will include on-site landscaping, construction of loading dock doors, and related on-site and off-site improvements to existing roadways, sewers, storm drains, and utilities. The Project also includes various discretionary approvals including General Plan Amendment No. PLN21-0100, Change of Zone No. PLN21-0101, plot plan and Tentative Parcel Map No. 38156 approval, and Specific Plan Amendment No. 2019-006.

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COMMENTS AND RECOMMENDATIONS

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To assist the City of Menifee in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers the comments and recommendations presented below, and in Attachment 1 "Mitigation Monitoring and Reporting Program", for consideration by the City of Menifee prior to adoption of the EIR for the Project.

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Western Riverside County Multiple Species Habitat Conservation Plan

Western Riverside MSHCP Implementation:

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements.

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Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools

The MSHCP indicates that if avoidance of riparian/riverine and/or vernal pool resources from onsite impacts is not feasible, then the impacts should be identified and mitigated for through the Determination of Biologically Equivalent or Superior Preservation (DBESP) process prior to or in parallel to CEQA (Section 6.1.2 of the MSHCP). Completion of the DBESP process ensures that full mitigation is provided under CEQA for Project impacts and ensures that there is no conflict with the MSHCP, a requirement of CEQA Environmental Impact Report, Biological Resources, Section 4 subitem f.

The DEIR and Appendix 9.3 indicate that no riparian/riverine or vernal pool resources are located with the proposed Project area. Based on review of aerial imagery and materials submitted with the DEIR, it appears there are riparian/riverine resources subject to MSHCP Section 6.1.2 within APNs 331-140-021, 331-140-025, and 331-140-010. While CDFW appreciates the analysis of Project impacts provided within the DEIR and Appendix 9.3, CDFW recommends that the City of Menifee complete a DBESP prior to adoption of the final EIR. Thus, please see below edits to biological (BIO) mitigation measure (MM) three (3) (edits are in ~~strike through~~ and **bold**):

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MM BIO-3 Prior to approval of any implementing developments within the Project site (e.g., plot plans, conditional use permits) and **the adoption of the final Environmental Impact Report**, the Project Applicant shall contract with a qualified biologist to prepare a Determination of Biologically Equivalent or Superior Preservation (DBESP), in accordance with Section 6.1.2 of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The required DBESP shall address Project impacts to **MSHCP riparian/riverine and vernal pool resources** ~~features that comprise MSHCP riparian/riverine and vernal pool habitat~~ Wildlife (CDFW) jurisdiction, Regional Water Quality Control Board (RWQCB) jurisdiction, and/or U.S. Army Corps

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~~of Engineers jurisdiction.~~ The required DBESP shall identify compensatory mitigation for the loss of riparian/riverine and vernal pool resources.

Prior to approval of the implementing development(s) and the adoption of the final Environmental Impact Report, the required DBESP shall be subject to review and approval by the City of Menifee, and also shall be subject to a 60-day review period by the ~~Wildlife Agencies California~~ Department of Fish and US Fish and Wildlife Service (collectively the Wildlife Agencies), as required by the MSHCP. Following approval of the DBESP by the City of Menifee and the Wildlife Agencies, and prior to issuance of grading permits, the Project Applicant shall provide evidence to that the required compensatory mitigation has been achieved in accordance with the approved DBESP.

Mitigation Measures for Project Impacts to Biological Resources

Nesting Birds

It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting.

To address the above issues and help the Project applicant avoid unlawfully taking of nests and eggs, CDFW requests the County include the following mitigation measures in the MND and revise the below biological (BIO) mitigation measures (MM) MM BIO-1 and MM BIO-2 (edits are in ~~strike through~~ and bold), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

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MM BIO-1: ~~If~~ Prior to grading or construction activities, including vegetation removal, ~~occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.~~ the Project Applicant shall ensure that impacts to nesting bird species at the project site are avoided through the implementation of preconstruction surveys, ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:

1. ~~The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.~~ Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.
2. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.

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If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer (generally 300 feet for migratory and non-migratory songbirds and 500 feet raptors and special-status species) will be determined by the wildlife biologist, and will depend on the level of noise and/or surrounding disturbances, line of sight between the nest and the construction activity, ambient noise, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to County for mitigation monitoring compliance record keeping.

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MM BIO-2: The Project Developer shall retain a qualified biologist to conduct a 30-day preconstruction survey for burrowing owl. The results of the single one-day survey would be submitted to the City prior to obtaining a grading permit, in

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addition to a nesting bird survey reported to the California Department of Fish and Wildlife (CDFW) three days prior to construction activities. If at any time there is a lapse of project activities for 30 days or more, another burrowing owl survey shall be conducted and reported to CDFW.

~~If burrowing owl are detected during the pre-construction survey, the Project applicant and a qualified consulting biologist would be required to prepare and submit for approval a burrowing owl relocation program. If active burrowing owl burrows are detected during the breeding season, the onsite biologist will review and verify compliance with these boundaries and will verify the nesting effort has finished. Work can resume when no other active burrowing owl nesting efforts are observed. If active burrowing owl burrows are detected outside the breeding season, then passive and/or active relocation pursuant to a Burrowing Owl Plan that shall be prepared by the Applicant and approved by the City in consultation with CDFW. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. Burrowing owl burrows shall be excavated with hand tools by a qualified biologist when determined to be unoccupied and backfilled to ensure that animals do not reenter the holes/dens.~~

Pre-construction Burrowing Owl breeding bird surveys shall be conducted by a qualified biologist within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP. If the preconstruction surveys confirm occupied burrowing owl habitat, or if burrowing owls are detected after the Project has started, then construction activities shall be halted immediately. CDFW will be sent written notification within 48 hours of detection of burrowing owls. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and US Fish and Wildlife Service (USFWS) to develop a Burrowing Owl Plan to be approved by the City, CDFW and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl

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Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

Lake and Streambed Agreement

CDFW requires notification of Lake and Streambed Alteration for work undertaken in or near any river, stream, or lake, including ephemeral streams, desert washes, and watercourses with a subsurface flow. Fish and Game Code section 1602 states, "An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless" certain conditions are met.

The DEIR indicates that no riparian or wetland habitat is located within the Project planning area (pg. 154). However, based on review of aerial imagery and materials submitted with the DEIR, it appears that there are streams subject to Fish and Game Code section 1600 et seq., on APNs 331-140-021, 331-140-025, and 331-140-010 (collectively referred to as parcels). Within these APNs, there is evidence of stream flow along the northern edge of the Project site. Stream flow continues from east to west across the parcels, then from north to south parallel to Sherman Road until flow drains into the Riverside County Flood Control channel on the southern Project boundary. If impacts to streams from the Project are anticipated, CDFW requests that the Project proponent(s) submit a Notification of Lake or Streambed Alteration through the Environmental Permit Information Management System (EPIMS) at <https://epims.wildlife.ca.gov>.

CDFW requests the incorporation of MM BIO-4 below to avoid, minimize, and mitigate for impacts to fish and wildlife resources subject to Fish and Game Code section 1600 et seq.:

MM BIO-4 Prior to construction and issuance of any grading permit, the Project proponent should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, §

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21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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ENVIRONMENTAL DOCUMENT FILING FEES

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

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CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR for the Menifee Commerce Center Project, State Clearing House No. 2021060247 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that City of Menifee addresses CDFW's comments and concerns prior to adoption of the EIR for the Project.

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Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:

DF42349031481461...
Heather Pert,
Acting Environmental Program Manager

ec: **California Department of Fish and Wildlife**
Cindy Castaneda, Acting Senior Environmental Scientist Supervisory
Cindy.Castaneda@wildlife.ca.gov

U.S. Fish and Wildlife Service
Karin Cleary-Rose
Karin_Cleary-Rose@fws.gov

Responses to Comment Letter A – California Department of Fish and Wildlife
Heather Pert, Acting Environmental Program Manager

- A-1** This comment includes introductory statements. No further response is warranted.
- A-2** This comment includes statements concerning CDFW’s role. No further response is warranted. Refer to DEIR Section 4.3, Biological Resources, for more information regarding the Project’s compliance with CDFW’s applicable regulatory framework and impacts to biological resources under CDFW’s jurisdiction.
- A-3** This comment includes introductory statements concerning the Project’s location and description. No further response is warranted.
- A-4** This comment states CDFW’s intent to provide comments and recommendations for the Project. No further response is warranted.
- A-5** This comment includes introductory statements. No further response is warranted.
- A-6** The commenter provides no substantial evidence of any significant impact. As documented in the DEIR and supporting biological technical reports, based upon site visits and aerial photo review, no features were documented on-site that would qualify as riparian/riverine habitat as defined in Section 6.1.2 of the MSHCP. Since no riparian/riverine resources occur on-site, a DBESP is not required to address the loss of riparian/riverine habitat under the MSHCP. Therefore, the suggested revisions to MM BIO-3 are not required.
- A-7** The commenter provides no substantial evidence of any significant impact. The comment lays out the provisions of Fish and Game Code section 3503 and the Migratory Bird Treaty Act and discusses the protection of nesting birds. Based in part upon this comment, **mitigation measure (MM) BIO-1** has been revised. Refer to **Section 3, Errata** to the DEIR of this FEIR to see these revisions.
- A-8** The commenter provides no substantial evidence of any significant impact. The Project is subject to compliance with the MSHCP, including the MSHCP burrowing owl species conservation objections. Nevertheless, **MM BIO-2** has been revised. Refer to **Section 3, Errata** to the DEIR of this FEIR to see these revisions.
- A-9** The commenter provides no substantial evidence of any significant impact. As documented in the DEIR, supporting biological technical reports, on-site visits and aerial photographs, no jurisdictional drainage features were documented on-site that would fall under the regulatory authority of CDFW. Since no jurisdictional drainage features occur on-site, a Section 1602 permit would not be required.
- A-10** The commenter provides no substantial evidence of any significant impact. As documented in the DEIR and supporting biological reports, there are no jurisdictional features on-site that are

subject to the regulatory authority of CDFW. Therefore, the suggested **MM BIO-4** is not required.

A-11 Commented noted and no further response is warranted.

A-12 This comment includes a statement about CDFW's filing fees. No response is warranted.

A-13 This comment includes conclusionary statements. No further response is warranted.

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Comment Letter B – Blum Collins & Ho, LLP, Attorneys at Law
Gary Ho

BLUM COLLINS & HO, LLP
ATTORNEYS AT LAW
AON CENTER
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LOS ANGELES, CA 90017
(213) 572-0400

July 21, 2022

Brett Hamilton, Senior Planner
County of Menifee
29844 Haun Road
Menifee, CA 92586

VIA EMAIL TO:
bhamilton@cityofmenifee.us

Subject: Comments on Menifee Commerce Center EIR (SCH NO. 2021060247)

Dear Mr. Hamilton,

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

B-1

1.0 Summary

The project proposes the construction and operation of two industrial warehouse buildings totaling 1,640,130 square feet (sf) on an approximately 72 net-acre site. Building 1 proposes a total of approximately 1,254,160 sf and includes 1,095,440 sf of warehouse area, 144,220 sf of mezzanine, and 14,500 sf of office space. Building 1 is proposed at 49 feet high and includes 679 standard size automobile parking spaces and 369 truck/trailer parking spaces. Building 2 proposes a total of approximately 385,970 sf and includes 375,970 sf of warehouse area and 10,000 sf of office space. Building 2 is proposed at 49 feet high and includes 232 automobile parking spaces and 154 truck trailer parking spaces. The overall project includes a combined total of 911 passenger car parking spaces (894 standard size parking spaces and 17 ADA spaces) and 523 truck/trailer parking stalls. Building 1 is evaluated as a high-cube fulfillment center and Building 2 as a general warehouse. The Project is anticipated to be developed in one phase. Construction is anticipated to occur over a duration of approximately 22 months, beginning early 2023.

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Discretionary actions required to implement the proposed project include:

1. General Plan Amendment No. PLN21-0100 proposes to change the General Plan land use designation of APN 331-140-010 and 331-110-027 from Heavy Industrial (HI) to Specific Plan (SP) and APN 331-140-021 and 331-140-018 from Business Park (BP) to Specific Plan (SP).
2. Specific Plan Amendment No. 2019-006 proposes to modify the boundary of the Specific Plan No. 260 (Menifee North Specific Plan) to include APN 331-140-010, 331-140-018, 331-140-021 and 331-140-035 within Planning Area 2 ("Industrial").
3. Change of Zone No. PLN21-0101 proposes to change the zoning classification of APN 331-140-010 and 331-140-027 from Heavy Industrial (HI) and APN 331-140-018 and 331-140-021 from Business Park (BP) to Specific Plan No. 260, Planning Area 2 ("Industrial").
4. Tentative Parcel Map No. 38156 (PLN21-0205) proposes to combine (APNs 331-140-010-1, 331-140-018-9, 331-140-021-1, and 331-140-025-5) into one (1) parcel for a total of 56 gross acres and a proposal to combine (APNs 331-110-035-1, 331-110-027-4, and 331-110-041-6) into one (1) parcel for a total of 21.79 gross acres. Site drainage within the complete Project site generally flows to the west. A flood control channel runs along the southern boundary of the site.
5. Plot Plan No. 2019-005 proposes to construct two concrete tilt-up buildings. Building 1 would total 1,254,160 square feet and include 1,095,440 sq. ft. of warehouse, 144,220 sq. ft. of mezzanine and 14,500 sq. ft. of office. Building 2 would total 385,970 sq. ft. and include 375,970 sq. ft. of warehouse space and 5,000 sq. ft. of office space. A total combined 894 standards size spaces (9'x18'), 17 ADA spaces (9'x18'), for a total of 911 vehicle parking spaces. Additionally, 523 trailer stalls (10'x55') would also be provided.

B-2

2.0 Project Description

The EIR does not include a floor plan, detailed site plan, detailed building elevations, or a conceptual grading plan. The basic components of a Planning Application include a detailed site plan, floor plan, conceptual grading plan, written narrative, and detailed elevations. Additionally, the site plan provided in Figure 2-8 has been edited to remove pertinent information from public view. For example, it does not provide any detailed information such as the floor area ratio, earthwork quantity notes, or maximum building height. Providing the grading plan and earthwork quantity notes is vital as the EIR does not give any information regarding any necessary truck hauling trips due to soil import/export during grading operations. However, the Project Description states that "There is approximately 9.0 feet of elevation difference across the site," indicating that import and/or export of soil will be required to balance the site.

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The EIR has excluded the proposed floor plan, conceptual grading plan, and a detailed site plan from public review, which does not comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)). A revised EIR must be prepared which includes these informational items.

B-3

2.1 Project Piecemealing

The EIR does not accurately or adequately describe the project, meaning "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CEQA § 15378). The proposed project is a piecemealed portion of a larger overall project to be developed in the vicinity known as Menifee Commerce Center proposed by the project applicant. According to publicly available records, the proposed project will be followed by at minimum the development of Menifee Commerce Center Phase II¹, which proposes the development of 1,139,478 sf of industrial warehousing. These two projects will cumulatively develop 2,779,608 sf of industrial warehousing space, which has potential to generate significant and unavoidable cumulative environmental impacts.

B-4

CEQA § 15165 - Multiple and Phased Projects requires that "Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168." The EIR misleads the public and decision makers by circumventing adequate and accurate environmental analysis for the whole of the action - construction and operation of all Menifee Commerce Center buildings/project as a whole. A program EIR must be prepared which accurately represents the whole of the action without piecemealing the project into separate, smaller development projects or development areas to present unduly low environmental impacts. Table 3-1 List of Cumulative Projects did not include the Menifee Commerce Center Phase II for cumulative analysis. Including this project for analysis is vital as construction and operations of Menifee Commerce Center Phase II and the proposed project have significant potential to result in significant cumulative impacts, particularly given the proposed project's finding that it will result in significant and unavoidable Air Quality and Greenhouse Gas Emissions impacts.

B-5

¹ City of Menifee PLN22-0115 PP <https://aca-prod.accela.com/MENIFEE/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=DUB22&capID2=00000&capID3=002Q4&agencyCode=MENIFEE&IsToShowInspection=>

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3.0 Basis of Cumulative Impacts

Table 3-1 List of Cumulative Projects does not adequately or accurately list all cumulative projects. Notably, it did not include the Menifee Commerce Center Phase II for cumulative analysis. Additionally, it does not provide any relevant identifying information for most of the projects. For example, Project 27: Menifee Valley SP lists “n/a” under the land use column and does not give any information regarding the land uses proposed by the project. None of the projects listed provide the site address or parcel numbers.

Table 3-1 also excludes several industrial projects within Menifee. For example, PLN 21-0281² proposes 1,312,601 sf of industrial warehouse space and it is not included in the list. Industrial projects in surrounding jurisdictions must also be added to the list, including but not limited to: First Industrial at Wilson 2 (Perris - 154,558 sf warehouse); Perris and Morgan 3 Industrial Buildings (Perris- 286,179 sf of warehousing); First Industrial at Rider (Perris - 324,147 sf of industrial warehousing); Core5 Rider Business Center (Perris - 248,483 sf of industrial warehousing); and Core5 Rider Buildings 2 and 4 (Perris - 1,352,736 sf of industrial warehousing).

B-6

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

Please refer to attachments from SWAPE for a complete technical commentary and analysis.

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0³, CalEPA’s screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project’s census tract (6065042728) ranks significantly worse in several environmental factors compared to the rest of the state overall. The proposed project’s census tract (6065042728) and surrounding community, including residences to the north, northeast, east, and south, and Romoland Elementary School to the northeast, bears the impact of multiple sources of pollution and is more polluted than average on several pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 91st percentile for ozone burden, the 49th percentile for PM 2.5 burden, and the 72nd percentile for traffic impacts. All of these environmental factors are typically attributed to heavy truck activity in the area. Additionally, the census tract ranks in the 53rd percentile for solid waste facility impacts, which can expose people to hazardous chemicals, release toxic gases into the air (even after these facilities

B-7

² City of Menifee Projects in Process <https://www.cityofmenifee.us/821/Projects-in-Process>

³ CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

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are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations⁴.

Further, the census tract is a diverse community including 49% Hispanic, 2% African-American, and 1% Asian-American residents that are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 59% of the census tract over age 25 has not attained a high school diploma, which is an indication that they may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 75th percentile for incidence of cardiovascular disease and 42nd percentile for incidence of asthma.

The State of California lists three approved energy compliance modeling softwares for non-residential buildings: CBECC-Com, EnergyPro, and IES VE. CalEEMod is not listed as an approved software. The CalEEMod modeling in Appendix 9.5 does not comply with the 2019 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, an additional finding of significance must be made. A revised EIR with modeling in one of the approved software types must be circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not one of the approved softwares.

4.10 Land Use and Planning

Table 4.10-4 SCAG 2020-2045 RTP/SCS Connect SoCal Goals finds that the project is consistent with 8 goals of Connect SoCal, resulting in less than significant impacts. In finding consistency with 8 of SCAG's goals, the EIR does not provide any meaningful evidence to support this conclusion, in violation of CEQA's requirements for meaningful disclosure. Due to errors in modeling and modeling without supporting evidence, as noted throughout this comment letter and attachments, and the EIR's determination that the project will have significant and unavoidable impacts to Air Quality and Greenhouse Gas Emissions, the proposed project is directly inconsistent with Goal 5 to reduce greenhouse gas emissions and improve air quality, Goal 6 to support healthy and equitable communities, and Goal 7 to adapt to a changing climate. The EIR must be revised

⁴ OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

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to include finding of significance due to inconsistency with the 2045 RTP/SCS Connect SoCal document.

Further, Table 4.10-5: City of Menifee General Plan Consistency includes consistency analysis that is erroneous and misleading to the public and decision makers. For example, the EIR concludes that the project is consistent with the following Air Quality goals and policies:

1. Goal OSC-9: Reduced impacts to air quality at the local level by minimizing pollution and particulate matter
2. Policy OCS-9.1: Meet state and federal clean air standards by minimizing particulate matter emissions from construction activities.
3. Policy OCS-9.2: Buffer sensitive land uses, such as residences, schools, care facilities, and recreation areas from major air pollutant emission sources, including freeways, manufacturing, hazardous materials storage, wastewater treatment, and similar uses.
4. Policy OCS-9.3: Comply with regional, state, and federal standards and programs for control of all airborne pollutants and noxious odors, regardless of source.
5. Policy OCS-9.5: Comply with the mandatory requirements of Title 24 Part 1 of the California Building Standards Code (CALGreen) and Title 24 Part 6 Building and Energy Efficiency Standards.

The primary justification for consistency is that “The Project’s impacts to air quality were evaluated in Section 4.2: Air Quality of this EIR. Where necessary, mitigation measures are implemented to reduce impacts to less than significant levels.” Each of the consistency analyses refers back to this statement, which is erroneous and misleading to the public and decision makers because it omits the fact that the project will have significant and unavoidable impacts to Air Quality and Greenhouse Gas Emissions. The EIR must be revised to include information regarding the project’s significant and unavoidable impacts to Air Quality and Greenhouse Gas Emissions for analysis in this section and a finding of significance due to the project’s inconsistency with these policies.

Additionally, a revised EIR must include analysis of the proposed project in accordance with all General Plan goals and policies, including but not limited to the following items that were omitted from the analysis in Table 4.10-5:

1. EJ-3.6: Continue to collaborate with the South Coast Air Quality Management District (SCAQMD), California Air Resources Board (CARB), utility providers, Southern California Association of Governments (SCAG), Western Riverside Council of Governments (WRCOG) and nonprofit organizations, neighborhoods groups, and other community organizations to

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- improve air quality, food availability, renewable energy systems, sustainable land use and reduce greenhouse gas emissions (GHGs).
2. OSC-10: An environmentally aware community that is responsive to changing climate conditions and actively seeks to reduce local greenhouse gas emissions.
 3. OCS-10.1: Align the city's local GHG reduction targets to be consistent with the statewide GHG reduction target of AB 32.
 4. OCS-10.2: Align the city's long-term GHG reduction goal consistent with the statewide GHG reduction goal of Executive Order S-03-05.
 5. OCS-10.3: Participate in regional greenhouse gas emission reduction initiatives.
 6. OCS-10.4: Consider impacts to climate change as a factor in evaluation of policies, strategies, and projects.

4.13 Transportation

The EIR states that “Trip generation in the model is significantly higher than rates for e-commerce uses included in published sources. To account for the significantly lower truck trips generated by e-commerce uses, the truck traffic from the model was reduced to reflect actual observed truck traffic. Truck trip generation was corrected during post-processing of the model results, by applying truck percentages from published sources. The number of truck trips reduced from the model data was added back in as passenger cars which resulted in an increase in the number of automobile trips. This approach provides a more representative analysis of the project VMT and also maintains conservation of trip generation.” However, the “published sources” of truck trip generation are not stated. A revised EIR must be prepared to state the name of the “published sources” utilized in order to comply with CEQA’s requirements for meaningful disclosure and incorporation by reference because the “published sources” of truck trip generation contributes directly to analysis of the problem at hand (CEQA § 15150 (f)).

B-13

Further, the VMT analysis artificially skews the quantify of vehicle miles traveled downward by reducing the truck traffic in the model “to reflect actual observed truck traffic.” The Menifee VMT Analysis Guidelines⁵ do not direct the analysis to reduce the amount of truck traffic for industrial/warehouse projects. Therefore, the VMT analysis has not been conducted in accordance with the City’s Guidelines and a revised EIR must be prepared with adequate modeling. Conveniently, the result of the changes to VMT truck traffic modeling result in the project generating 35.58 VMT per service population, which is 0.10 mile less than the 35.68 VMT threshold.

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⁵ Menifee VMT Analysis Guidelines https://www.cityofmenifee.us/DocumentCenter/View/10699/Final-Adopted-TIA-Guidelines-for-VMT_6-3-20

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7.0 Effects Found Not to be Significant

7.4 Population and Housing

The EIR does not provide a quantified analysis of the construction workforce generated by the proposed project. A revised EIR must be prepared that includes an analysis of the construction jobs generated by the project.

The EIR utilizes uncertain language and does not provide any meaningful analysis or supporting evidence to substantiate the conclusion that there will be no significant impact to population and housing. The EIR relies upon the unemployment rate of Riverside County to conclude that “it is *reasonably assured* that the jobs would be filled by people living in the City, unincorporated County area, and surrounding communities, such as Perris and Murrieta.” The EIR has not provided any evidence that the Riverside County workforce population is qualified for or interested in work in the industrial sector to substantiate these claims. Further, the VMT assessment concludes that there will be no VMT impacts and the VMT per employee is 35.58 miles. Relying upon the workforce of the entire Riverside County area will increase project-generated VMT. For example, Menifee is approximately 92 miles from Coachella and approximately 183 miles from Blythe, while the VMT analysis only assumed a 35.58 mile trip for employees. Relying upon the entire Riverside County workforce will increase VMT and emissions during all phases of construction and operations and a revised EIR must be prepared to account for longer worker trip distances.

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The EIR has not provided any calculation of the jobs generated by the project or evidence that the County’s workforce population is qualified for or interested in work in the industrial sector. SCAG’s Employment Density Study⁶ provides the following applicable employment generation rates for Riverside County:

Warehouse: 1 employee per 581 square feet
Office: 1 employee per 481 square feet

Applying these ratios results in the following calculation:

Building 1

Warehouse: 1,095,440 sf / 581 sf = 1,886 employees
Office (includes mezzanine): 158,720 sf / 481 sf = 330 employees

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⁶ SCAG Employment Density Study
<http://www.mwcog.org/file.aspx?A=QTTITR24POOOUIw5mPNzK8F4d8djdJe4LF9Exj6IXOU%3D>

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Building 2

Warehouse: 375,970 sf / 581 sf = 648 employees
Office (includes mezzanine): 10,000 sf / 481 sf = 21 employees

Total: 2,885 employees

Utilizing SCAG's Employment Density Study ratios, the proposed project will generate 2,885 employees. The EIR utilizes uncertain and misleading language which does not provide any meaningful analysis of the project's population and employment generation. In order to comply with CEQA's requirements for meaningful disclosure, a revised EIR must be prepared to provide an accurate estimate of employees generated by all uses of the proposed project. It must also provide demographic and geographic information on the location of qualified workers to fill these positions.

SCAG's Connect SoCal Demographics and Growth Forecast⁷ notes that the City will add 15,400 jobs between 2016 - 2045. Utilizing SCAG's Employment Density Study calculation of 2,885 employees, the project represents 18.7% of the City's employment growth from 2016 - 2045. SCAG's Growth Forecast notes that the City's population will increase by 40,200 residents between 2016 - 2045. Utilizing SCAG's Employment Density Study calculation of 2,885 employees, the project represents 7.2% of the City's population growth from 2016 - 2045. A single project accounting for this amount of the projected employment and/or population over 29 years represents a significant amount of growth. A revised EIR must be prepared to include this analysis, and also provide a cumulative analysis discussion of projects approved since 2016 and projects "in the pipeline" to determine if the project will exceed SCAG's employment growth forecast for the City. For example, Menifee Commerce Center Phase II proposes a 1,139,478 sf warehouse. Utilizing the SCAG employment ratios and assuming the entire building is a warehouse use, Menifee Commerce Center Phase II will generate a minimum of 1,962 employees (this estimate is lower than the number actually generated due to potential office areas). Combined with the proposed project's 2,885 employees, these two projects alone will generate 4,847 employees. This represents 31.5% of the City's job growth and 12% of the population growth over 29 years. A revised EIR must be prepared to include a cumulative analysis on this topic.

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⁷ SCAG Connect SoCal Demographics and Growth Forecast adopted September 3, 2020
https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_demographics-and-growth-forecast.pdf?1606001579

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Conclusion

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

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Sincerely,



Gary Ho
Blum Collins & Ho, LLP

Attachments:

1. SWAPE Comment Letter

Responses to Comment Letter B – Blum Collins & Ho, LLP, Attorneys at Law
Gary Ho

- B-1** This comment includes introductory statements. No further response is warranted.
- B-2** This comment includes a summary of the Project’s description and discretionary actions. No further response is warranted.
- B-3** The commenter provides no substantial evidence of any significant impact. The commenter provides no substantial evidence that inclusion of a floor plan, conceptual grading plan or a detailed site plan would lead to different conclusions of environmental impact than what is concluded in the DEIR. The commenter states that the DEIR has excluded the proposed floor plan, conceptual grading plan, and a detailed site plan from public review, which does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA §15121 and 21003(b)).
- The Project’s site plan was approved as part of the City’s discretionary review process. As stated in DEIR **Section 2.0, Project Description** (page 2-4), the Project would be consistent with the City General Plan land use designation Heavy Industrial and Business Park maximum floor area ratio (FAR) of 0.50 FAR and 0.60 FAR, respectfully. In addition, DEIR **Section 2.0, Project Description** (page 2-7) states the elevations of both buildings. DEIR **Section 2.0, Project Description**, also includes exhibits that contain the site plan, proposed elevations, and landscape plan. Grading and earthwork volumes were calculated in the technical studies prepared for the Project, and therefore calculate any potential impacts associated with grading. As such, the DEIR discloses all information required.
- B-4** The commenter provides no substantial evidence of any significant impact. This commenter is incorrect in their statement saying that the EIR does not accurately or adequately describe the Project. As stated in DEIR **Section 2.0, Project Description** (page 2-6), “The Project Applicant proposes the development of approximately 1,640,130 square feet of e-commerce/fulfillment warehouse space (including mezzanine and office space) within two buildings on approximately 72 net-acres. The Project would include the construction of two concrete tilt-up buildings, identified as Building 1 and Building 2.” The DEIR, in its entirety, analyzed the environmental impacts resulting from both buildings.
- The Menifee Commerce Center has independent utility and does not rely upon approval of any other projects, whether formal applications have been submitted or not. The referenced Menifee Commerce Center II is a different Project is an entirely new project not related to this Project and would undergo its own City discretionary review and CEQA process, should that project move forward. Additionally, the referenced Menifee Commerce Center II project would be required to analyze cumulative impacts associated with other projects within the general area.
- B-5** The commenter provides no substantial evidence of any significant impact. The commenter is incorrect in their assumption that a Program EIR is warranted. As noted above, the referenced

Menifee Commerce Center II is an entirely new project not related to this Project. The referenced Menifee Commerce Center II is currently in City review and not deemed complete. The referenced Menifee Commerce Center II Project would undergo its own City discretionary review and CEQA process.

The cumulative projects list included related projects within the surrounding area of the Project that were submitted to the City for plot plan review. The referenced Menifee Commerce Center II was submitted after the issuance of the Project's NOP and would not be anticipated to be completed by 2023.

- B-6** The commenter provides no substantial evidence of any significant impact. As noted in Response to Comment B-5 above, PLN21-0281 is currently in City review and not an existing project. Refer to **Appendix 9.11, Traffic Impact Analysis**, for the list of cumulative projects, land use, size and trip generation.
- B-7** The commenter provides no substantial evidence of any environmental impact. Environmental justice is not an environmental impact required to be evaluated or considered pursuant to CEQA, per CEQA Guidelines Article 9. Contents of Environmental Impact Reports, Sections 15120 to 15132. Nonetheless, the air quality analysis contained in the DEIR demonstrates that the Project would not result in environmental justice issues. The air quality analysis prepared for the Project provides an assessment of potential cumulative air quality impacts. The SCAQMD shares the responsibility with California Air Resources Board (CARB) for ensuring that all federal and state ambient air quality standards are achieved and maintained throughout the air basin. The SCAQMD has developed methodologies and thresholds of significance that are widely used throughout the air basin. SCAQMD staff has suggested in the cumulative significance methodologies contained in the CEQA Air Quality Handbook that the emissions-based thresholds be used to determine if a project's contribution to regional cumulative emissions is cumulatively considerable. These thresholds were used in the Air Quality Analysis to assess the significance of the Project-specific and cumulative air quality impacts. Air quality impacts are basin-wide, and air quality is affected by all pollutant sources in the basin. Therefore, the ambient air quality measurements provided in the Air Quality Analysis provide a summary of basin-wide cumulative air quality impacts. As the individual Project thresholds are designed to help achieve attainment with cumulative basin-wide standards, they are also appropriate for assessing the Project's contribution to cumulative impacts.
- B-8** See Response to Comment B-7 above. Also, CEQA is limited to disclosing environmental impacts and social and economic impacts need not be discussed. *Preserve Poway v City of Poway* (2016) 245 CA4th 560.
- B-9** The commenter provides no substantial evidence of any environmental impact. The commenter states that the State of California lists three approved compliance modeling software for non-residential buildings related to energy. The commenter is correct that the three approved compliance models referenced are the three approved compliance methods

specifically for Title 24 compliance, which would be required for any development project at the time of physical building construction (approximately 12-18 months after entitlement). The compliance modeling software that is referenced by the commenter is used to confirm final design, with detailed information included in construction drawings, is Title 24 compliant. The final design, construction drawings are not available at this time and are not typically prepared until after the Project is approved/entitled. However, the level of detail provided in the DEIR adequately discloses the Project's energy impacts. The DEIR and underlying technical studies correctly utilize CalEEMod, a universally-accepted model which estimates energy demand based on average intensity factors for similar land use types based on the site plans provided to the City for entitlement. Since the Project's tenant or tenants are unknown at this time, and any information about the future tenant's energy use is not available at this time, it is appropriate to defer to the CalEEMod default assumptions which have been derived by the California Air Pollution Control Officers Association (CAPCOA) based on survey data. There is no requirement in CEQA which requires the DEIR to show specific compliance with 2019 Building Energy Efficiency Standards. Compliance with these standards is mandated, and compliance will occur prior to issuance of a building permit and compliance will be verified by the City Building and Safety Department.

- B-10** The commenter is incorrect in stating that the EIR does not provide any meaningful evidence to support this conclusion (consistency with 8 of SCAG's 2020 – 2045 RTP/SCS (Connect SoCal) goals), in violation of CEQA's requirements for meaningful disclosure. Table 4.10-4 includes analyze for the SCAG goals and refers the reader to each applicable section (i.e., DEIR **Section 4.2, Air Quality, Section 4.7, Greenhouse Gas Emissions, and Section 4.13, Transportation**) for further information.

The commenter is incorrect in the statement that there are errors in modeling and modeling based on their supporting evidence. Refer to **Appendix 9.2, AQ and HRA Assessments** and **Appendix 9.7, Greenhouse Gas Assessment**, concerning the report's methodology on evaluating the Project's impacts concerning air quality, health risk, and greenhouse gas emissions. DEIR **Sections 4.2 and 4.7** do not omit that the Project would result in significant and unavoidable impacts concerning air quality and greenhouse gases. However, the Project Applicant is required to implement **MM AQ-1** through **MM AQ-12, MM GHG-1** through **MM GHG-5** and adhere to standard conditions (SC) 1 through 20 to reduce the severity of those impacts.

Furthermore, the Project would include findings of fact regarding the Project's environmental impacts and a statement of overriding consideration that discusses the Project's economic, legal, social, technological benefits against the Project's significant and unavoidable impacts. Therefore, the Project adequately discusses the Project's consistency with SCAG's Connect SoCal goals, and does not need to be revised to include a findings of significance since a findings of significance and statement of overriding considerations is being prepared concurrently as with the FEIR.

- B-11** The commenter is correct that the following statement from the DEIR, "The Project's impacts to air quality were evaluated in **Section 4.2, Air Quality** of this EIR. Where necessary, mitigation

measures are implemented to reduce impacts to less than significant levels.” is “erroneous and misleading.” The sentence has been revised accordingly (refer to **Section 3.0, Errata of the DEIR** of this EIR).

Referring to **Section 4.2** and **Section 4.7**, shows that the Project’s impacts concerning air quality and greenhouse gas emissions are significant and unavoidable. However, this does not mean that the Project would not be in compliance with the City General Plan Goal and Policies listed in the comment since the Project includes **MM AQ-1** through **AQ-12** and adhere to SC-1 through SC-20 that would aid in the reduction of air quality and greenhouse gas emissions impacts, as feasibly possible. As further discussed in Table 4.10-5, the Project’s consistency with each goal and policy referenced in the comment is further explained and the reference to **Section 4.2** and/or **Section 4.7** allows the reader to thoroughly understand the Project’s impacts concerning air quality and greenhouse gas emissions. Lastly, the statement of overriding considerations being prepared concurrently with this FEIR

B-12 The commenter provide no substantial evidence of any significant impact. The City General Plan Goals and Policies mentioned in this comment are not implemented by the Project but would be implemented by the City, and thus have no relevance to the Project’s environmental impacts.

B-13 The commenter does not provide substantial evidence of any significant impact. The published sources are listed in the VMT Memo prepared for the Project. The truck percentages were based on the same rates that the TIA was based on. These rates were based on surveys at similar types of facilities in the Inland Empire and shows that the truck percentage is approximately 5.37 percent. It should be noted that the ITE’s Trip Generation Handbook, which provides guidance as to how to best use the data included in Trip Generation Manual, states that local data should be used, should it be available.

Further, the ITE Trip Generation Manual (11th Edition), includes truck information. The 11th Edition shows that truck traffic accounts for approximately 3% of total traffic for a sort facility, which is lower than the truck percentages used in the VMT analysis. Therefore, the analysis is based on conservative numbers that accounts for higher trip generation than anticipated from 11th edition land uses for the Project.

B-14 The commenter does not provide substantial evidence of any significant impact. While the Menifee VMT Analysis Guidelines do not direct the analysis to reduce the amount of truck traffic for industrial/warehouse projects, it does require reasonableness checks. As such, verifying the number of truck trips for the Project were part of the analysis process. The calculations and methodology used in the analysis were shown and available for cross-checking; the commenter does not provide any substantial evidence that the calculations and methodology used were improper or unreasonable.

It should also be noted that since the preparation of the VMT Memo, the City has changed their guidelines which allows the use of home-based work VMT per employee (HBW-VMT/Employee) as an acceptable threshold. Based on the model runs prepared for the Project, the base year HBWVMT/Employee is 11.72, whereas the City baseline is 13.21. The

future year HBWVMT/Employee is 13.59, whereas the City baseline is 14.7. Therefore, the findings of the VMT analysis still shows a less than significant impact using the VMT generated by work trips.

This change in the City's guidelines is relevant as CEQA Guidelines Section 15064.3(a) defines VMT as "the amount and distance of automobile travel attributable to a project." CEQA Guidelines Section 15064.3(a) focuses on "automobile travel." The OPR Technical Advisory states that "automobile" refers to on-road passenger vehicles, specifically cars and light trucks. It does not include heavy-duty trucks, semi-trailers, construction equipment, or other commercial-type vehicles. Therefore, truck trips are not part of the discussion under VMT impacts. As confirmed by many lead agencies, "OPR has clarified in the Technical Advisory and recent informational presentations that heavy-duty truck VMT is not required to be included in the estimation of a project's VMT."

B-15 The commenter provides no substantial evidence of a significant environmental impact. The Project would not result in cumulative citywide or countywide population and housing impacts, since the Project would be adequately served by the regional and local workforce and improve SCAG's job-housing balance for the region, without necessitating additional housing. Furthermore, the Project's potential employment opportunities would provide much needed employment within the City and support the City's pursuit in a more balanced jobs-housing ratio.

Additionally, as stated on page 4.13-10 of the DEIR, the Project socio-economic data was based on median factors for Riverside County from the SCAG Employment Density Survey (October 31, 2001). The SCAG Study recommends a factor of 819 square feet per employee for warehousing uses and 598 square feet per employee for office uses. While the SCAG survey was conducted prior to the proliferation of high cube warehouses (both short-term transload facilities and e-commerce facilities), the employee forecasts resulted in slightly higher employee generation for the Project. For example, the typical square feet/employee for short term transload facilities is approximately 2,000 square feet/employee, and the typical square feet/employee for e-commerce facilities is approximately 850 square feet/employee. Since higher employment typically results in higher VMT/capita for project generated VMT, the factors from the SCAG Survey result in more conservative estimates. Income groups were kept consistent with the transportation employment factors included in RIVTAM.

B-16 Refer to Response B-15, above.

B-17 Refer to Response B-15, above.

B-18 This comment includes conclusionary statements. No further response is warranted.

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Comment Letter C – Adams Broadwell Joseph & Cardozo
Aidan P. Marshall

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DANIEL L. CARDOZO

July 8, 2022

Via Email and U.S. Mail

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Via Email Only

Brett Hamilton, Senior Planner
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**Re: Request for Extension of DEIR Comment Period – Menifee
Commerce Center Project (SCH No. 2021060247)**

Dear Ms. Kitzerow and Mr. Hamilton:

On behalf of Californians Allied for a Responsible Economy (“CARECA”), we respectfully request that the City of Menifee (“the City”) extend the public review and comment period for the Draft Environmental Impact Report (“DEIR”) prepared for the Menifee Commerce Center Project (SCH No. 2021060247) (“Project”), proposed by Core5 Industrial Partners, LLC. The current public comment period ends on July 21, 2022.

CEQA requires that “all documents referenced” – and the CEQA Guidelines require that “all documents incorporated by reference” – in an environmental impact report shall be “readily accessible to the public during the lead agency’s normal working hours” during the entire public comment period.¹

¹ See Public Resources Code § 21092(b)(1) (stating that “all documents referenced in the draft environmental impact report or negative declaration” shall be made “available for review”); 14 Cal. Code Reg. § 15087(c)(5) (stating that all documents incorporated by reference in the proposed environmental impact report shall be readily available to the public during the public comment period); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007) (CEQA document must transparently incorporate and describe the reference materials relied on in its analysis); *Santiago County Water*

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On June 17, 2022, we submitted a letter via email and U.S. mail to the City (“DEIR References Request”), pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting “immediate access to any and all documents referenced, incorporated by reference, and relied upon” in the DEIR.² We also filed submitted a letter (“Public Records Act Request”) requesting immediate access to any and all public records referring or related to the Menifee Commerce Center Project, made pursuant to the California Public Records Act, Government Code §§ 6250, *et seq.*, and Article I, section 3(b) of the California Constitution.³ On June 27, 2022, the City provided some documents in response to our Public Records Act Request. But no reference documents have been provided in response to our DEIR References Request.

Many documents referenced in the DEIR which do not have URL weblinks have not yet been made available to CARECA, and some of the URLs for reference documents which do provide links are nonfunctioning. These documents include:

- Earth Strata Geotechnical Services, Inc. (2018). Preliminary Geotechnical Interpretive Report
- Gerfen, Arrow. PUHSD. March 8, 2021. Personal communication (email).
- Gutierrez, David. MPD. March 23, 2021. Personal communication (telephone conversation).
- Gutierrez, David. MPD. April 20, 2021. Personal communication (email).
- Owen, Karen. Romoland School District. March 8, 2021. Personal communication (email)
- Reinertson, Adrian. CAL FIRE/Riverside County Fire Department. April 1, 2021. Personal communication (email).
- Goss, Tracy A and Kroeger, Amy. White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution. [Online] South Coast Air Quality Management District, 2003.
http://www.aqmd.gov/rules/ciwg/final_white_paper.pdf

District v. County of Orange (1981) 118 Cal.App.3rd 818, 831 (“[W]hatever is required to be considered in an EIR must be in that formal report. . .”), internal citations omitted.

² Exhibit A: Letter from Adams, Broadwell, Joseph & Cardozo (“ABJC”) to City re Request for Immediate Access to Documents Referenced in the Draft Environmental Impact Report - Menifee Commerce Center Project (SCH No. 2021060247) (June 17, 2022).

³ Exhibit B: Letter from ABJC to City re Request for Immediate Access to Public Records - Menifee Commerce Center Project (SCH No. 2021060247) (June 17, 2022).

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- Hickman, J.C., ed. 2012. *The Jepson Manual: Higher Plants of California*. University of California Press. Holland, R. F. 1986.
- Preliminary descriptions of the Terrestrial Natural Communities of California. Calif. Dept. of Fish and Game, Sacramento, CA.
- Munz, P.A. 1974. *A Flora of Southern California*. University of California Press, Berkeley, California.
- Sibley, D.A. 2014. *The Sibley Guide to Birds, Second Edition*. Alfred A. Knopf, Inc., New York, New York. Stebbins, R.C. 2003.
- *A Field Guide to Western Reptiles and Amphibians, Third Edition*. Houghton Mifflin Company, New York, New York.
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- Lightner, J. (2006). *San Diego County Native Plants (2nd Edition ed.)*. San Diego: San Diego Flora.
- The American Ornithologists' Union. (2017). 58th Supplement to the American Ornithologists' Union Check-list of North American Birds. doi:10.1642
- Archaeological Research Unit 1984 Environmental Impact Evaluation: An Archaeological Assessment of the Proposed Devers-Valley 500 KV Transmission Line Corridor and the Proposed Valley-Auld-Skylark 115 KV Transmission Line Corridor, Riverside County, California. Unpublished manuscript on file at the Eastern Information Center, University of California, Riverside (RI-1837).
- Bancroft, Hubert Howe 1884-1890 *History of California*, 7 vols. The History Company, San Francisco, California.
- Bean, Lowell John, and Florence C. Shipek 1978 Luiseño. In Robert F. Heizer (ed.): *Handbook of North American Indians*, Vol. 8, California; pp. 550-563. Washington, D.C.: Smithsonian Institution.
- Bureau of Land Management (U.S. Department of the Interior) 1853 - 1891 General Land Office Records Land Patents Surveys Plats and Filed Notes Land Status Records Control Document Index Records
- Caughey, J.W. 1948 *The California Gold Rush*. University of California Press, Berkeley, California.
- California Energy Commission. 2013 Integrated Energy Policy Report. [Online] 2013. <http://www.energy.ca.gov/2013publications/CEC-100-2013-001/CEC-100-2013-001-CMF.pdf>.

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- California Energy Almanac. Utility Energy Supply Plans from 2013. [Online] https://www.energy.ca.gov/almanac/electricity_data/s-2_supply_forms_2013/.
- California Public Utilities Commission. Natural Gas and California. [Online] <http://www.cpuc.ca.gov/general.aspx?id=4802>.
- California Energy Commission Staff. 2019 Integrated Energy Policy Report Update. [Online] 2019. [Cited: March 26, 2020.] https://www2.energy.ca.gov/2019_energy_policy/.
- Department of Water Resources. Updated Model Water Efficient Landscape Ordinance AB 1881. [Online] 2006. [Cited: November 13, 2013.] http://www.water.ca.gov/wateruseefficiency/landscapeordinance/updatedOrd_history.cfm
- National Oceanic and Atmospheric Administration. Greenhouse Gases - Water Vapor. NOAA National Centers For Environmental Information. [Online] <https://www.ncdc.noaa.gov/monitoringreferences/faq/greenhouse-gases.php?section=watervapor>.
- National Oceanic and Atmospheric Administration. Greenhouse Gases - Chlorofluorocarbons. NOAA National Centers For Environmental Information. [Online] <https://www.ncdc.noaa.gov/monitoringreferences/faq/greenhouse-gases.php?section=chlorofluorocarbons>.
- Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report. International Panel on Climate Change. 4, 2007.
- The Carbon Cycle and Climate Change. Bennington, Bret J. 1, s.l. : Brooks/Cole. ISBN 1 3: 978-0-495- 73855-8. 1
- AECOM. Zero-Emissions Cargo-Handling Equipment Feasibility Assessment. [Online] November 21, 2019. [Cited: February 7, 2022.] <https://www.portofOakland.com/files/PDF/AECOM%20Zero%20emission%20CHE%20feasibility%20assessment%20Nov%202019.pdf>.
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- Federal Transit Administration (FTA). 2006. Transit Noise and Vibration Impact Assessment. FTA-VA-90-1003-06. May.
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- International Organization for Standardization (ISO). 1996a. Description and Measurement of Environmental Noise, Basic Quantities and Procedures Part 1. ISO 1996/1. 1996b. Description and Measurement of Environmental Noise, Basic Quantities and Procedures, Acquisition of Data Pertinent to Land Use, Part 2. ISO 1996/2. 1996c. Description and Measurement of Environmental Noise, Basic Quantities and Procedures, Application to Noise Limits, Part 3. ISO 1996/3.
- The Planning Center | DC&E. 2013. City of Menifee General Plan Environmental Impact Report. Draft. September.
- Albert A. Webb Associates (WEBB). 2021a. CORE 5 – Menifee Commerce Center Plot Plan. August 6. 2021b. Menifee Commerce Center Project Traffic Impact Analysis. May.
- American Society of Civil Engineers (ASCE), 2017, Minimum Design Loads and Associated Criteria for Buildings and other Structures, ASCE Standard 7-16, 889pp.
- American Society for Testing and Materials, Intl. (ASTM), 2000, Standard Guide for Using the Seismic Refraction Method for Subsurface Investigation, Designation D 5777- 00, 13 pp.
- California Building Standards Commission (CBSC), 2019, 2019 California Building Code, California Code of Regulations, Title 24, Part 2, Volume 2 of 2.
- California State Board for Geologists and Geophysicists, 1998, Department of Consumer Affairs, Guidelines for Geophysical Reports for Environmental and Engineering Geology, 5 pp.
- Crice, Douglas B., undated, Shear Waves, Techniques and Systems, Reprinted by Geometrics, Sunnyvale, California.
- Field, E.H., et al., 2013, Uniform California Earthquake Rupture Forecast, Version 3 (UCERF3)—The Time-Independent Model, U.S.G.S. Open-File Report 2103-1165, CGS Special Report 228, and Southern California Earthquake Center Publication 1792.
- Geometrics, Inc., 2004, StrataVisor™ NZXP Operation Manual, Revision B, San Jose, California, 234 pp.
- Geometrics, Inc., 2009, SeisImager/SWTM Manual, Windows Software for Analysis of Surface Waves, Version 3.0, 314 pp.
- Iwata, T., Kawase, H., Satoh, T., Kakehi, Y., Irikura, K., Louie, J. N., Abbott, R. E., and Anderson, J. G., 1998, Array Microtremor Measurements at Reno, Nevada, USA (abstract): Eos, Trans. Amer. Geophysical. Union, v. 79, suppl. to no. 45, p. F578.

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- Louie, J.N., 2001, Faster, Better: Shear-Wave Velocity to 100 Meters Depth from Refraction Microtremor Arrays, in, Bulletin of the Seismological Society of America, Volume 91, pp. 347-364.
- Morton, D.M., 2003, Geologic Map of the Romoland Peak 7.5-Minute Quadrangle, Riverside County, California, U.S.G.S. Open-File Report 03-102, Scale 1: 24,000.
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- Southern California Geotechnical, Inc., 2020, Test Boring Log B-7, Project No. 20G227, dated November 12, 2020.
- Wills, C.J. Weldon II, R.J., and Bryant, W.A., 2007, California Fault Parameters for the Nation Seismic Hazard Maps and Working Group on California Earthquake Probabilities, 2007; Appendix A, CGS Special Report 203A.
- Xia, J., Miller, R.D., and Park, C.B., 1999, Estimation of Near-Surface Shear-Wave Velocity by Inversion of Rayleigh Wave: Geophysics, v. 64, p.691-700.

C-3

Courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the public review period invalidates the entire process, and that such a failure must be remedied by permitting additional public comment.⁴ It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.⁵ Without access to all reference documents during the public comment period, CARECA and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR that is required by CEQA.

C-4

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

⁵ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 831 ("Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report."). 6199-004acp

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Accordingly, we request that the City extend the public review and comment period on the DEIR for at least 30 days from the date on which the City releases all reference documents for public review.

Given the shortness of time before the current comment deadline, please contact me as soon as possible with your response to this request, but no later than Friday, July 12, 2022.

Please feel free to email me at amarshall@adamsbroadwell.com with any questions. Thank you for your prompt attention and response.

Sincerely,



Aidan P. Marshall

Attachment

APM:acp

Responses to Comment Letter C – Adams Broadwell Joseph & Cardozo
Aidan P. Marshall

- C-1** This comment includes introductory statements. No further response is warranted.
- C-2** This commenter referenced a prior submitted letter asking for reference documents. Refer to the following Response to Comment C-3.
- C-3** CEQA Section 21092(b)(1) includes public notice requirements for agencies preparing environmental impact reports or negative declarations. It provides, in relevant part “the notice shall specify... the address where copies of the draft environmental impact report or negative declaration, and all documents referenced in the draft environmental impact report or negative declaration, are available for review...” (Pub. Res. Code, §21092(b)(1)). CEQA Guidelines section 15087(c)(5) clarifies that the notice shall specify “the address where copies of the EIR and all documents incorporated by reference in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency’s normal working hours.” (14 Cal. Code Regs., §15087(c)(5)). CEQA Guidelines Section 15087(c)(5) was most recently amended effective 2018 to clarify that the term “*referenced in the Draft environmental report*” for the purposes of CEQA Section 21092 and CEQA Guidelines Section 15087 means “*incorporated by reference*” as described in CEQA Guidelines Section 15150. In its comments on the amendment, the Governor’s Office of Planning and Research observed that “if the requirement for the lead agency to make documents available for public inspection were to include all documents simply referenced or cited in an EIR or negative declaration, the requirement would be burdensome, unnecessary and unreasonable on lead agencies.” These authorities clarify that CEQA requires that the City provide notice of the address where all documents incorporated by reference in the DEIR are available for public inspection.

A total of five (5) documents are incorporated by reference into the DEIR and are listed in Section 1.7 therein. These documents are:

1. City of Menifee General Plan: <https://www.cityofmenifee.us/221/General-Plan>
2. City of Menifee General Plan EIR: <https://www.cityofmenifee.us/262/Environmental-ImpactReport>
3. Menifee Municipal Code: <https://codelibrary.amlegal.com/codes/menifee/latest/overview>
4. Title 9 of Municipal Code: <https://online.encodeplus.com/regs/menifee-ca/doc-viewer.aspx#secid--1>
5. Menifee North Specific Plan: Accessible at City Hall, 29844 Haun Road, Menifee, CA 92586

The City’s public notice specified that the DEIR and these documents are available for review at Menifee City Hall, 29844 Haun Road, Menifee, CA 92586. The City has therefore complied with its obligations pursuant to CEQA Section 21092(b)(1) and CEQA Guidelines

Section 15087(c)(5). While CEQA does not require the City to provide the Menifee North Specific Plan electronically, a digital version will be included as part of the City’s Clerk’s rolling release of public records described below, in compliance with the CPRA. Furthermore, the City is in receipt of the commenter’s two requests for public records for “any and all public records referring or related to the Project and “any and all documents referenced, incorporated by reference, and relied upon in the DEIR.”

The City respectfully declines the commenter’s request to extend the public review and comment period for the Project because the City has fully complied with its obligations pursuant to CEQA Section 21092(b)(1) and CEQA Guidelines Section 15087(c)(5). The City will continue responding to the commenter’s requests for documents in compliance with the California Public Records Act (Gov. Code, §§6250 *et seq*).

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Comment Letter D – Advocates for the Environment
Dean Wallraff, Executive Director

July 19, 2022

Advocates for the Environment

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



Brett Hamilton, Senior Planner
Community Development Department
City of Menifee
29844 Haun Road
Menifee, CA 92586

Via U.S. Mail and email to bhamilton@cityofmenifee.us

re: Comments on Draft Environmental Impact Report for Menifee Commerce Center Project,
SCH No. 2021060247

Dear Mr. Hamilton:

Advocates for the Environment submits the comments in this letter regarding the Draft Environmental Impact Report (DEIR) for the Menifee Commerce Center Project (Project). The Project Site is located within the southwest portion of the City of Menifee (City), within the County of Riverside, generally bounded by a Riverside County Flood Control channel, Southern California Edison Easement, and McLaughlin Road to the south, commercial uses, non-conforming residential, vacant land and Ethanac Road beyond to the north, Dawson Road to the east, and Trumble Road to the west. The Project includes the construction and operation of two concrete tilt-up buildings, identified as Building 1 and Building 2. Building 1 would total 1,254,160 square feet and proposes a structural height of 49 feet and includes 679 automobile parking spaces and 369 truck trailer parking spaces. Building 2 would total 385,970 square feet and proposes a structural height of 49 feet and includes 232 automobile parking spaces and 154 truck trailer parking spaces, which would be constructed on about 72 acres. We have reviewed the DEIR released in June 2022 and submit comments regarding the sufficiency of the DEIR's Greenhouse-Gas (GHG) analysis under the California Environmental Quality Act (CEQA).

D-1

D-2

GHG Mitigation is Insufficient under CEQA

Construction and operation of the Project would generate a total of 20,078.73 metric tons of carbon dioxide equivalent (MTCO_{2e}) per year under Scenario 1 and a total of 12,722.54 MTCO_{2e} per year under Scenario 2, even after implementation of all proposed mitigation. The City concluded the Project would have "significant and unavoidable" GHG emissions. CEQA requires fair-share mitigation for significant cumulative impacts. (*Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.) To reduce the significant impact, the GHG mitigation section referred to Air Quality Mitigation Measures (MM AQ) 2-12 and GHG Mitigation Measures

D-3

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City of Menifee
Comments on Menifee Commerce Center Project

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(MM GHG) 1-5. Some of these measures are not likely to effectively mitigate the GHG emissions from the project, and despite the availability of other GHG mitigation and Project alternatives, the DEIR declared that the Project's quantified emissions were unavoidable, stating that vehicle usage cannot be directly regulated by the City. Yet, CEQA does not require that mitigation targets a specific source of GHG emissions, only that the project's cumulative impact is fully mitigated. And because the mitigation measures the DEIR listed are not sufficient to mitigate the project's fair share of emissions, and there are other readily available mitigation measures, the Project should be required to include more mitigation to reduce the Project's net GHG emissions to zero, its fair share.

D-4

The EIR Identifies Ineffective and Insufficient Mitigation Measures

Vague and unenforceable mitigation measures violate CEQA. (*California Clean Energy Comm. v. City of Woodland* (2014) 225 Cal. App. 4th 173, 180.) There is no showing that certain mitigation measures are enforceable, and some of the mitigation measures were improperly deferred. MM AQ-5 lacks performance standards to ensure that the transportation program would be effective; and even with a Transportation Demand Management program, there is no enforcement measure to ensure that use of single-occupant vehicles would be reduced.¹ MM AQ-7 fails for vagueness, unenforceability, and lack of effect because merely making tenants aware of an information packet is not likely to contribute to actual changes in tenant behavior without some additional enforceable measure.² One possible substitute would be for, the lead agency to require the applicant to enter into contractual agreements with the ultimate tenants requiring them to adhere to certain GHG emissions standards for operating the facilities. MM AQ-10 is likely to be ineffective because it does not ensure that any electric vehicle charging stations will be constructed; at the very least, the EIR should specify the number of electric vehicle charging stations to be constructed.³

D-5

Substantial evidence must show that mitigation measures will be "at least partially effective." (*King & Gardiner Farms, LLC v. Cnty. of Kern* (2020) 45 Cal. App. 5th 814, 865, 259.) While there may be some mitigation that could reduce emissions to simultaneously improve air quality and reduce GHG, some of the mitigation measures identified as GHG mitigation only apply to air quality with no likelihood of being even "partially effective" at reducing GHG emissions. Therefore, additional measures need to be adopted. (See "The Project's GHG Impacts Must be Fully Mitigated," below.)

D-6

¹ MM AQ-5: "Prior to issuance of tenant occupancy permits, Project operator's with more than 100 employees shall prepare a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single-occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit."

² MM AQ-7: "The facility operator shall provide tenants with an information packet that: Provides information on incentive programs, such as the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program), and other similar funding opportunities, by providing applicable literature available from the California Air Resources Board (CARB)."

³ MM AQ-10: Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dockhigh doors.

City of Menifee
Comments on Menifee Commerce Center Project

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There is no substantial evidence that "providing information" to construction employees, as required by MM AQ-3 will result in any reduction in GHG emissions.⁴ If anything, it is a superficial attempt at narrowing emission reductions to the relatively inconsequential construction emissions. MM GHG-5 is not even partially effective at reducing GHG emissions, because the heat island effect is a consequence of climate change, not a significant source of GHG emissions. Whatever extent that this mitigation measure would reduce air conditioning related GHG emissions, it would be greatly overpowered by the increased emissions caused by the production, distribution, and installation of pavement or Portland cement concrete.⁵ MM AQ-5 is further limited by the structural and cultural limitations on carpooling and alternative modes of transportation, and therefore is unlikely to lead to actual reductions even when if enforcement measures and performance standards are implemented.

D-7

D-8

Ultimately, these mitigation measures should be revised to ensure a minimum level of effectiveness.

Infeasibility Finding Lacks Substantial Evidence

The conclusion that the Project will not be able to achieve any mitigation beyond which was identified in MM-AQ 1-12 and MM-GHG 1-5 is not supported with substantial evidence. Overall, as discussed in the next section of this letter, there are abundant options available to mitigate emissions to the full extent of project emissions. The lead agency carries the burden of including an adequate discussion of feasible mitigation measures, including identifying the reasons for infeasibility, and the failure to do so here is a violation of CEQA and insufficient to meet the City's burden.

D-9

First, the DEIR claims that mobile emissions are not controllable, and therefore not feasible to mitigate. It cites the limited ability of Menifee to address emissions from vehicles beyond regulatory requirements. While this may be true, the City has the capacity to control the emissions directly and indirectly related to this project. For example, the City can require that all construction vehicles and equipment on the site adhere to the best available emissions control technology, including the latest GHG standards. Additionally, requiring vehicle fleets to be powered by alternative fuel types would effectively emit less GHGs; the City could require that the applicant's lease agreements included provisions to limit the use of heavy-duty diesel trucks or require that the tenant's vehicle fleet use non-diesel fuels such as gasoline, ethanol, or biofuels. Another feasible mitigation measure would require the applicant will enter a contract with future tenants to use zero-emission commercial vehicles upon reasonable availability by maintaining a fully-electric or hybrid vehicle fleet which powers itself through solar panels on the warehouse site.

D-10

D-11

D-12

⁴ MM AQ-3: "The Project Applicant shall be required to provide information on transit and ridesharing programs to construction employees, which shall be made available in the construction trailer at all times."

⁵ MM GHG-5: "Prior to issuance of Certificate of Occupancy, the Project shall be required to construct cool pavement and/or portland cement concrete (PCC) for site paving in order to reduce heat island effects."

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Second, because CEQA does not distinguish from mobile and non-mobile sources of GHG emissions, the lead agency can mitigate cumulative GHG impact through any measure. There are several measures, including solar panels, solar water heaters, automatic light switches, among many other mitigation strategies that can be incorporated to reduce the Project's emissions. The City could also require the Applicant to purchase offsets or require the Applicant to enter into an agreement to buy clean power.

D-13

Third, the lead agency cannot conclude the the Project will have an unavoidable impact unless it demonstrates that all the Project's current mitigation measures constitute the maximum feasible mitigation. Yet, there are many feasible mitigation GHG measures the City could require. For example, MM GHG-1 states: "Prior to issuance of tenant occupancy permits, the Project owner or operator shall be required to install a total 314kwdc solar photovoltaic (PV) system on Building 1 (226kwdc) and Building 2 (88kwdc) or offset an equivalent amount of energy demand with renewable energy..." When put into context of the Project's size, this requirement is less than a bare minimum because it represents solar panel coverage of about 0.2% of all roof space.⁶ Often up to 70% of roof space is viable for solar panels, which would mean that it is feasible for the Project to commit itself to a goal of 1,148,091 sq. ft. of solar panels, and 68,885.46 kwdc per day.⁷ There is no substantial evidence that a lesser goal is the maximum feasible mitigation, and therefore the finding of unavoidable impact is not supported by substantial evidence.

D-14

Additionally, MM AQ-2 could be modified to reflect a larger mitigation potential by requiring contractors to shut off all diesel-powered equipment when not currently in use, and also choose alternatively-fueled equipment such as natural gas, biodiesel, and battery-powered equipment when available.⁸ In MM AQ-10, there is no substantial evidence to support that one charging station for every 50 dockhigh doors is the maximum feasible ratio of electric vehicle chargers, so this number should be justified to legitimize the finding that further mitigation is infeasible.

D-15

D-16

⁶ The following conversion factors were sourced from: <https://straightupsolar.com/solar-tech/how-much-solar-power-on-my-home/>

Original numbers from the DEIR indicated in bold.

1 kwdc = 4 kwh per day = 4 kwh/24 hours = 0.166 kw

Solar panels produce 15 W/ sq. ft. = 0.015 kw/sq. ft.

Goal of 314 kwdc $\times \frac{0.166 \text{ kw}}{1 \text{ kwdc}} \times \frac{1 \text{ sq. ft.}}{0.015 \text{ kw}} = 3,474.93 \text{ sq. ft.}$

1,254,160 sq. ft. (building 1) + 385,970 sq. ft. (building 2) = 1,640,130 sq. ft. total

3,474.93 sq. ft. \div 1,640,130 sq. ft. total = 0.002187 or roughly 0.2%

⁷ 1,640,130 sq. ft. total \times 0.7 (or 70%) = 1,148,091 sq. ft.

1,148,091 sq. ft. $\times \frac{0.015 \text{ kw}}{1 \text{ sq. ft.}} = 17221.365 \text{ kw}$

17221.365 kw $\times \frac{1 \text{ kwdc}}{0.166 \text{ kw}} = 2870.2275 \text{ kwdc per hour} \times 24 \text{ hours} = 68,885.46 \text{ kwdc per day}$

⁸ MM AQ-2: "The Project's contractors shall prohibit off-road diesel-powered equipment from being in the "on" position for more than 10 hours per day. The Project's general contractor shall designate an officer to monitor the construction equipment operators on-site for compliance."

10211 Sunland Blvd., Shadow Hills, CA 91040 (818) 650-0030 X101 dw@aenv.org

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Overall, there is no substantial evidence to support that is not feasible to require more stringency from MM GHG-1, MM AQ-2, and MM AQ-10, and they should be amended to represent the feasible extent to achieve fair share mitigation. More mitigation measures are feasible, so the finding of unavoidable impact is not supported by substantial evidence.

D-17

The Project's GHG Impacts Must be Fully Mitigated

Since the Project's GHG emissions would be significant, CEQA requires that the Project include fair-share mitigation (*Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.) Here, this means mitigation of the full extent of the Project's GHG impacts. The DEIR claims that no mitigation measures are feasible, beyond those described in the EIR. But that conclusion is incorrect, and not supported by substantial evidence.

D-18

The amount of GHG emissions that comprises the Project's fair share is clear. The EIR quantified the Project's annual emissions at 20,078.73 MTCO₂e. The reasonable lifespan of a warehouse project is beyond that of a residential building, averaging 50 to 60 years.⁹ Therefore there is a quantifiable estimate of total Project emissions by multiplying the annual estimate by the average lifespan, which would amount to 1,104,330.15 MTCO₂e.¹⁰ This would be a good starting point from which to subtract the effect of non-offset mitigation measures, before purchasing offsets.

D-19

Solar Panels Are Feasible

One of the most important feasible mitigation measures is installing solar panels or otherwise incorporating renewable energy production on-site, as to be less reliant on GHG-intense fuels which power the energy system of the County. One of the Project Design Features is to have 15% of the roof solar ready (DEIR 4.2-24.) Accordingly, it would be readily achievable to install solar panels on that solar-ready section of the roof, and there is no substantial evidence to indicate that 15% is the maximum roof area that could support solar panels. Warehouses often have considerable roof space conducive to solar panels, and likewise it would be feasible to install solar panels on the entire available surface. Installing solar panels would also make the identified mitigation measures more effective and increase GHG reductions overall.

D-20

Offsets Are Feasible

Even if there are no more on-site mitigation measures that are feasible and available, the lead agency can commit to offsets to mitigate a Project's emissions to the fair share level, and offsets are just as accepted as other methods of mitigation. The City has the authority to require Applicant to

D-21

⁹ <https://bciconstruction.us/which-factors-determine-the-lifespan-of-a-building/#:~:text=A%20warehouse%20used%20to%20produce,for%20major%20repairs%20or%20renovations.>

¹⁰ (20,078.73 MTCO₂e) x (55 years average) = 1,104,330.15 MTCO₂e

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purchase offsets. (See *King & Gardiner Farms, LLC v. Cnty. of Kern* (2020) 45 Cal. App. 5th 814, 852.) Several carbon registry programs include protocols which ensure that the offsets are being achieved, regardless of where they originate, and make lists publicly available for purchase. There are several offsets available, including but not limited to the California Deltaic and Coastal Wetland Restoration by the Nature Conservancy (Project ID ACR581), as well as five in-state Forest Carbon projects.¹¹

Since there is no reason why CEQA-compliant offsets are infeasible, the analysis presented in the DEIR is not supported by substantial evidence and the City should require the Applicant to purchase offsets to the extent necessary to mitigate the Project's fair share of emissions.

D-22

Conclusion

The City has concluded that the Project's GHG emissions will significant after mitigation, and so CEQA requires the City to mitigate all of the Project's GHG impacts, but the DEIR fails to require this, in spite of the fact that there are feasible mitigation measures and alternatives that should be considered, such as offsets or solar panels on site. The lead agency has not met its burden of showing that such measures are infeasible, and therefore the DEIR should be amended to reflect all feasible mitigation, as well as a reasonable range of project alternatives, to mitigate all the Project's "fair share" of GHG emissions.

D-23

Please put Advocates for the Environment on the interest list to receive updates about the progress of this project.

Sincerely,



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

¹¹ National Forest Foundation (Project ID ACR168), L.D O'Rourke Foundation (Project ID ACR672), and Ecotrust Forest Management, Inc. (Project IDs ACR732, ACR734 and ACR734).

Responses to Comment Letter D – Advocates for the Environment

Dean Wallraff, Executive Director

- D-1** This comment includes introductory statement and a description of the Project. No further response is warranted.
- D-2** This comment includes introductory statement to the rest of their comments. No further response is warranted.
- D-3** The commenter provides no substantial evidence of any environmental impact. The DEIR includes over 20 standard conditions (SC-1 through SC-20, Pages 4.7-29 through 4.7-33) aimed at reducing GHG emissions, additionally, the DEIR includes 5 specific GHG mitigation measures (**MM GHG-1** through **MM GHG-5**, Page 4.7-34), additionally the DEIR includes 10 additional air quality mitigation measures that have a co-benefit of reducing GHG emissions (**MM AQ-2** through **MM AQ-12**, as summarized in **Section 4.2, Air Quality**, of the DEIR). As shown, the DEIR includes 35 measures that would reduce or minimize GHG emissions.
- There is no CEQA requirement to reduce emissions to “zero” as suggested by the commenter. Furthermore, the commenter does not provide substantial evidence of any additional feasible mitigation measures that could reduce the Project’s impacts to a less than significant level. A lead agency may also decline to adopt mitigation measures that it concludes will not be effective in mitigating an impact or that will not provide substantial additional mitigation beyond the measures that it does adopt. *Citizens for Open Gov’t v City of Lodi* (2012) 205 CA4th 296, 323. As noted in DEIR Section 4.7, the Project’s GHG emissions cannot be mitigated to a less than significant level. As such, the City is not required to impose additional mitigation measures which cannot reduce the impact to a level of insignificance. The DEIR relies on a numeric threshold of 3,000 metric tons for GHG emissions which is based on substantial evidence contained therein (see page 4.7-26). The commenter does not provide any substantial evidence as to why the City’s use of the 3,000 metric ton threshold is not valid, nor does the commenter provide substantial evidence to support the threshold of zero. CEQA requires an EIR to reflect a good faith effort at full disclosure; it does not mandate perfection, nor does it require an analysis to be exhaustive. The EIR provides a good faith reasoned analysis of the potential impacts and provides feasible mitigation measures based on substantial evidence.
- D-4** See Response to Comment D-3 above.
- D-5** The commenter provides no substantial evidence of any significant impact. As noted in the DEIR (page 2-6), specific tenants and future users of the Project are unknown at this time. As such, the efficacy of specific mitigation measures cannot be meaningfully quantified at this time, since an individual tenant’s worker profile may vary. As a conservative measure, no quantified “credit” was taken, since specific tenants and their characteristics are not known as it relates to **MM AQ-5**, **MM AQ-7**, and **MM AQ-10**, although each of these measures would certainly reduce emissions associated with the Project. The commenter does not provide

substantial evidence to support that modifying the mitigation measures with language to require applicants to enter into contractual agreements would actually reduce impacts to less than significant levels. As concluded in the DEIR, the Project's GHG emissions cannot be mitigated to a level of insignificance.

- D-6** The commenter provides no substantial evidence of any significant impact. The commenter does not provide any substantial evidence that supports the ineffectiveness of the mitigation measures. As noted in Response to Comment D-3 and D-5, a specific tenant is not known at this time and since the end user is unknown, no reductions were quantified out of an abundance of caution. These measures are at least partially effective to reduce the impact, might as they would provide information to workers on alternative transportation mode that could reduce number of vehicles.
- D-7** See Response to Comment D-6 above.
- D-8** See Response to Comment D-6 above.
- D-9** The commenter provides no substantial evidence of any significant impact. The DEIR provides a conservative and realistic analysis by concluding that while these measures decrease the impacts somewhat, the impacts cannot be mitigated to be less than significant. The Project Applicant and the City do not have the ability to impose mitigation to regulate tailpipe emissions as disclosed in the DEIR, and as such, the Project's GHG emissions cannot be reduced to a less than significant level.
- D-10** See Response to Comment D-9 above.
- D-11** See Response to Comment D-9 above.
- D-12** See Response to Comment D-9 above.
- D-13** The commenter provides no substantial evidence of any significant impact. CEQA does not require mitigation that is not feasible to implement. In *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, the court determined the purchase of carbon offset credits did not meet CEQA's criteria for a valid mitigation measure, because the mitigation did not contain sufficient performance standards. However, to reduce emissions and to be valid mitigation under CEQA, purchased offset credits must be genuine, quantifiable, additional, and verifiable. Even offset credits purchased from CARB-approved offset project registries have been determined to not adequately assure that purchased offset credits accurately and reliably represent actual emissions reductions or cannot guarantee that such reductions are additional to any reduction that would occur under business-as-usual operations and reductions required by law. CARB does not have enforcement authority over such reductions, let alone the City. The City, the lead agency for the Project and the entity responsible for enforcing any mitigation measures incorporated into the Project and relied upon to reduce impacts to a less than significant level, has no enforcement authority over offset credits that fund carbon reduction projects outside of the City. Many offset credits "sell" reductions in

emissions generated outside of California, which may not be genuine or verifiable. International offsets are even more difficult to verify, guarantee and enforce. The commenter provides no substantial evidence of the feasibility of purchasing carbon offset credits, automatic light switches or other suggested mitigation. Thus, the purchase of offset credits and the commenter's other suggested mitigation is not a feasible CEQA mitigation measure to reduce the emissions impact of the Project. The Project is subject to **MM GHG-1**, requiring the Project Applicant to install a solar photovoltaic system on Buildings 1 and 2.

- D-14** The commenter provides no substantial evidence of any significant impact. As noted in the DEIR, **MM GHG-1** requires the Project to implement a solar photovoltaic system. The commenter does not provide substantial evidence that requiring additional solar beyond what is included in the DEIR would reduce the Project's impacts to less than significant levels. To the contrary, even if all energy-related emissions were somehow reduced to zero, the Project would still result in a significant and unavoidable impact, because the primary contributor to air and GHG emissions are tailpipe emissions, which cannot be regulated by the City or the Project Applicant.
- D-15** The commenter provides no substantial evidence of any significant impact. The DEIR and mitigation measures for construction activity, including **MM AQ-2**, reduce the Project's construction impacts to less than significant levels. CEQA does not require imposition of mitigation measures for impacts which are not insignificant. Public Resources Code §21100; CEQA Guidelines §15126.4.
- D-16** The commenter provides no substantial evidence of any significant impact. The commenter does not provide substantial evidence that providing one charging station for every 50 dock high-doors is not a feasible ratio, and therefore would decrease the Project's GHG emissions to a less than significant level. There are no current commercially available electric trucks that can be purchased at this time. Furthermore, even if a charging station were provided for every dock door, the commenter does not provide substantial evidence to support how this would reduce Project impacts to less than significant levels.
- D-17** See Response to Comments D-3 through D-16.
- D-18** See Response to Comments D-3 through D-16.
- D-19** See Response to Comment D-13.
- D-20** See Response to Comment D-14.
- D-21** See Response to Comment D-13.
- D-22** See Response to Comment D-13.
- D-23** See Response to Comments D-3 through D-16.

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Comment Letter E – City of Perris, Planning and Economic Development Department
Patricia Brenes, Planning Manager



CITY OF PERRIS
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING DIVISION
135 N. "D" Street, Perris, CA 92570-2200
TEL: (951) 943-5003 FAX: (951) 943-8379

July 21, 2022

Brett Hamilton
Senior Planner
City of Menifee
Planning Division
29844 Haun Road
Menifee, CA 92586

SUBJECT: City of Perris Comments for Menifee Commerce Center ("Proposed Project") -
Menifee Planning Cases: General Plan Amendment No. PLN21-0100, Specific Plan
Amendment No. 2019-006, Tentative Parcel Map No. 38156 PLN21-0205, Change of
Zone No. PLN21-0101, and Plot Plan No. 2019-005.

The City of Perris appreciates the opportunity to comment on the "Menifee Commerce Center" ("Proposed Project") proposal to construct two (2) industrial buildings totaling 1,640,130 sq. ft. generally located south of Ethanac Road, east of Trumble Road, west of Dawson Road within the City of Menifee. The project is located adjacent to the City of Perris next to an approved 484,300 square-foot commercial retail shopping center. The City provides the following feedback in light of the project's proximity to an entitled commercial development and adjacent to roadway designated for commercial and residential traffic:

E-1

1. **No Access on Trumble Road.** Two driveways are proposed for Building 2, a 26-foot-wide driveway for passenger vehicles and a 40-foot wide driveway for trucks. The entitled commercial project to the west in the City of Perris (aka Motte Towne Center) is required to vacate the west half portion of Trumble Road (from "A" street to McLaughlin Road); therefore, access through Trumble Road should be provided for passenger vehicles, emergency vehicles, and as secondary access for trucks in case of emergency. Allowing primary truck access on Trumble Road would be a concern, as the roadway is intended for commercial and residential traffic.

E-2

2. **Land Use Buffer.** Plans also show 6-foot-high walls along the perimeter of the site for Building 2. As the loading area and truck trailer parking would be visible from Trumble Road, a 14-foot-high decorative screen wall would need to be provided for adequate screening. In addition, it is strongly recommended that a 50-foot landscape berm be incorporated along Trumble Road to minimize the visual impacts of the 14-foot-high screen wall from the street.

E-3

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- | | |
|--|------------|
| <p>3. Building Architecture. Overall, the architecture of Buildings 1 and 2 show visual interest and are well articulated. If possible, increase the height of the two elements at each corner of Building 2 facing Trumble Road to break up the continuous straight roof line.</p> | <p>E-4</p> |
| <p>4. Acoustical. The Noise and Vibration Technical Report for Core 5 – Menifee Commerce Center, dated 2021, concludes that all noise impacts related to construction and operation of the Project will be reduced to less than significant with mitigation. Figure 2 – Noise Measurement Locations in the Noise Study shows that measurement ML1 was taken from the northwest corner of the site. It is recommended a measurement be taken from the closest point of the loading area of Building 2 to the commercially zoned property across Trumble Road, in the City of Perris. ML1 measurement, as shown in Figure 2, may not accurately reflect the anticipated noise level that would result from the activity associated with the loading area.</p> | <p>E-5</p> |
| <p>5. Health Risk Assessment Study/GHG. The Menifee Commerce Center Mobile Source Health Risk Assessment, dated 2022, concludes that during construction and operation there will be less than significant impacts. The City of Perris suggests contacting the California Air Resource Board (CARB) and South Coast Air Quality Management District (SCAQMD) early in your evaluation, as they are considering changing the thresholds used to evaluate Health Risk Assessment/GHG.</p> | <p>E-6</p> |
| <p>6. Drainage. Please address the following comments on Appendix 9.9 – Hydrology and Water Quality Reports:</p> <ul style="list-style-type: none"> a. Line A-1 of the Romoland Master Drainage Plan shall be constructed in Sherman Road within the improved section of Sherman Road from north of the intersection of Ethanac Road and Sherman Road to the Line A channel. b. Line A-1 shall be constructed to ultimate design as approved by Riverside County Flood Control and Water Conservation District (RCFCD.) | <p>E-7</p> |
| <p>7. Traffic Impact Analysis/Truck Route. The City of Perris has concerns related to traffic impacts to the Freeway interchange at I-215 and Ethanac Road. Please address the following comments on Appendix 9.11 – Transportation Report:</p> <ul style="list-style-type: none"> a. Prior to further proceedings, to ensure consistency, the right-of-way widths and alignments of Ethanac Road, Trumble Road and Sherman Road shall be coordinated with the roadway designations as classified per City of Perris' General Plan. The correlation will determine the extent of roadway and intersection improvements. Listed below are City of Perris' roadway designations for Ethanac Road, Trumble Road and Sherman Road: <ul style="list-style-type: none"> - Ethanac Road is classified as an Expressway (184'/134') with a 14-foot-wide raised landscaped median. - Trumble Road is classified as a Major Collector (78'/56') with a 12-foot-wide center turn lane. - Sherman Road is Local (60'/40'). | <p>E-8</p> |

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The City of Perris thanks you for considering these comments. Please feel free to contact me at (951) 943-5003, ext. 355, if you have any questions or would like to discuss the above concern in further detail.

Sincerely,



Patricia Brenes
Planning Manager

cc: Clara Miramontes, City Manager
Wendell Bugtai, Assistant City Manager
Kenneth Phung, Director of Planning and Economic Development
Eric Dunn, City Attorney
Stuart Mckibbin, City Engineer

**Responses to Comment Letter E – City of Perris, Planning and Economic
Development Department
Patricia Brenes, Planning Manager**

- E-1** This comment includes introductory statement and the commenter’s understanding of the Project. No further response is warranted.
- E-2** The commenter does not provide substantial evidence of any significant impact. The Project Applicant is proposing that the primary truck access driveways for Building 2 are located on Sherman Road instead of Trumble Road. The Project’s traffic impact study analyzed Sherman Road as the entry and exit point for all Building 2 truck trips. Driveways for Building 2 that are located on Trumble Road provide adequate circulation for the Project.
- E-3** Comment noted. The Project proposes a 14’ high screen wall along Trumble Road. Additionally, the Project’s walls and fences would be built with attractive materials consistent with the commenter’s request.
- E-4** Comment noted. The City reviewed the Project’s design plans as part of the City’s approval process versus the industrial design guidelines set in the City’s Development Code. The Project’s design plans have been deemed complete and were approved. Therefore, the City respectfully declines the commenter’s request to revise the Building’s approved site plan.
- E-5** The purpose of the noise measurements completed in the *Core 5 – Meniffee Commerce Center Noise and Vibration Impact Assessment Technical Report* (dBF Associates, Inc., October 2021) (Noise Study) was to obtain existing ambient noise levels near noise-sensitive uses in the Project vicinity. There are no existing loading docks at the Project site, and thus, the noise measurements (including measurement ML1) were not intended to provide a loading dock reference level. Operational noise levels generated at the Project site, including loading dock operations, were quantified and graphically shown using the in the Datakustik Cadna/A industrial noise prediction model. According to the Noise Study, operational noise levels from the proposed Project would not exceed the most stringent noise standards established by the City of Meniffee or City of Perris, and therefore would result in a less than significant impact. As such, additional noise measurements are not necessary and would not change the DEIR’s significance findings.
- E-6** The commenter does not provide substantial evidence of any significant impact. The commenter is recommending that the Project Applicant contact the California Air Resource Board (CARB) and South Coast Air Quality Management District (SCAQMD), as they are considering changing the thresholds used to evaluate Health Risk Assessment/GHG. At the time that the DEIR was prepared, the Project’s HRA and GHG were conducted in accordance with the latest thresholds. Refer to the **Appendix 9.2, AQ/HRA Assessments** and **Appendix 9.7, GHG Emissions Report** for more information.

- E-7** The commenter does not provide substantial evidence of any significant impact. Three off-site storm drains are proposed on the following roads, Trumble Road, Sherman Road, and Dawson Road. The storm drains will capture off-site runoff and convey it to Line-A. In addition to typical roadway drainage facilities within the Sherman Road, Dawson Road, and Trumble Road extension, the Project requires a drainage conduit outlet (on-site flows would surface flow through the site utilizing ribbon gutters leading to planned basins). With proposed on-site and off-site improvements, the Project would not cause additional flooding, exceed the capacity of existing drainage facilities, or impede or redirect flood flows such that on-site or off-site areas are significantly impacted.
- E-8** The commenter does not provide substantial evidence of any significant impact. Under CEQA Guidelines section 15064.3, automobile delay no longer is considered an environmental impact. The Project's land use impacts are based in part upon determining compliance with the City's General Plan. The Project Applicant is proposing to improve roadways along the Project's frontage per the City of Menifee General Plan. The Project Applicant will also improve Ethanac Road from I-215 to Sherman Road to increase the roadway's vehicle capacity to accommodate the Project and other nearby project traffic as forecasted by the project's traffic study. Trumble Road will be improved as an industrial collector per the City's General Plan. Sherman Road along the Project frontage is a major roadway per the City's General Plan. All roadway improvements associated with the proposed Project would be consistent with the City of Menifee General Plan Circulation Element. Any improvements to portions of roadways shared with the City of Perris would be coordinated between the City of Menifee and City of Perris prior to final engineering for the Project.

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Comment Letter F – Peggy Tuttle

to Community Development Dept.

From Peggy - Ray Tuttle
27625 ETHANAS Rd
Romoland, CA 92585

In Reply To ³ Letter Received from
City of Menifee

F-1 | 1. I own Property at ETHANAS Dawson (CAR)

F-2 | 2. The Environmental Effects: Would be Terrible
All parking space - 3 Shift per Day 2733 Cars But
that is Coming To work. But there are 2733
CAR going home per day Doubt Traffic 5466 car

F-3 | 3. Air pollution - this Traffic will Bring

F-4 | 4. NEAR school - Homes - Peoples Health

F-5 | 5. Being Built in Disadvantage And Community
of Color (Romoland AREA is ONE) (LATINO)

F-6 | 4. I ~~ASK~~ TALKED TO NEIGHBOR ACROSS STREET
he has NOT heard of ANY WAREHOUSE
THAT MEAN they know NOTHING of Traffic
OR Air pollution OR Traffic Coming
Besides All the OTHER Potential Environmental
Effect Stated in the Letter I Received

F-7 | 5. I hope you will Read the PAPER
Clipping I AM Sending you. They
ARE having the SAME PROBLEMS Stated
ABOVE

THANK YOU Peggy Tuttle

Responses to Comment Letter F – Peggy Tuttle

- F-1** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR’s environmental analysis. However, your comment will be taken into consideration by decision-makers.
- F-2** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR’s environmental analysis. However, refer to **Section 4.13, Transportation** for more information.
- F-3** The commenter provides no substantial evidence of any significant impact. The commenter does not provide a specific comment, this appears to be a statement that traffic from the Project will result in air pollution. This is thoroughly discussed in the DEIR in **Section 4.2, Air Quality** (see DEIR Pages 4.2-1 through 4.2-38).
- F-4** The commenter provides no substantial evidence of any significant impact. This comment does not provide a specific comment, this appears to be a statement that homes, schools, and people’s health would be impacted by the Project. This is thoroughly discussed in the DEIR in **Section 4.2, Air Quality** (see DEIR Pages 4.2-1 through 4.2-38).
- F-5** The commenter provides no substantial evidence of any significant impact. The commenter does not provide a specific comment, this appears to be a statement about the socioeconomic status of the Project’s vicinity. Also, refer to Response to Comment B-7.
- F-6** The Project’s Notice of Availability (NOA) was distributed to all residencies and businesses within a 300-foot radius. The City as the lead agency, prepared the NOA in compliance with Title 14, Section 15087 of the California Code of Regulations, for the Draft EIR to provide the widest exposure and opportunity for input from public agencies, stakeholders, organizations, and individuals on the environmental analysis addressing the potential effects of the Project. The Draft EIR evaluates the potentially significant environmental impacts that may result from the Project.
- F-7** This comment includes a conclusionary statement. No further response is warranted.

Comment Letter G – Linda Jones

From: Brett Hamilton <bhamilton@cityofmenifee.us>
Sent: Thursday, July 21, 2022 4:41 PM
To: Cano, Kari <Kari.Cano@kimley-horn.com>
Cc: Kelly, Jon <JKelly@C5IP.com>
Subject: FW: NOA, DEIR, GPA no. PLN21-0100

From: Linda Jones <ljgold974@yahoo.com>
Sent: Thursday, July 21, 2022 4:26 PM
To: Brett Hamilton <bhamilton@cityofmenifee.us>
Subject: NOA, DEIR, GPA no. PLN21-0100

[CAUTION]: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Brett,

My neighbor Peggy Tuttle and myself are responding to the proposed changes as in our letter of June 2022.

My concern is traffic at this time. Hours and transportation will disrupt the surrounding residences. Early morning traffic already wakes us at 6 am at times. The roadway is undersize for the traffic load at peak commuter hours, backing up from the freeway to our block, 27585 Ethanac Rd.

The other streets are dirt at this time on the borders of the building site. There is a need for curbs and sidewalks also. We wait to leave our driveways sometimes 5 minutes waiting for the traffic to let us out. We have ruts from the mail truck and rain drains off poorly here. This street has never been built for pedestrians and the last pavement left us with a 3" lip to drive over to leave our properties. My van has suspension issues due to the poor pavement on this street for the past 5 years. All the construction will be noisy, dusty, will displace critters and we will just have to make adjustments. I think the building will be an economic obsolescence to us and with our land zoning change may force us to relocate. We knew zoning behind us was for light industry when we purchased our parcel. We figured it to be more like the buildings housing Langston's motor sports off off Trumble Rd.

I hope you were able to get Peggy's information. Her input is important.

G-1

G-2

G-3

G-4

Responses to Comment Letter G – Linda Jones

- G-1** This comment includes an introductory statement. No further response is warranted.
- G-2** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers. Note that information regarding level of service (LOS) related to auto delay was provided in the DEIR per the City's Traffic Study Guidelines, but was only provided for information purposes only, since LOS is not considered a significant impact under CEQA. Refer to **Section 4.13, Transportation** for more information regarding the Project's impact concerning trip generation.
- G-3** Refer to response to G-2 above.
- G-4** Comment noted. This comment does not identify a specific concern with the adequacy of the DEIR or note a specific issue or comment related to the DEIR's environmental analysis. However, your comment will be taken into consideration by decision-makers.

Comment Letter H – Adam Salcido

From: [A S](#)
To: [Brett Hamilton](#)
Cc: [Unknown: jbourgeois029@gmail.com](#); [Terrance Lucio: PATRICK HANINGER](#)
Subject: Menifee Commerce Center Project
Date: Friday, July 22, 2022 9:34:43 AM

You don't often get email from asalcido.07@gmail.com. [Learn why this is important](#)

[CAUTION]: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Mr. Hamilton,

Please provide any updates to the above mentioned project.

I am requesting under Public Resource Code Section 21092.2 to add the email addresses and mailing address below to the notification list, regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

t.lucio57@gmail.com

phaninger1@gmail.com

jbourg2271@aol.com

jbourgeois029@gmail.com

asalcido.07@gmail.com

Mailing Address:

P.O. Box 79222

Corona, CA 92877

Please confirm receipt of this email.

Thank You,

Adam Salcido

H-1

Responses to Comment Letter H – Adam Salcido

- H-1** This City agrees to add to the commenter and the emails provided within the comment to the notification list, regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this Project.

Comment Letter I – Adams Broadwell Joseph & Cardozo
Sheila M. Sannadan

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1880
FAX: (650) 589-5082
sannadan@adamsbroadwell.com

June 17, 2022

OF COUNSEL
MARC D. JOSEPH
DANIEL L. CARDOZO

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-6721
TEL: (916) 444-8201
FAX: (916) 444-8209

Via Email and U.S. Mail

Cheryl Kitzerow, AICP
Community Development Director
City of Menifee
29844 Haun Road
Menifee, CA 92586
Email: ckitzerow@cityofmenifee.us

Sarah Manwaring
City Clerk
City of Menifee
29844 Haun Road
Menifee, CA 92586
Email: smanwaring@cityofmenifee.us

Via Email Only

Brett Hamilton, Senior Planner
Email: bhamilton@cityofmenifee.us

**Re: Request for Immediate Access to Documents Referenced in the
Draft Environmental Impact Report – Menifee Commerce
Center Project (SCH No. 2021060247)**

Dear Ms. Kitzerow, Ms. Manwaring, and Mr. Hamilton:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") to request *immediate access* to any and all documents referenced, incorporated by reference, and relied upon in the Draft Environmental Impact Report ("DEIR") prepared for the Menifee Commerce Center Project (SCH No. 2021060247) ("Project"), proposed by Core5 Industrial Partners, LLC. *This request excludes a copy of the DEIR and its appendices. This request also excludes any documents that are currently available on the City of Menifee website, as of today's date.*¹

The Project includes the construction of two (2) concrete tilt-up buildings, identified as Building 1 and Building 2. Building 1 would total 1,254,160 square feet and proposes a structural height of 49 feet and includes 679 automobile parking

¹ Accessed <https://www.cityofmenifee.us/> on June 15, 2022.

June 17, 2022

Page 2

spaces and 369 truck trailer parking spaces. Building 2 would total 385,970 square feet and proposes a structural height of 49 feet and includes 232 automobile parking spaces and 154 truck trailer parking spaces. The Project is generally located southeast of the Interstate 215/Ethanac Road interchange in the City of Menifee, County of Riverside, State of California. The Project site consists of seven Assessor Parcel Numbers (APNs): 331-110-035, 331-110-027, 331-110-041, 331-140-010, 331-140-018, 331-140-021, and 331-140-025).

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

I will be contacting you to arrange for the review/duplication/transmission of the requested records soon. In the interim, if you have any questions or concerns regarding this request, my contact information is:

U.S. Mail

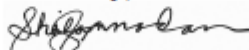
Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

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

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:acp

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

6199-003acp

***Responses to Comment Letter I – Adams Broadwell Joseph & Cardozo
Sheila M. Sannadan***

- I-1** This comment includes introductory statements. No further response is warranted.
- I-2** This comment includes a description of the commenter’s understanding of the Project. No further response is warranted.
- I-3** Refer to Response to Comment C-3 above.

This page intentionally left blank.

Comment Letter J – Riverside Transit Authority
Mauricio Alvarez, MBA

From: Mauricio Alvarez <malvarez@riversidetransit.com>
Sent: Tuesday, June 28, 2022 8:05 AM
To: Brett Hamilton <bhamilton@cityofmenifee.us>
Subject: Menifee Commerce Center PLN21-0100 SOA2019-006 TPM38156 (PLN21-0205)

[CAUTION]: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Brett,

Thank you for including Riverside Transit Agency (RTA) on the DEIR transmittal for the Menifee Commerce Center project off of Ethanac Road in Menifee. After reviewing the document, RTA has no comments to submit at this time.

Thank you,

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

J-11

Responses to Comment Letter J – Riverside Transit Authority
Mauricio Alvarez, MBA

- J-1** The comment letter acknowledges receipt of the Draft EIR, and identifies that the commentor has no comments.

Section 3.0 Errata to the Draft EIR

3.1 INTRODUCTION TO THE ERRATA

In accordance with Section 15132 of the CEQA Guidelines, the FEIR for the Meniffee Commerce Center Project includes the DEIR, dated June 2022, as well as any proposed revisions or changes to the DEIR.

The changes to the DEIR do not affect the overall conclusions of the environmental document, and instead represent changes to the DEIR to provide clarification, amplification and/or insignificant modifications, as needed as a result of public comments on the DEIR, or due to additional information received during the public review period. These clarifications and corrections do not warrant recirculation of the DEIR pursuant to CEQA Guidelines Section 15088.5.

None of the changes or information provided in the comments identify a new significant environmental impact, a substantial increase in the severity of an environmental impact for which mitigation is not proposed, or a new feasible alternative or mitigation measure that would clearly lessen significant environmental impacts but is not adopted. In addition, the changes do not reflect a fundamentally flawed or conclusory DEIR.

Changes to the DEIR are listed by Section, page, paragraph, etc. to best guide the reader to the revision. Changes are identified as follows:

- Deletions are indicated by ~~strikeout text~~.
- Additions are indicated by underlined text.

3.2 CHANGES TO THE DRAFT EIR

Page 2-7, First Full Paragraph

Building 1 would total approximately 1,254,160 square feet (SF) of warehouse, inclusive of 144,220 SF of mezzanine, and 14,500 SF of office space. Building 1 height would be ~~49~~50' feet high and would include 679 automobile parking spaces and 369 truck trailer parking spaces.

Page 2-7, Second Full Paragraph

Building 2 would total approximately 385,970 SF of warehouse, inclusive of 10,000 SF of office space. Building 2 height would be ~~49~~47' feet high and would include 232 automobile parking spaces and 154 truck trailer parking spaces (see **Figure 2-8: Conceptual Site Plan, Figure 2-9a: Conceptual Elevations – Building 1, and Figure 2-9b: Conceptual Elevations – Building 2**). At both buildings, portions of the parapet wall would exceed 50 feet to completely screen all rooftop equipment and to provide roof height offsets for an overall enhanced building façade on all sides. The maximum parapet wall height at Building 1 would be 52 feet and at Building 2, 51 feet. The Project site is traversed by Sherman Road, with Buildings 1 located east of Sherman Road and Building 2 located west of Sherman Road.

Page 4.1-9, Second Full Paragraph

~~Building 1 would be 50 feet and Building 2 would be approximately 49 feet in height, consistent with the allowed building height. Although the Project would be taller than the surrounding structures, the building heights would not exceed the maximum 50-foot height and Building 1 and 2 would be setback in accordance with the design standards of the Menifee North SP. At both buildings, portions of the parapet wall would exceed 50 feet to completely screen all rooftop equipment and to provide roof height offsets for an overall enhanced building façade on all sides. The maximum parapet wall height at Building 1 would be 52 feet and at Building 2, 51 feet.~~

Page 4.2-27, Mitigation Measure (MM) AQ-7

MM AQ-7: The facility operator shall provide tenants with an information packet that:

- Provides information on incentive programs, such as the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program), and other similar funding opportunities, by providing applicable literature available from the California Air Resources Board (CARB). The Moyer Program On-Road Heavy-Duty Vehicles Voucher Incentive Program (VIP) provides funding to individuals seeking to purchase new or used vehicles with 2013 or later model year engines to replace an existing vehicle that is to be scrapped.
- Provides information on the United States Environmental Protection Agency's SmartWay program and tenants shall be encouraged to use carriers that are SmartWay carriers.
- Recommends the use of electric or alternatively fueled sweepers with high efficiency particulate air (HEPA) filters.
- Recommends the use of water-based or low VOC cleaning products.

Pages 4.3-13 to 4.3-14, Mitigation Measure (MM) BIO-1

MM BIO-1 If grading or construction activities, including vegetation removal, occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds shall be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The Project Applicant shall ensure that impacts to nesting bird species at the project site are avoided through the implementation of preconstruction surveys, ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:

1. ~~The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.~~ The Project Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests

and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.

2. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.
3. ~~If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer (generally 300 feet for migratory and non-migratory songbirds and 500 feet raptors and special-status species) will be determined by the wildlife biologist, and will depend on the level of noise and/or surrounding disturbances, line of sight between the nest and the construction activity, ambient noise, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas.~~ confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on the nest based on their best professional judgement and experience. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. The Designated Biologist shall monitor the nest at the onset of Project activities, and at the onset of any changes in such Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or

erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to County for mitigation monitoring compliance record keeping.

Pages 4.3-14, Mitigation Measure (MM) BIO-2

MM BIO-2

The Project Developer shall retain a qualified biologist to conduct a 30-day pre-construction survey for burrowing owl. The results of the single one-day survey would be submitted to the City prior to obtaining a grading permit, three days prior to construction activities. If at any time there is a lapse of Project activities for 30 days or more, another burrowing owl survey shall be conducted and reported to CDFW.

If burrowing owl are not detected during the pre-construction survey, no further mitigation is required. If burrowing owl are detected during the pre-construction survey, the Project applicant and a qualified consulting biologist would be required to prepare and submit for approval to the City a burrowing owl mitigation program in accordance with MSHCP protocol. If active burrowing owl burrows are detected during the breeding season, the onsite biologist will review and establish a conservative avoidance buffer surrounding the nest based on their best professional judgment and experience and verify compliance with this buffer and will verify the nesting effort has finished. Work can resume when no other active burrowing owl nesting efforts are observed. If active burrowing owl burrows are detected outside the breeding season, then passive and/or active relocation pursuant to a Burrowing Owl Plan that shall be prepared by the Applicant and approved by the City in consultation with CDFW, or the Project Developer shall stop construction activities within the buffer zone established around the active nest and shall not resume construction activities until the nest is no longer active. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the MSHCP. Burrowing owl burrows shall be excavated with hand tools by a qualified biologist when determined to be unoccupied and backfilled to ensure that animals do not reenter the holes/dens.

Page 4.9-4, Fourth Paragraph

FEMA Flood Insurance Rate Map (FIRM) shows the Project site being covered by one map panel: 06065C2060H (effective 8/18/2014).¹ Based on a review of this map panel, the Project site is largely within a Flood Boundary, identified as Zone A-X. ~~which indicates that the Project site is subject to inundation by the 1-percent annual chance flood event. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.~~² Zone X is defined as “Areas determined to be outside the 0.2 percent annual chance floodplain.”

Page 4.9-10, Footnote Number 4

~~Earth Strata Geotechnical Services, Inc. (2018). Preliminary Geotechnical Interpretive Report. Southern Geotechnical. (2020). Geotechnical Investigation Geotechnical Investigation Two Proposed Commercial/Industrial Buildings. Page 7. (Appendix 9.6.1).~~

Page 4.9-20, Last Paragraph

The Project site is within a Flood Boundary, identified as the Zone A-X Flood Hazards. Zone A X is defined as “Areas determined to be outside the 0.2 percent annual chance floodplain. “is an area subject to inundation by the 1-percent annual chance flood event generally determined using approximate methodologies. The Project designation as Zone A X will be addressed through the implementation of the required drainage improvements, as suggested in the Hydrology and WQMP report.

Page 4.9-22, First Paragraph

As stated above, the Project site is within a Flood Boundary, identified as the Zone A X Flood Hazards.

Page 4.9-22, Last Paragraph

A review of the FEMA FIRMs was conducted to determine whether the Project site is largely located within a flood zone. According to Map No. 06065C2060H, portions of the Project site are located within the Zone A-X, ~~which indicates that the Project site is subject to the 1-percent annual chance flood event or 100-year flood.~~ Zone X is defined as “Areas determined to be outside the 0.2 percent annual chance floodplain.”

Page 4.10-17, Policy OCS-9.1 Consistency Discussion

Consistent: The Project’s impacts to air quality were evaluated in Section 4.2: Air Quality of this EIR. ~~Where necessary, mitigation measures are implemented to reduce impacts to less than significant levels. =~~ The Project would adhere to standard conditions and implement feasible mitigation measures to minimize impacts related to particulate matter emissions generated during Project construction to less than significant levels. Refer to Section 4.2 for more information.

¹ FEMA. Flood Insurance Rate Map. (2020). Retrieved from: <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd&extent=-117.19036396779732,33.7418625623032,-117.18517121114374,33.744092920211955>. Accessed on August 16, 2021.

² FEMA. 2020. *Flood Zones*. Retrieved at: <https://www.fema.gov/glossary/flood-zones>. Accessed February 25, 2022.

Page 4.12-7, Footnote Number 9

Reinertson, Adrian. CAL FIRE/Riverside County Fire Department. April ~~12~~27, 202~~1~~2. Personal communication (email).

Page 4.12-8, Footnote Number 11

Gutierrez, David. MPD. March ~~23~~4, 202~~1~~2. Personal communication (~~telephone conversation~~email).

Page 4.12-9, Footnote Number 13 and 14

Gutierrez, David. MPD. ~~April 20~~March 24, 202~~1~~2. Personal communication (email).

Gutierrez, David, MPD. March ~~23~~4, 2022. Personal communication (~~telephone~~email).

Page 4.12-10, Footnote Number 15 and 16

Owen, Karen. Romoland School District. March ~~8~~21, 202~~1~~2. Personal communication (email).

Gerfen, Arrow. PUHSD. March ~~8~~22, 202~~1~~2. Personal communication (email).

Page 4.12-12, Revisions to various references

Gerfen, Arrow. PUHSD. March ~~8~~22, 202~~1~~2. Personal communication (email).

Gutierrez, David. MPD. March ~~23~~4, 202~~1~~2. Personal communication (~~telephone conversation~~email).

Gutierrez, David. MPD. ~~April 20~~March 24, 202~~1~~2. Personal communication (email).

Owen, Karen. Romoland School District. March ~~8~~22, 202~~1~~2. Personal communication (email).

Reinertson, Adrian. CAL FIRE/Riverside County Fire Department. April ~~12~~27, 202~~1~~2 Personal communication (email).