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Via Email and Overnight Mail

Ms. Gina Gibson, Senior Planner
City of Rialto
Development Services Dept.
150 S. Palm Avenue
Rialto, CA 92376
ggibson@rialtoca.gov

Re: **Renaissance Specific Plan Draft Subsequent Environmental Impact Report** (SCH No. 2006071021)

Dear Ms. Gibson:

I am writing on behalf of Laborers International Union of North America, Local Union No. 783 and its members living in the City of Rialto and San Bernardino County (collectively "LIUNA" or "Commenters") regarding the Draft Subsequent Environmental Impact Report ("DSEIR") prepared for the Renaissance Specific Plan ("Project" or "RSP") (SCH No. 2006071021).

After reviewing the DSEIR, together with our team of expert consultants, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. As a result of these inadequacies, the DSEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. Commenters request that the City of Rialto ("City") address these shortcomings in a revised draft environmental impact report and recirculate the RDEIR prior to considering approvals for the Project. **OR1-1**

Commenters have submitted expert comments from air quality experts Soil Water Air Protection Enterprise ("SWAPE"), who concludes that the DEIR fails to adequately evaluate the Project's air quality impacts. First, the DSEIR makes inaccurate truck trip assumptions that are inconsistent with traffic guidelines set forth by the South Coast Air Quality Management District ("SCAQMD"). As a result, the DSEIR significantly underestimate emissions from truck traffic generated by the Project. **OR1-2A**

Second, the DSEIR fails to take into consideration the changed circumstance of State Route 210, which was not fully functional at the time of the 2006 EIR. This changed circumstance to the environmental setting of the Project significantly impacts the traffic impacts of the Project. **OR1-2B**

Third, the DSEIR's air quality analysis improperly assumes only **OR1-2C**

OR1-2C Cont. unrefrigerated land use, resulting in an underestimate of operational air emissions. Fourth, the RDEIR fails to incorporate all feasible mitigation measures to reduce the
OR1-2D Project's significant operational NOx emissions. SWAPE's comments are attached hereto as Exhibit 1 and are incorporated in their entirety.

Commenters also submit comments from expert transportation analyst Daniel Smith, Jr., P.E., a registered civil and traffic engineer. Mr. Smith points out numerous flaws and inconsistencies in the Traffic Impact Analysis that must be addressed in a revised DEIR. Mr. Smith's comments and curriculum vitae are attached hereto as
OR1-3 Exhibit 2 and are incorporated by reference in their entirety.

Each of SWAPE's and Mr. Smith's comments require separate responses from the City. These experts and our own independent review demonstrate that the DSEIR is inadequate and that a revised DSEIR should be prepared prior to Project approval to analyze all impacts and require implementation of all feasible mitigation measures.

I. BACKGROUND

In 2010, the City of Rialto ("City") certified an environmental impact report ("EIR") for the Renaissance Specific Plan ("RSP"). That EIR ("2010 RSP EIR") analyzed the RSP, which proposed a total of approximately 16.2 million square feet of business and commercial uses (835,200 square feet of which is existing and expected to remain), 1,667 residential units, one (1) school, one (1) community parks, and multiple neighborhood parks. The RSP project is partially located on the site of the Rialto Municipal Airport in the west central portion of the City of Rialto. The project site is generally bordered on the north by Casmalia Street, on the south by Baseline Road, on
OR1-4 the east by Ayala Drive, and on the west by Tamarind Avenue. State Route 210 (SR-210) traverses the northern portion of the project site.

The RSP Draft EIR was released for public review on May 3, 2010; the RSP Final EIR was certified on November 9, 2010. Since certification of the 2010 RSP Final EIR, six addenda to the Final EIR have been prepared and undergone respective CEQA review and approval. They are: Golden Bear Regional Food Distribution Center Project Addendum (2012), SR-210 Logistics Center II Project Addendum (2013), Rialto 42 Distribution Center Project Addendum (2013), Medline Project Addendum (2015), Niagara Project Addendum (2015), and SR-210 Logistics Center III Project Addendum (2015). (2016 RSPA SEIR p. 3-7).

On July 5, 2016, the City issued the Renaissance Specific Plan Amendment Draft Subsequent Environmental Impact Report (June 2016) SCH# 2006071021
OR1-5 ("DSEIR"). The proposed RSP Amendment would allow for the relocation of business and industrial uses to the west of Linden Avenue, the relocation of all residential land uses and the public park to the east of the Linden Avenue, and implementation of the

Renaissance Marketplace retail development and the Planning Area 108 industrial/warehouse development ("PA 108"). In addition to the Specific Plan Amendment, the project includes the Renaissance Marketplace consisting of an approximately 505,500 square foot retail center. The Renaissance SEIR states that "These developments were not specifically identified in the 2010 RSP," and an SEIR is therefore required. (DSEIR, p. 1-2).

OR1-5 Cont.

The 2016 RSPA DSEIR includes Planning Area 108, an industrial/warehouse development comprised of approximately 4 million square feet of industrial/warehouse uses. In the 2010 RSP, this area was designated "Light Industrial," but was not modeled as warehouse space. The Planning Area 108 component of the proposed Project would be developed with up to approximately 4 million square feet of industrial/warehouse uses. The development would include three buildings, each between 1.2 and 1.4 million square feet. Planning Area 108 is located on the north side of Miro Way between Locust and Linden Avenues. Access to the proposed industrial/warehouse uses would be provided by four driveways on Locust Avenue, three driveways on Linden Avenue, and one driveway on Miro Way.

II. LEGAL STANDARDS

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). *See*, *e.g.*, Pub. Res. Code § 21100. The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." *Comms. for a Better Env't v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.

OR1-6

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all

feasible mitigation measures. CEQA Guidelines § 15002(a)(2) and (3); *see also Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Bd. of Sups.* (1990) 52 Cal.3d 553, 564. The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines §15002(a)(2). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." Pub.Res.Code ("PRC") § 21081; CEQA Guidelines § 15092(b)(2)(A) & (B).

OR1-6 Cont.

The EIR is the very heart of CEQA. *Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. CEQA requires that a lead agency analyze all potentially significant environmental impacts of its proposed actions in an EIR. PRC § 21100(b)(1); CEQA Guidelines § 15126(a); *Berkeley Jets*, 91 Cal.App.4th 1344, 1354. The EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831. The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." *Cmtys. for a Better Env't v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109.

OR1-7

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" *Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 391 409, fn. 12. A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946. As discussed below, and in the attached expert comment letters of expert Matthew Hagemann, P.G., C. Hg., expert biologist Dr. Shawn Smallwood, and expert traffic engineer Mr. Daniel Smith, Jr., P.E., the RDEIR for this Project fails to adequately analyze and mitigate the Project's impacts.

III. THE SDEIR FAILS TO ACCURATELY ANALYZE THE PROJECT'S AIR QUALITY IMPACTS.

A. THE SDEIR FAILS TO PROVIDE SUPPORTING DOCUMENTATION FOR AIR QUALITY MODELS

The attached comments from SWAPE point out that the SDEIR and appendices fail to include the air model output files, which are necessary to determine the accuracy of the modeling performed. According to the DSEIR, CalEEMod was used to estimate the construction and operational criteria air pollutant emissions from the Renaissance Marketplace and Planning 108 areas, and was used to estimate the operational emissions from the previously approved RSP and the RSPA (DSEIR, p. 4.2-17). CalEEMod provides recommended default values based on site specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. SWAPE determined that the CalEEMod output files for the Renaissance Marketplace and Planning 108 areas were completely omitted. Rather, the Air Quality and Greenhouse Gas Analysis (Appendix C) only provides the output files for the RSP's and the RSPA's operational emissions (Appendix C, pp. 84). Without the Renaissance Marketplace and Planning 108 output files, SWAPE was unable to verify that the assumptions used within these models are correct and cannot determine what default values were used. While Appendix C of the DSEIR discusses what assumptions were used in the models for calculating the Renaissance Marketplace's and Planning 108's construction and operational emissions, SWAPE was unable to verify that these assumptions were correctly inputted into the model (Appendix C, p. 34, 51). **OR1-8**

As the California Supreme Court stated in *Laurel Heights Improvement Assn. v. Regents of University of California* (2988) 47 Cal. 3d 376, 405:

> "The Regents miss the critical point that the public must be equally informed…. If the Regents considered various alternatives and found them to be infeasible, we assume, absent evidence to the contrary, that they had good reasons for doing so. Those alternatives and the reasons they were rejected, however, must be discussed in the EIR in sufficient detail to enable meaningful participation and criticism by the public." **OR1-9**

Similarly, the court stated in *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831:

> "The county has attempted to remedy the inadequacies of the EIR by presenting evidence to the trial court to show that there are sufficient water resources available for the project. Indeed, the trial court made findings of fact to such

> effect. This, however, is beside the point. It is the adequacy of the EIR with which we are concerned, not the propriety of the board of supervisors' decision to approve the project. '[W]hatever 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.'"

Also, the EIR and all supporting documentation must be available for public review during the entire CEQA comment period. CEQA section 21092(b)(1) requires that the CEQA notice for an EIR must include "the address where copies of the proposed EIR and all documents referenced therein are available for review and readily accessible during the agency's normal working hours." (Emphasis added) As noted by a leading CEQA treatise:

OR1-9 Cont.

> The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which "all documents referenced in a draft EIR" can be found (and presumably read) . . . seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing a draft EIR. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

Remy, Thomas, Moose & Manley, Guide to the California Environmental Quality Act, p. 300 (Solano Press, 11th Ed. 2007). The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

CEQA requires that information or data cited by an EIR "as the source of conclusions stated therein . . . shall be reasonably available for inspection at a public place or building." Pub. Resources Code § 21061. Thus, while an EIR may properly rely on third-party studies, it may do so only if it either appends the study in question or notifies the public of its location at the time it makes the EIR available for public review. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1987) 193 Cal.App.3d 1544, 1549; *San Francisco Ecology Center v. City and County of San Francisco* (1975) 48 Cal.App.3d 584, 595; Pub. Resources Code § 21092(b) (1) (notice of preparation shall specify address where copies of all referenced documents are available for review); see also CEQA Guidelines § 15087(c)(5).

OR1-10

Since the EIR omits critical information necessary for accurate review of the document, the EIR is inadequate as a public information document. The City must

make the CalEEMod date available and reopen the DSEIR public review period once the information is made available to the public. **OR1-10 Cont.**

B. THE DSEIR FAILS TO ACCOUNT FOR EMISSIONS FROM THE WAREHOUSES THAT ARE NOW PROPOSED FOR THE PROJECT.

SWAPE has determined that the DSEIR uses improper air model input files that fail to account for emissions from truck traffic related to the warehouses that are proposed for PA 108. Despite that the fact that PS 108 will include 4 million square feet of warehouses (which involve high levels of heavy truck traffic), the DSEIR modeled emissions using CalEEMod inputs for Light Industrial uses, which have much lower traffic emission. (SWAPE p. 4, citing DSEIR Appendix C, pp. 123). SWAPE concludes that this error significantly underestimates emissions from the Project.

The South Coast Air Quality Management District ("SCAQMD") requires use of the proper input variable in the CalEEMod model. Large warehouses are defined by the SCAQMD as warehouse projects and distribution centers greater than 100,000 square feet. See CalEEMod User Guide, Appendix E: Technical Source Documentation, SCAQMD, available at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/high-cube-resource-caleemod-appendix-e.pdf?sfvrsn=2, p. 12. The court of appeal has held that the SCAQMD CEQA thresholds apply in the City of Rialto. *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal. App. 4th 899, 933 (SCAQMD CEQA thresholds apply to City of Rialto). **OR1-11**

The DSEIR fails as an informational document because it fails to account properly for emissions from truck traffic related to the 4 million square feet of warehouse proposed for the Project, and fails to comply with SCAQMD methodology to calculate emissions.

C. THE DSEIR FAILS TO ACCOUNT FOR EMISSIONS FROM REFRIGERATED STORAGE AND TRUCKS.

The DSEIR indicates that many tenants will be engaged in cold (refrigerated) storage, trucking and warehousing. Yet the DSEIR assumes that there will be no cold storage in the Project. Cold storage results in much higher ongoing air pollutant emissions due to the energy required to power refrigeration units on trucks and at the warehouse. The DSEIR's omission of cold storage therefore significantly understates air pollutant and greenhouse gas emissions from the Project. **OR1-12**

The 2010 EIR assumed that approximately 11 percent of the total warehouse floor space for the previously approved RSP (approximately 1,023,112 SF) would be used for cold storage (2010 EIR, p. 4.17-35). The 2010 EIR included Mitigation

Measure AQ-12 of the 2010 Approved DEIR and FEIR states, "A minimum of ten percent of the loading docks for the warehouse/distribution center uses shall contain outdoor electrical hook-up sources for service equipment and trucks such as transportation refrigeration units. In addition, electrical hookups shall be provided at the loading docks located at refrigerated warehouses for transportation refrigeration units visiting these locations. All trucks with transportation refrigeration units are required to connect to the electrical hookups while loading or unloading deliveries to the proposed project. Trucks with transportation refrigeration units are prohibited from accessing refrigerated warehouses unless they have the capability to connect to the electrical hookups" (2010 DEIR, Table 1-1, p. 1-10; FEIR, Table 1-1, p. 3-24).

OR1-12 Thus, it is clear that the Project will include cold storage. Yet, the DSEIR assumes that there will be no cold storage as part of the Project, thereby vastly underestimating the Project's air quality and greenhouse gas emissions. Therefore, the RDEIR must include an analysis of the environmental effects of the Project having tenants that require refrigeration. *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396.

Failing to account for the Project's potential partial use as refrigerated warehouse is a significant omission. Refrigerated trucks tend to idle much longer than typical hauling trucks, even up to an hour. Energy usage from warehouses equipped with industrial size refrigerators and freezers is also much greater when compared to unrefrigerated warehouses. In addition, according to the July 2014 SCAQMD *Warehouse Truck Trip Study Data Results and Usage* presentation, trucks that require refrigeration resulted in greater truck trip rates when compared to non-refrigerated trucks.[1] SWAPE, p.6.

By not including any refrigerated warehouse land uses in the Air Quality Analysis, the emissions from this potential land use are grossly underestimated. An updated RDEIR must be prepared to account for the possibility of refrigerated warehouse needs by tenants.

D. DSEIR USES AN IMPROPER TRUCK TRIP RATE.

OR1-13 SWAPE concludes that the DSEIR uses an improper and inappropriate truck trip rate calculation. (SWAPE, p. 7-8) The DSEIR fails to comply with SCAQMD Guidance concerning truck trip estimation for warehouse projects. As a result, the DSEIR underestimates truck traffic by 24,816 trips, or approximately 9 million trips per year. By using the incorrect trip rates, the DSEIR inaccurately estimates the number of passenger car and truck trips the RSPA's warehouse land uses will generate during operation. (SWAPE p. 8).

[1] http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/finaltrucktripstudymsc072514.pdf?sfvrsn=2 , p.7

SCAQMD requires the use of the Institute of Transportation Engineers Trip Generation Manual, 9th Edition, 2012 (ITE Manual) in conjunction with their truck mix by axle-type to better quantify trip rates associated with local warehouse and distribution projects. **OR1-13 Cont.**

According to the ITE Manual, an overall vehicle trip rate of 3.56 trips per thousand square feet (trips/TSF) should be used for Warehouse land uses (Land Use Code 150), which is consistent with the trip rate used in the DSEIR's Traffic Impact Analysis (Table 2-A, pp. 41).[2] Furthermore, according to the DSEIR's Traffic Impact Analysis, a passenger car trip rate of 2.136 trips/TSF should also be used for the proposed warehouse land uses (Table 2-A, pp. 41). When these trip rates are utilized, SWAPE found that the RSPA's warehouse land uses would generate approximately 31,410 passenger car trips and approximately 20,881 truck trips for a total of 52,291 trips per day (see table below).

Table 1: SWAPE Updated Daily Vehicle Trips

Land Use	Building Area (SF)	Vehicle Type	Total Number of Daily Trips
Warehouse ITE 150	14,705,000	Passenger Car (LDA)	31,410
		Truck (LHD1, MHD, HHD)	20,881
		SWAPE Total[1]	**52,291**

[1] Total is equal to the number of passenger car (LDA) and truck (LHD1, MHD, HHD) trips. Any other vehicle type was omitted from table.

OR1-14

Therefore, using the recommendations set forth by the SCAQMD and values provided in the DSEIR's Traffic Impact Analysis, the DSEIR should have used the same daily vehicle and truck trip rates as described in the table above. When SWAPE reviewed Appendix C of the DSEIR, however, SWAPE found that the CalEEMod model relied upon an overall trip rate of 3.191 trips/TSF to estimate the number of daily vehicle and truck trips the warehouse land uses would generate during operation, which is not only inconsistent with the DSEIR's Traffic Impact Analysis, but is also inconsistent with the trip rate set forth by the Institute of Transportation Engineers for Warehouse land uses (ITE 150 Warehouse) (DSEIR, Appendix C, pp. 124). When this incorrect trip rate is used, the proposed warehouse land uses would generate approximately 22,139 passenger car trips (LDA) and approximately 5,336 truck trips (LHD1, MHD, HHD), for a combined total of 27,475 trips per day (see table below).

Table 2: DSEIR Daily Vehicle Trips

Land Use	Building Area	Vehicle Type	Total Number of Daily

[2] Institute of Transportation Engineers Trip Generation Manual, 9th Edition, 2012, p. 267

	(SF)		Trips
Warehouse ITE 150	14,705,000	Passenger Car (LDA)	22,139
		Truck (LHD1, MHD, HHD)	5,336
		DSEIR Total[1]	**27,475**

[1] Total is equal to the number of passenger car (LDA) and truck (LHD1, MHD, HHD) trips. Any other vehicle type was omitted from table.

OR1-14 Cont.

The DSEIR's CalEEMod model underestimates the warehouses' number of daily trips made by passenger cars and trucks by 24,816 trips, or approximately 9 million trips per year. By using the incorrect trip rates, the DSEIR inaccurately estimates the number of passenger car and truck trips the RSPA's warehouse land uses will generate during operation.

E. DSEIR USES AN INCORRECT TRUCK FLEET MIX.

OR1-15

SWAPE points out that the DSEIR fails to use the truck fleet mix set forth by the SQAMD, and that this results in a significant underestimation of Project emissions. The SCAQMD recommends that lead agencies assume a truck fleet mix of 40%. According to *Appendix E: Technical Source Documentation* of the CalEEMod User's Guide, "in order to avoid underestimating the number of trucks visiting warehouse facilities," SCAQMD staff "recommends that lead agencies conservatively assume that an average of 40% of total trips are truck trips."[3] This 40% truck fleet percentage is also used in the DSEIR's Traffic Impact Analysis to estimate the number of truck trips the RSPA's proposed warehouse land uses would generate (Table 2-A, pp. 41).

Review of the DSEIR's CalEEMod output files, however, demonstrates that a truck fleet (LHDT1, MHD, and HHDT) percentage of approximately 11% was used, rather than the 40% value recommended by the SCAQMD (DSEIR, Appendix C, pp. 129). As a result, the RSPA's warehouse truck emissions are greatly underestimated. (SWAPE p. 8-9). SWAPE points out that the DSEIR also fails to use the SCAQMD fleet mix with respect to the number of axels per truck. This results in a further underestimation of Project air quality and greenhouse gas emissions. A revised DSEIR is required to correct these errors.

F. THE DSEIR USES AN INCORRECT TRUCK TRIP LENGTH.

OR1-16

SWAPE concludes that the DSEIR uses an improper truck trip length, disregarding guidance from the SCAQMD. This further underestimates air quality and greenhouse gas emissions from the Project. The DSEIR assumes and average truck

[3] "Appendix E Technical Source Documentation." CalEEMod User's Guide, July 2013, *available at:* http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/high-cube-resource-caleemod-appendix-e.pdf?sfvrsn=2, pp. 15

trip length of 16.6 miles, which is the number for light industrial projects. However, for warehouse projects, such as this one, SCAQMD recommends a much longer truck trip length of 40 miles. Since the Project will involve 4 millions square feet of warehouse uses, the DSEIR should use the SCAQMD 40 mile truck trip length. **OR1-16 Cont.**

G. CORRECTED EMISSION CALCULATION IS MUCH HIGHER THAN DISCLOSED IN THE DSEIR.

SWAPE corrected all of the above-mentioned errors and miscalculations. The result was that the corrected air pollutant emissions from the Project are approximately double the emissions set forth in the DSEIR. When correct input parameters are used to model emissions from the proposed warehouse land uses, we find that the RSPA's peak operational criteria air pollutant emissions not only exceed SCAQMD regional thresholds, but these emissions also increase significantly when compared to the DSEIR's RSPA model (see table below). **OR1-17**

Summary of Peak Operational Emissions - Summer						
Operational Activities	**Emissions (pounds per day)**					
	ROG	**NOX**	**CO**	**SOX**	**PM10**	**PM2.5**
RSPA (Excluding Warehouse Land Uses)	694	572	2,302	5	337	97
Warehouse Area Source	385	0	2	0	0	0
Warehouse Energy Source	3	30	25	0	2	2
Warehouse Mobile (Trucks)	444	7,587	4,303	24	850	317
Warehouse Mobile (Passenger Cars)	79	103	1,510	4	398	107
SWAPE's Total Maximum Daily Emissions	**1,604**	**8,291**	**8,143**	**33**	**1,587**	**523**
DSEIR's Total Maximum Daily Emissions	**1,291**	**1,409**	**5,065**	**13**	**798**	**234**
SCAQMD Regional Thresholds	**55**	**55**	**550**	**150**	**150**	**55**
Thresholds Exceeded?	***Yes***	***Yes***	***Yes***	***Yes***	***Yes***	***Yes***

OR1-17 Cont.

Summary of Peak Operational Emissions - Winter						
Operational Activities	**Emissions (pounds per day)**					
	ROG	**NOX**	**CO**	**SOX**	**PM10**	**PM2.5**
RSPA (Excluding Warehouse Land Uses)	687	596	2,179	5	337	97
Warehouse Area Source	385	0	2	0	0	0
Warehouse Energy Source	3	30	25	0	2	2
Warehouse Mobile (Trucks)	453	7,910	4,585	24	850	317
Warehouse Mobile (Passenger Cars)	73	109	1,265	4	398	107
SWAPE's Total Maximum Daily Emissions	**1,601**	**8,645**	**8,056**	**33**	**1,588**	**524**
DSEIR's Total Maximum Daily Emissions	**1,277**	**1,465**	**4,703**	**12**	**798**	**234**
SCAQMD Regional Thresholds	**55**	**55**	**550**	**150**	**150**	**55**
Thresholds Exceeded?	***Yes***	***Yes***	***Yes***	***Yes***	***Yes***	***Yes***

As one can see in the tables above, ROG emissions increase by approximately 25%, NO_x emissions increase by approximately 490%, SO_x emissions increase by approximately 65%, PM_{10} emissions increase by approximately 99%, and $PM_{2.5}$ emissions increase by approximately 124% for both summer and winter seasons. These updated emission estimates demonstrate that when the RSPA's warehouse emissions are estimated correctly, the Project would result in substantially more severe significant effects than what was previously examined in both the 2010 EIR, as well as the 2016 DSEIR (DSEIR, p. 2-3).

OR1-18

Even though these emissions were deemed significant in the DSEIR, the document must not only properly identify significant impacts, it must also describe how adverse those impacts will be. *Kings Co v. Hanford* (1990) 221 CA3d 692, 712-718. As a result, an updated DSEIR should be prepared that includes an updated model to adequately estimate the Project's operational warehouse emissions, and additional mitigation measures should be incorporated in an effort to reduce the Project's emissions to a less-than-significant level.

OR1-19

SWAPE also concludes that when these errors are corrected, the Project has 50% higher greenhouse gas emissions than set forth in the DSEIR, and 50% higher emissions than set forth in the 2010 EIR. (SWAPE, p. 15) Thus, the DSEIR's conclusion that the Project has no more significant greenhouse gas impacts is erroneous. The Project would increase GHG emissions from 180,000 metric tons per year to 270,000 metric tons per year – an increase of 90,000 MT, or 50%. This increase is 30 times greater than the SCAQMD CEQA significance threshold for GHGs of 3,000 MT/year. Thus, the DSEIR fails as an informational document for failing to disclose this significant impact of the Project.

Project	Greenhouse Gas Emissions (MT CO_2e/yr)
Approved 2010 RSP	180,000
RSPA	270,000
Net Increase	**90,000**
Percent Increase	***50%***

OR1-19 Cont.

H. DSEIR FAILS TO PROPOSE ALL FEASIBLE MITIGATION MEASURES.

SWAPE concludes that the DSEIR fails to propose all feasible mitigation measures. The City may not issue a statement of overriding considerations until all feasible mitigation measures are implemented. SWAPE identifies numerous feasible mitigation measures that should be required to reduce project air quality impacts. Many of these measures have been implemented for other projects or are recommended by the SCAQMD or other public agencies.

Additional mitigation measures that could be implemented include, but are not limited to, the following: [4]

- Use Zero-VOC emission paints;
    - The Project Applicant should consider the use of zero-VOC emission paints, which has been required for numerous projects that have undergone CEQA review. Zero-VOC emission paints are commercially available. Other low-VOC standards should be incorporated into mitigation including use of "super-compliant" paints, which have a VOC standard of less than 10 g/L.

OR1-20

- Use material that does not require paint;
    - Using materials that do not require painting is a common mitigation measure where VOC emissions are a concern. Interior and exterior surfaces, such as concrete, can be left unpainted.
- Use spray equipment with greater transfer efficiencies;
    - Various coatings and adhesives are required to be applied by specified methods such as electrostatic spray, high-volume, low-pressure (HVLP) spray, roll coater, flow coater, dip coater, etc. in order to maximize the transfer efficiency. Transfer efficiency is typically defined as the ratio of the weight of coating solids adhering to an object to the total weight of coating solids used in the application process, expressed as a percentage. When

[4] http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf

it comes to spray applications, the rules typically require the use of either electrostatic spray equipment or HVLP spray equipment. The SCAQMD is now able to certify HVLP spray applicators and other application technologies at efficiency rates of 65 percent or greater. [5]

- Use passive solar design, such as: [6,7]
  - Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons; and
  - Enhance natural ventilation by taking advantage of prevailing winds.
- Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.

OR1-20 Cont.

- Develop and follow a "green streets guide" that requires:
  - Use of minimal amounts of concrete and asphalt;
  - Installation of permeable pavement to allow for storm water infiltration; and
  - Use of groundcovers rather than pavement to reduce heat reflection.[8]
- Implement Project design features such as:
  - Shade HVAC equipment from direct sunlight;
  - Install high-albedo white thermoplastic polyolefin roof membrane;
  - Install high-efficiency HVAC with hot-gas reheat;
  - Install formaldehyde-free insulation; and
  - Use recycled-content gypsum board.
- Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
- Meet "reach" goals for building energy efficiency and renewable energy use.
- Install solar, wind, and geothermal power systems and solar hot water heaters.
- Maximize use of solar energy including solar panels; installing the maximum possible number of solar energy arrays on all building roofs and/or on the Project site to generate solar energy for the facility.
- Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.

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[5] http://www.aqmd.gov/home/permits/spray-equipment-transfer-efficiency
[6] Santa Barbara Air Pollution Control District, Scope and Content of Air Quality Sections in Environmental Documents, September 1997.
[7] Butte County Air Quality Management District, Indirect Source Review Guidelines, March 1997.
[8] *See* Irvine Sustainable Travelways "Green Street" Guidelines; www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934; and Cool Houston Plan; www.harc.edu/Projects/CoolHouston.

- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.
- Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.
- Install an infiltration basin to provide an opportunity for 100% of the storm water to infiltrate on-site.

OR1-20 Cont.

In addition to the measures discussed above, the SCAQMD has previously recommended additional mitigation measures for operational NO_x emissions that result primarily from truck activity emissions for similar projects. These measures would also effectively reduce the Project's operational VOC, NO_x, CO, PM_{10}, $PM_{2.5}$, and GHG emissions. In this case, these measures would apply to the Project's proposed industrial and commercial land uses. Measures recommended for the Waterman Logistic Center that are also applicable for this Project include[9]:

- Provide electric vehicle charging stations that are accessible for trucks.
- Provide electrical hookups at the onsite loading docks and at the truck stops for truckers to plug in any onboard auxiliary equipment.
    - o According to Mitigation Measure AQ-12 of the 2010 Approved FEIR, the Project proposes to equip only 10 percent of the loading docks for the warehouse/distribution center uses with these electrical hookups (p. 3-24). However, we require that this measure be extended to all of the loading docks for the warehouse/distribution center uses, as well as all of the loading docks for all of the other proposed land uses, such as the commercial and retail uses.
- Require the proposed warehouse to be constructed with the appropriate infrastructure to facilitate sufficient electric charging for trucks to plug-in.
- Limit the daily number of trucks allowed at the facility to levels analyzed in the DSEIR and 2010 EIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to re-evaluating the project through CEQA prior to allowing this higher activity level.
- Limit the truck trip miles allowed to levels analyzed in the DSEIR and 2010 EIR. If higher truck trip miles are anticipated or required, the Lead Agency should

OR1-21

[9] SCAQMD Comment Letter in Response to MND for the Waterman Logistic Center, January 2018, *available at:* http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2015/january/mndwaterman.pdf

commit to re-evaluating the project through CEQA prior to allowing this higher activity level.

- Design the site such that any check-in point for trucks is well inside the facility to ensure that there are no trucks queuing outside of the facility.
- On-site equipment should be alternative fueled.
- Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to travel through residential neighborhoods.

OR1-21 Cont.

- Improve traffic flow by signal synchronization.
- Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.
- Should the proposed Project generate significant emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in emissions, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final CEQA document, the Lead Agency should require a phase-in schedule for these cleaner operating trucks to reduce project impacts.

Finally, in addition to the measures described above, the DSEIR proposes to implement the following mitigation measures to reduce operational VOC, NO_x, CO, PM_{10}, $PM_{2.5}$, and GHG emissions for the proposed the Renaissance Market Place and Planning Area 108, exclusively (p. 1-7). Therefore, we propose that these mitigation measures also be extended to the entire RSPA in order to reduce emissions to the maximum extent feasible. These mitigation measures include:

OR1-22

- Prior to the issuance of building permits, the Project applicant shall submit to the satisfaction of the Public Works Director, evidence that development within the RSPA comply with Title 24 of the California Code of Regulations (CCR) established by the CEC regarding energy conservation and green buildings standards. The Project applicant shall incorporate the following in building plans:
    - Low-emission water heaters shall be used. Solar water heaters are encouraged.
    - Exterior windows shall utilize window treatments for efficient energy conservation (p. 1-7).
- Design all project buildings to meet or exceed the California Building Code's (CBC) Title 24 energy standard, including, but not limited to, any combination of the following:

  - Increase insulation such that heat transfer and thermal bridging is minimized;
  - Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption; and
  - Incorporate ENERGY STAR or better rated windows, space heating and cooling equipment, light fixtures, appliances, or other applicable electrical equipment.
- Install efficient lighting and lighting control systems. Use daylight as an integral part of the lighting systems in buildings.
- Install "cool" roofs and cool pavements.
- Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.
- Install solar lights or light-emitting diodes (LEDs) for outdoor lighting or outdoor lighting that meets the City of Rialto City Code.
- Install solar photovoltaic or other technology to generate electricity on-site to reduce consumption from the electrical grid.
- Install electrical vehicle charging stations to promote the use of electrical vehicles (p. 1-13).

OR1-22 Cont.

These measures are more stringent and prescriptive than those measures identified in the 2010 Approved EIR for the RSP and in the DSEIR for the RSPA. When combined together, these measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduces emissions released during Project operation. An updated DSEIR must be prepared to include additional mitigation measures, as well as include an updated air quality and greenhouse gas analysis to ensure that the necessary mitigation measures are implemented to reduce operational emissions to below thresholds. Furthermore, the Project Applicant needs to demonstrate commitment to the implementation of these measures prior to Project approval, to ensure that the Project's operational emissions are reduced to the maximum extent possible.

IV. TRAFFIC IMPACT ANALYSIS IS INCOMPLETE AND FLAWED.

Traffic engineer, Daniel Smith, PE, concludes that the DSEIR's traffic analysis is fatally flawed and fails to include numerous feasible mitigation measures.

A. THE DSEIR FAILS TO DISCLOSE OR MITIGATION IMPACTS TO 13 ROADWAY SEGMENTS.

Mr. Smith concludes that the DSEIR fails to disclose significant impacts of the Project on 13 roadway segments. (Smith, p. 2). This renders the document legally inadequate since one of the primary functions of any EIR is to identify significant impacts of the project. Furthermore, to the DSEIR states that if levels of service ("LOS") fall below acceptable levels at these roadway segments in the future, the actual mitigation measure proposed, TRANS-1, leaves it up to the City Traffic Engineer to review individual site-specific development proposals, determine whether they would cause LOS failures, and determine what of the improvements listed on the above cited tables the individual development would be responsible for either constructing or making monetary contribution toward the cost of construction.

OR1-23

This indefinite future mitigation at the discretion of the City Traffic Engineer constitutes a deferral of mitigation that is improper under CEQA. "A study conducted after approval of a project will inevitably have a diminished influence on decisionmaking. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA." *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307. "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92. "Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. [Citation.] On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological [or other] report and then comply with any recommendations that may be made in the report." *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.

Mr. Smith also points out that the DSEIR relies on mitigation measures without identifying adequate funding to implement those measures. The measures proposed in the DSEIR would cost over $11 million. (Smith p. 2). The DSEIR does not identify funding streams for over $2.5 million of this amount. Id. Mitigation fees are not adequate mitigation unless the lead agency can show that the fees will fund a specific mitigation plan that will actually be implemented in its entirety. *Napa Citizens for Honest Gov. v.*

OR1-24

Bd. Of Supervisors (2001) 91 CallApp.4th 342 (no evidence that impacts will be mitigated simply by paying a fee); *Anderson First Coal. v. City of Anderson* (2005) 130 Ca.App.4th 1173 (traffic mitigation fee is inadequate because it does not ensure that mitigation measure will actually be implemented); *Kings Co. Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692. **OR1-24 Cont.**

A recirculated DSEIR is required to disclose these significant impacts and to propose specific mitigation measures to reduce the impacts, with adequate funding.

B. DSEIR TRAFFIC ANALYSIS FAILS TO CONSIDER INCREASED TRAFFIC IN SR-210.

The DSEIR concludes that traffic from the Project will be similar to traffic calculated in the 2010 EIR. However, Mr. Smith points out that this conclusion ignore increased traffic on State Route 210 that has occurred since 2010.

The local roadway traffic counts for the 2010 EIR were taken in 2008 or in 2006 and 2007 and factored up to assumed 2008 conditions based on growth rates; the state highway system counts were from 2007. However, in this period of time, SR 210 in the immediate RSP Project area was undergoing reconstruction from a surface highway to a freeway with the north south cross streets being reconstructed as interchanges and overcrossings and much of the surface street infrastructure in both the north-south and east-west directions was discontinuous. Consequently, the traffic baseline conditions against which the Project's regional impacts were measured was of dubious representativeness. As evidence of this, we present the following comparison of Caltrans posted 2007 and 2014 traffic volumes for SR 210. **OR1-25**

SR 210 2007 to 2014 Traffic Volume Comparison

Location	2007		2014		% Growth 07-14	
	Daily	Pk. HR.	Daily	Pk. Hr.	Daily	Pk. Hr.
E. of Sierra	12,000	1,150	108,000	8,600	900%	748%
W. of Riverside	19,000	1,850	111,000	8,600	579%	465%
E. of Riverside	27,500	2,650	105,000	8,400	382%	317%
W of I-215	30,000	2,700	106,000	8,500	353%	315%

As can be seen in the table, background traffic volumes on SR 210 have increased in the Project area between 2007 and 2014 by between 353 to 900 percent and peak hour volumes have increased between 315 and 748 percent.

Given this change in SR 210 background traffic, even though there may be no meaningful difference in the *amount* of traffic contributed by the RSPA versus the RSP, **OR1-26**

Mr. Smith concludes that given the massive change in background traffic on the SR 210, the amount of traffic the RSPA does contribute is clearly likely to have *far more significant consequences* than was RSP traffic measured against the anomalous traffic baseline that was used in the 2010 EIR. In this circumstance, compliance with the good faith effort to disclose impact that CEQA demands logically requires complete analysis of the regional traffic impacts against the current traffic baseline. The DSEIR is deficient for failing to do this.

OR1-26 Cont.

This drastically increased traffic on SR 210 constitutes a "substantial change … with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects." CEQA Guidelines 15162(a)(2). A revised DSEIR must be prepared which accurately describes the traffic setting for the Project, which is much different than it was in 2010. As the court stated in *Friends of Eel River v. Sonoma County Water Agency*, 108 Cal. App. 4th 859, 874 (2003):

OR1-27

> There is good reason for this requirement: "Knowledge of the regional setting is critical to the assessment of environmental impacts. . . . The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context." (Guidelines, § 15125, subd. (c).) We interpret this Guideline broadly in order to "afford the fullest possible protection to the environment." (*Kings County Farm Bureau, supra*, 221 Cal. App. 3d 692, 720.) In so doing, we ensure that the EIR's analysis of significant effects, which is generated from this description of the environmental context, is as accurate as possible. (See also Remy et al., *Guide to the Cal. Environmental Quality Act (CEQA)* (10th ed. 1999), pp. 374-376.)

V. THE CITY SHOULD PREPARE AND RECIRCULATE A SUPPLEMENTAL DEIR

Recirculation of an EIR prior to certification is required "when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt; or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless." CEQA Guidelines §15162; *Laurel Heights Improvement Assn. v. Regents of University of Cal.* (1993) 6 Cal. 4th

OR1-28

1112, 1130 (citing *Mountain Lion Coalition v. Fish & Game Comm'n* (1989) 214 Cal.App.3d 1043).

Recirculation is required where "significant new information" has been added to an EIR. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 447. New information is "significant" where it results in a change to the EIR's analysis or mitigation of a substantial adverse environmental effect to the EIR. *Id.* **OR1-28 Cont.**

Here, the DSEIR must be revised to address the many deficiencies identified above.

VI. CONCLUSION

For the foregoing reasons, LIUNA believes the Renaissance Specific Plan DSEIR is wholly inadequate. LIUNA urges the City to make the above changes, and recirculate a revised DSEIR to the public for review. Thank you for your attention to these comments.

Sincerely,

Richard Toshiyuki Drury