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September 27, 2019

Mr. DiTanyon Johnson
Senior Planner
City of Fontana, Planning Division
8353 Sierra Avenue
Fontana, CA 92335

RE: Draft Environmental Impact Report for the I-15 Logistics Project (SCH #2018011008)

Dear Mr. Johnson:

The California Attorney General's Office has reviewed the City of Fontana's Draft Environmental Impact Report (EIR) for the I-15 Logistics Project (the Project). The Project would site a 1,175,720 square-foot warehouse with about 634 daily truck trips in an already highly-polluted community of color approved for additional residential development. The EIR found significant and unavoidable impacts to air quality, cultural resources, greenhouse gas emissions, and transportation. Despite these impacts, the Project includes minimal mitigation, particularly of the Project's significant air quality and greenhouse gas impacts. In addition, the Project would have significant land use impacts, the EIR's analysis of alternatives is flawed, and the EIR's analysis of noise impacts needs to be clarified. We respectfully submit these comments urging the City to conduct further environmental analysis pursuant to California Environmental Quality Act (CEQA) prior to project approval in order to ensure the Project's environmental impacts are understood, disclosed, and mitigated to the maximum feasible extent.¹

I. THE PROJECT WOULD SITE A LARGE WAREHOUSE IN A HIGHLY-POLLUTED RESIDENTIAL AREA.

The Project would annex 152 acres and rezone 76 acres from mostly residential to industrial to build a 1,175,720 square-foot tilt-up warehouse.² The warehouse would have 199

¹ The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.).

² EIR at 3.0-1, 3.0-3 to 3.0-5, 3.0-9.

dock doors, 309 trailer stalls, and 406 employee parking spaces.³ The EIR forecasts the Project to generate 634 daily truck trips during 24-hour operation—i.e. one truck trip nearly every two minutes, 24 hours a day.⁴ The 76 acres surrounding the warehouse that would be annexed and not rezoned would remain designated for residential development.⁵

The immediate area around the warehouse site is currently rural, with scattered homes in the Project area. The nearest sensitive receptor is a residence located approximately 150 feet from the proposed warehouse.⁶ Existing residential neighborhoods lie about a half-mile to the southwest and southeast.⁷ Approved residential developments, which are shown in an annotated satellite image appended to the end of this memo, will expand those neighborhoods to within about 1,000 feet from the Project and add a school a half-mile from the Project.⁸ The land immediately adjacent to the Project is designated under the general plan and zoning ordinance for future mixed-use residential development.⁹ The residential community is currently free from conflicting industrial uses.

Despite the lack of existing industrial uses in the immediate vicinity, the communities near the Project are already highly polluted. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, the Project's census tract ranks worse than 91 percent of the rest of the state for pollution burden.¹⁰ The neighboring census tract, which borders the Project and is more representative of the impacted community, ranks worse than 98 percent of the rest of the state for pollution burden. The communities are particularly threatened by exposure to ozone, fine particulate matter, contaminated drinking water, contaminated groundwater, toxic cleanup sites, and solid waste. They also suffer from high rates of cardiovascular disease and babies being born with a low birth weight, both of which are indicators of exposure to—and make the community more vulnerable to the health impacts of—additional pollution. In addition, these neighborhoods are made up of between 74-80 percent people of color, with nearly half of the people in the area being Latinx.

³ *Id.* at 3.0-9.

⁴ *Id.* at 4.13-13, Table 4.13-9.

⁵ *Id.* at 3.0-4, Table 3.0-2.

⁶ *Id.* at 4.2-19 to 4.2-20, Table 4.2-7.

⁷ *Id.* at Exhibit 3.0-2.

⁸ *Id.* at 4.0-4 to 4.0-6, Exhibit 4.0-1.

⁹ Fontana Online Plans and Zoning Map, available at <http://web1.fontana.org/zoningviewer/>.

¹⁰ CalEnviroScreen 3.0, available at <https://oehha.ca.gov/calenviroscreen> (as of January 17, 2019). CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. Office of Environmental Health Hazard Assessment, CalEnviroScreen 3.0 Report (January 2017), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

This Project would add to the environmental pollution and health problems faced by the families that live nearby.

II. THE CITY FAILED TO SUFFICIENTLY MITIGATE THE PROJECT'S SIGNIFICANT AIR QUALITY AND GREENHOUSE GAS IMPACTS.

CEQA prohibits agencies from approving projects with significant environmental effects where there are feasible mitigation measures that would substantially lessen or avoid those effects.¹¹ The lead agency is expected to develop mitigation in an open public process,¹² and mitigation measures must be fully enforceable and cannot be deferred to a future time.¹³

Due to the substantial emissions generated by the Project's truck traffic, the EIR found significant and unavoidable air quality and greenhouse gas impacts.¹⁴ Specifically, the EIR determined that the Project's nitrogen oxide emissions would be nearly three times the significance threshold established by the South Coast Air Quality Management District (147.46 pounds per day versus the 55 pounds per day threshold).¹⁵ Nitrogen oxide is a primary precursor to formation of smog, and it causes respiratory problems like asthma, bronchitis, lung irritation, and lung cancer.¹⁶ With respect to greenhouse gas emissions, the Project would generate 15,588.05 metric tons of CO₂-equivalent emissions per year, well over the South Coast Air Quality Management District significance threshold for industrial and warehouse projects of 10,000 metric tons of CO₂-equivalent emissions.¹⁷

Despite these significant impacts, the EIR includes only four minimal operational mitigation measures:

- Tenants must have an employee ride-sharing program and provide subsidized mass transit vouchers;
- Access gates and loading docks must have signs requiring trucks to idle no longer than 5 minutes;
- The developer must make tenants aware of state funding opportunities to reduce emissions by providing tenants with literature supplied by the California Air Resources Board; and
- The employee parking lot must include at least two electric vehicle chargers.¹⁸

¹¹ Pub. Resources Code, sec. 21100, subd. (b)(3).

¹² *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

¹³ CEQA Guidelines, sec. 15126.4.

¹⁴ EIR at 4.2-16 to 4.2-17, 4.7-17.

¹⁵ *Id.* at 4.2-15 to 4.2-16, Table 4.2-6.

¹⁶ *Id.* at 4.2-17.

¹⁷ *Id.* at 4.7-13.

¹⁸ *Id.* at 4.2-16, 4.7-16 to 4.7-17.

The EIR admits that these mitigation measures fail to reduce the air quality and greenhouse gas impacts to less than significant levels.¹⁹

CEQA prohibits the City from approving the Project if there are other feasible measures to reduce the Project's impacts. The City has numerous options for further mitigating the Project's impacts on local community health, regional air quality, and greenhouse gas emissions. For example, to target the main source of the problem—on-road truck emissions—the Project could establish fleet efficiency requirements for warehouse tenants, require zero-emission or near-zero-emission trucks, build electric infrastructure on-site to ease future transition to fleet electrification, or limit the number of trucks allowed on-site. To particularly target local impacts, the Project could require the use of electric-powered yard equipment on-site; require installation of indoor air filtration at the Project, nearby residences, and schools; establish mandatory truck routes to major streets and highways; limit operation days and times; or establish overnight parking and repair areas within the Project site to prevent truck encroachment into nearby residential areas. The City could also require the Project to meet Tier 1 or Tier 2 requirements under the California Green Building Standards Code. We also encourage the City to consult with the California Air Resources Board to identify further measures the City could take to feasibly reduce the Project's air quality and greenhouse gas impacts.

Particularly given the Project's location in a community of color that faces disproportionate levels of pollution and its close proximity to existing sensitive receptors and ongoing residential development, we urge the City to adopt all feasible measures to mitigate the Project's significant environmental effects. Mitigation measures like those suggested above have been adopted by similar projects throughout Southern California. The Attorney General's Office would be happy to provide any assistance it can as the City considers how best to mitigate the Project's environmental impacts.

III. THE CITY FAILED TO ADEQUATELY ANALYZE THE PROJECT'S LAND USE IMPACTS.

An EIR must clearly set forth all significant effects of the Project on the environment. (Pub. Resources Code, § 21100, subd. (b)(1).) Both “[d]irect and indirect significant effects” should be “clearly identified and described,” considering “both the short-term and long-term effects.” (CEQA Guidelines, § 15126.2, subd. (a).) Here, the City evaluated the significance of the Project's land use impacts by considering whether the Project “has the potential to conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.”²⁰ The City determined that overall land use impacts would be less than significant after evaluating the Project's consistency with the County of San Bernardino General Plan, the City of Fontana General Plan, the City's Zoning and Development Code, and the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Community Strategy.

¹⁹ *Id.* at 4.2-16 to 4.2-17, 4.7-17.

²⁰ EIR at 4.10-8 to 4.10-17.

However, the City should re-evaluate the Project's consistency with the relevant land use plans as the EIR does not disclose potentially significant impacts in at least four different areas.

First, Fontana's General Plan has several policies protecting residents from excessive industrial noise.²¹ On that subject, the EIR states that, "[f]rom an environmental justice standpoint, the proposed industrial development would not be located near noise-sensitive land uses, such as residences and schools, thereby limiting its impacts to Fontana's disadvantaged communities."²² That assertion is contradicted only 5 lines later, when the EIR notes that "[t]he closest noise-sensitive receptors to the Project Area are existing residential uses along Lytle Creek Road to the northeast and west of the Project area, *approximately 150 to 760 feet away.*"²³ In addition to the closest residence being located a mere 150 feet away, further residential development is projected within 1,000 feet of the Project and a new school within a half-mile of the Project.²⁴ The EIR fails to explain how siting the Project near these noise-sensitive receptors is consistent with the City General Plan's requirement to minimize noise spillover from industrial uses into adjoining residential neighborhoods and noise-sensitive uses.²⁵ We encourage the City to more carefully analyze the Project's consistency with its General Plan policies.

Second, the City's General Plan, as well as SCAG's Regional Transit Plan, include goals and policies promoting active transportation. SCAG's plan includes goals to "[e]nsure travel safety and reliability for all people and goods in the region," "[p]rotect the environment and health for our residents by improving air quality and encouraging active transportation (e.g. bicycling and walking)," and "encourage land use and growth patterns that facilitate transit and active transportation."²⁶ And the City's General Plan includes policies to "facilitate safe and convenient access to transit, bicycle facilities, and walkways," "design roadways for all users," and "support designated truck routes that avoid negative impacts on residential and commercial areas[.]"²⁷ The EIR finds the Project is consistent with the goals to enhance safety and promote active transportation because the Project includes a short access road connecting the Project to a residential street and will add sidewalks along one short stretch of road west of the Project site.²⁸ The EIR justifies its failure to facilitate transit and active transportation by noting that "there are no nearby transit stops."²⁹ Further, the EIR claims that "[w]hile the Project itself, as a logistics facility development, would not improve air quality, it would not prevent SCAG from

²¹ 2015-2035 General Plan Update at 11.5, City of Fontana (Nov. 13, 2018), <https://www.fontana.org/2632/General-Plan-Update-2015---2035>.

²² EIR at 4.10-12.

²³ *Id.* (emphasis added).

²⁴ *Id.* at 4.0-4 to 4.0-6, Exhibit 4.0-1.

²⁵ Fontana General Plan, *supra* note 28, at 11.5; EIR at 4.10-11 to 4.10-12.

²⁶ EIR at 4.10-16.

²⁷ *Id.* at 4.10-10 to 4.10-11.

²⁸ *Id.* (City General Plan); *Id.* at 4.10-16 (SCAG RTP).

²⁹ *Id.* at 4.10-16.

implementing actions that would improve air quality within the region.”³⁰ That logic is strained, at best. Expecting another agency to improve air quality or change transit routes sometime in the future is not sufficient to demonstrate consistency with regional goals to “facilitate transit” and “improv[e] air quality.” The Project could include, for example, alternative options for encouraging mobility both for future employees and nearby residents such as bicycle lanes or shuttles to the nearest transit stops. Further, the Project is inconsistent with the regional goal to improve air quality because, as the EIR itself finds, it would actually have significant adverse impacts on air quality.³¹ Again, we encourage the City to evaluate its consistency with relevant plans more carefully.

Third, the EIR fails to consider the Project’s consistency with the mitigation measures in the final EIR for Fontana’s General Plan. For example, the Fontana General Plan contains 24 mitigation measures related to air quality, most of which should apply to the Project.³² Those measures set requirements for building efficiency standards, on-site equipment, and preferential vanpool parking, among others.³³ The EIR should clarify whether those requirements have been incorporated into the Project design, and, if not, explain why the Project is inconsistent with these mitigation measures. Moreover, the Project demonstrates the failure of MM-AQ-24 in Fontana’s General Plan to protect the City’s residents from the health impacts of warehouse development near sensitive receptors. MM-AQ-24 bars large warehouse projects from being located within 1,000 feet of sensitive receptors unless warehouse operation would not violate certain South Coast Air Quality Management District (SCAQMD) significance thresholds. This Project easily satisfies the measure’s definition of a large warehouse project and it would emit nearly triple the SCAQMD threshold for nitrogen oxide, yet it does not violate MM-AQ-24 because it does not exceed the specific significance thresholds identified by the measure.³⁴ If this Project—a nearly 1.2 million square-foot warehouse sited 150 feet from the nearest sensitive receptor—does not implicate MM-AQ-24’s policy to site large warehouses away from sensitive receptors, few projects will. In Fontana’s CEQA analysis of its General Plan, the City relied on MM-AQ-24 to address the community’s concern about the volume of warehouses and truck

³⁰ *Id.*

³¹ *See* Section II, *supra*.

³² Fontana General Plan Update 2015-2035, Final Environmental Impact Report, at Table 2-2, 2-4 to 2-6, <https://www.fontana.org/DocumentCenter/View/29525/Final-Environmental-Impact-Report-for-the-General-Plan-Update>.

³³ They also encompass nearly all of the air quality and greenhouse gas mitigation measures in this Project’s EIR. Compliance with external regulations and requirements is a baseline expectation, not a project-specific mitigation measure.

³⁴ By its terms, MM-AQ-24 applies only if an individual project’s PM₁₀ emissions would increase the cancer risk by more than 10 cases in 1 million or would have a chronic & acute hazard index figure of more than 1 in 1 million. These significance thresholds do not consider the impacts of nitrogen oxide or other, non-PM₁₀ emissions.

routes being located near residences and schools. As illustrated by this Project, however, MM-AQ-24 fails to address those community concerns.³⁵

Finally, the City considers only the currently adopted 2007 San Bernardino County General Plan for its consistency analysis. The County released a draft General Plan Update in May 2019. We encourage the City to consider adopting some of the proposed policies in the County's draft General Plan Update in order to mitigate the impacts of this Project. Furthermore, given the possibility the County's draft Plan Update could be approved before this EIR is certified, and that the City may then be required to recirculate this EIR if additional policies or mitigation measures become applicable, the City should consider reviewing the Project's consistency with the draft General Plan Update in addition to the current 2007 General Plan. (CEQA Guidelines, § 15088.5.) The County's draft General Plan Update includes several environmental justice policies pursuant to SB 1000.³⁶ For example, Policies HZ-3.12 and HZ-3.14 provide detailed public notice and outreach procedures for projects near environmental justice communities.³⁷ The County's draft General Plan Update also includes policies designed to reduce Vehicle Miles Traveled (VMT), and to assess transportation impacts via that metric, rather than the outdated Level of Service metric currently used by the City and required to be phased out by January 2020 under SB 743.³⁸ In addition, the County's treatment of annexation could change with the new General Plan Update. As noted in the EIR, the County's 2007 General Plan policies "are designed to encourage annexations or incorporations[.]"³⁹ However, the draft General Plan Update takes a more protective approach and includes a policy to "oppose annexations when future planned land uses for the proposed annexation area would be incompatible with the remaining adjacent unincorporated lands."⁴⁰ We urge the City to consider whether the Project's placement so close to sensitive receptors in residential areas near the site

³⁵ The Attorney General also raised MM-AQ-24's failure to consider the cumulative impacts of multiple projects on sensitive receptors in its comments on Fontana's Draft General Plan Update. See Attorney General Comments on Fontana Draft General Plan Update, at 4, <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/sb1000-letter-fontana.pdf>.

³⁶ See Environmental Justice Background Report, County of San Bernardino (11/26/2018), http://countywideplan.com/wp-content/uploads/2018/11/EJ-Legacy_CWP_BackgroundReport_FinalDraft_20181126.pdf; see also SB 1000 - Environmental Justice in Local Land Use Planning, California DOJ, <https://oag.ca.gov/environment/sb1000>.

³⁷ Draft Countywide Policy Plan at Goal HZ-3 (Environmental Justice), County of San Bernardino (May 2019), http://countywideplan.com/wp-content/uploads/2019/05/CWP_PolicyPlan_PubReviewDraft_20190515.pdf.

³⁸ See, e.g., *id.* at Policy NR-1.1 ("We promote compact and transit-oriented development countywide and regulate the types and locations of development in unincorporated areas to minimize vehicle miles traveled and greenhouse gas emissions."); *id.* at Goal TM-3 (Vehicle Miles Traveled); see also Countywide Plan DEIR at 5.16-1 & 5.16-59, County of San Bernardino (June 2019), <http://countywideplan.com/eir/>.

³⁹ EIR at 4.10-8.

⁴⁰ Draft Countywide Plan, *supra* note 33, at 10, Policy LU-3.2.

would be consistent with the draft County General Plan’s policies discouraging adjacent incompatible uses.

By failing to adequately identify and address inconsistencies with applicable local land use plans and policies, the EIR fails to inform the public of the potentially significant land use impacts. An EIR that fails to disclose a significant environmental impact, “preclud[ing] informed decisionmaking and informed public participation,” is invalid. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 942.) We urge the City to correct its land use impact analysis to disclose the Project’s significant land use impacts and adopt all feasible mitigation measures.

IV. THE CITY HAS ARTIFICIALLY NARROWED ITS PROJECT OBJECTIVES AND IMPROPERLY DISCARDED REASONABLE ALTERNATIVES.

CEQA requires an EIR to identify “alternatives” to the proposed project. (Pub. Resources Code § 21002.1(a).) The EIR must “describe a range of reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (CEQA Guidelines § 15126.6, subd. (a).) The alternatives analysis must also “include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” (CEQA Guidelines § 15126.6, subd. (d).) “Evaluation of project alternatives and mitigation measures is the core of an EIR.” (*Banning Ranch*, 2 Cal.5th at p. 937 (alterations omitted).) Discussion of alternatives allow governmental agencies to consider alternatives to proposed actions affecting the environment. (*Laurel Heights Improvement Ass’n. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 400 (en banc) (citing Pub. Resources Code § 21001, subd. (g)).) To consider alternatives under CEQA, an EIR measures the chosen alternatives’ environmental impacts against the Project’s. Selected alternatives must be able to meet some of the basic Project objectives, (CEQA Guidelines § 15126.6, subd. (a).) though they need not meet all objectives, (*Watsonville Pilots Ass’n. v. City of Watsonville* (2010) 183 Cal. App. 4th 1059, 1087 (“It is virtually a given that the alternatives to a project will not attain *all* of the project's objectives.”).)

Nonetheless, “a lead agency may not give a project’s purpose an artificially narrow definition” to limit the scope of acceptable alternatives. (*N. Coast Rivers All. v. Kawamura* (2015) 243 Cal. App. 4th 647, 668.) We are concerned that this is what the City has done here. The EIR defines six objectives for the Project, and all are directed toward placement of a large warehouse at the Project site.⁴¹ Objectives 2, 5 and 6 expressly state this purpose:

⁴¹ Note that the EIR’s numbering of the project objectives is internally inconsistent. In Chapter 3, the EIR skips from Objective 4 to Objective 6 (EIR at 3.0-15), but correctly numbers them in the Alternatives discussion in Chapter 8 (EIR at 8.0-3). We adopt Chapter 8’s numbering here for consistency in discussing the Alternatives section.

“Objective 2: Improve area circulation via the realignment of Lytle Creek Road.”

“Objective 5: Development of a logistics facility that takes advantage of the proximity to I-15 and proximity to nearby commercial/industrial uses.”⁴²

“Objective 6: Development of a logistics facility that is economically viable and provides long term fiscal benefits to the City.”

The EIR repeatedly finds that the alternative of residential development on the Project site would not meet the Project’s objectives because it “would not establish any logistics or warehousing uses.”⁴³ And relocation of the Project to an alternate site would not meet the narrow objective to realign Lytle Creek Road.⁴⁴ The EIR’s narrow definition of Project objectives is particularly dubious given the drastic difference between the proposed Project and the existing community character. For example, all other development in the area is residential or supportive of residential uses.⁴⁵ And the projected use for the Project area in both the no-project alternative (e.g. the area remains subject to the County’s existing zoning) or the annexation-only alternative (e.g. the area becomes subject to the City’s zoning) would result in residential development.⁴⁶ Fontana’s stated objective to develop warehouses in the area is also contradicted by its recent approval of significant residential developments nearby.⁴⁷ Moreover, the EIR concedes that residential development alternatives would “be financially viable and would provide long-term fiscal benefits to the City.”⁴⁸

The Project’s objectives are not only so artificially narrow as to preclude development of alternative uses on the Project site, but they also require placement of the largest possible warehouse on the site. One alternative considered in the EIR is a “reduced project” alternative.⁴⁹ This alternative would construct an 877,000 square-foot warehouse on the Project site instead of

⁴² While the EIR asserts the Project meets this objective to “take advantage of nearby commercial/industrial uses,” all development in the immediate vicinity of the Project site is residential or supportive of residential uses. EIR at 3.0-12 (“The Logistics Site is surrounded by commercial, rural residential, and vacant land to the north, vacant land to the south, I-15 and vacant land to the east, and open space to the west.”). The EIR does not explain the basis for its conclusion that the Project site is near commercial and industrial uses.

⁴³ EIR at 8.0-5 (rejecting from consideration the “annexation only” alternative).

⁴⁴ *Id.* (rejecting from consideration an “alternative site” alternative).

⁴⁵ See note 41, *supra*.

⁴⁶ EIR at 8.0-5 (annexation-only alternative would result in development of 227 dwelling units); *id.* at 8.0-6 (no project alternative would result in development of 132 dwelling units).

⁴⁷ *Id.* at Table 4.0-1 & Exhibit 4.0-1 (showing at least 15 reasonably foreseeable residential projects being developed in the City of Fontana).

⁴⁸ *Id.* at 1.0-39 (discussing the no project alternative).

⁴⁹ *Id.* at 8.0-13.

a 1.2 million square-foot warehouse.⁵⁰ In addition to reducing air quality⁵¹ and greenhouse gas impacts,⁵² the reduced project alternative would have the benefit of avoiding destruction of a historic stone house, reducing the Project's otherwise significant and unavoidable impacts to cultural resources.⁵³ Despite these benefits and the fact that the reduced project alternative would still construct a warehouse, the EIR finds that this alternative does not satisfy at least four of the six objectives because it "would not take full advantage" of the Project site.⁵⁴

Project objectives must be defined to "serve the requisite purpose of assisting in the development and evaluation of a reasonable range of alternatives to the [Project]." (*California Oak Found. v. Regents of Univ. of California*, 188 Cal. App. 4th 227, 273 (2010).) By artificially narrowing the objectives such that only a very large warehouse on the exact Project site will satisfy the objectives, the EIR rejects feasible alternatives without proper consideration or evaluation. Along with mitigation measures, evaluation of project alternatives is "the core of an EIR." (*Banning Ranch*, 2 Cal.5th at p. 937 (quoting *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)) CEQA procedures are designed to assist public agencies in "identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." (*Id.*) Here, the EIR rejects without consideration feasible alternatives such as an annexation-only approach where the City annexes the project site but does not rezone it for warehouse use, which the City concedes would be in the City's financial interests and would be less environmentally impactful.⁵⁵ The EIR's overly narrow definition of objectives to preclude all but the largest possible warehouse at the Project site deprives both the public and decisionmakers of information necessary to properly evaluate the impacts of the project and alternatives which may reduce those impacts. The City should revise its project objectives and alternatives analysis in order to comply with CEQA's directives.

V. THE CITY MUST CLARIFY ASSUMPTIONS IN ITS NOISE ANALYSIS.

Finally, the EIR should clarify its noise analysis to explain the gulf between existing and opening year traffic and noise. The EIR's noise study measured existing (2018) traffic and noise levels on Lytle Creek Road, and it also projected opening year (2020) traffic and noise levels. According to Table 4.11-5 in the EIR, existing average daily traffic on Lytle Creek Road ranged from 180 to 400 vehicles, and noise at 75 feet from the roadway ranged from 50.2 to 53.7 dBA.⁵⁶ However, according to Table 4.11-12, opening year average daily traffic along the same road without the project ranged from 3,700 to 7,840 vehicles, and noise at 75 feet from the roadway

⁵⁰ *Id.*

⁵¹ *Id.* at 8.0-14 ("A 25.4 percent reduction in building development would result in an estimated 109.37 pounds per day of NOx emissions[.]").

⁵² *Id.* at 8.0-16 (noting GHG emissions would be reduced by almost 4,000 MTCO₂eq per year).

⁵³ *Id.* at 8.0-15.

⁵⁴ *Id.* at 8.0-18 to -19.

⁵⁵ *Id.* at 1.0-41

⁵⁶ *Id.* at 4.11-12.

ranged from 63.3 to 66.7 dBA.⁵⁷ Because the opening year baseline is so high, the EIR finds the increase in noise from the Project to be less than significant. However the EIR neglects to explain why average daily traffic will grow by a factor of 20 in the two years between 2018—when existing noise levels were measured—and 2020—the Project opening year.⁵⁸ To properly disclose the basis for the EIR’s conclusion that the Project’s noise impacts would be less than significant, the EIR must provide a justification for the discrepancy in baseline conditions between the existing and opening years.

VI. CONCLUSION

CEQA promotes public health and thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project’s significant environmental impacts before project approval. When implemented well, CEQA builds public trust and encourages sustainable development that will serve the local community for years to come. We urge the City to revise the EIR and Project to adopt all feasible air quality and greenhouse gas mitigation, disclose and mitigate the Project’s significant land use impacts, properly analyze alternatives, and clarify the noise analysis. We are available to provide assistance to the City as it works to comply with CEQA. Please do not hesitate to contact me if you have any questions or would like to discuss.

Sincerely,



ROBERT SWANSON
Deputy Attorney General

MEREDITH HANKINS
Deputy Attorney General

For XAVIER BECERRA
Attorney General

⁵⁷ *Id.* at 4.11-22.

⁵⁸ The text in the noise section discussing opening year refers to the opening year as 2018, but the rest of the EIR states that the Project’s opening year is 2020. We assume that 2020 is the correct year, and that the reference to 2018 is a mistake. If the 2018 date is not erroneous, however, the EIR’s need to explain the growth in baseline traffic and noise levels in such a short period is only heightened.



Figure 1: Approved Developments Near Project Site