VIA E-MAIL

September 11, 2025

Chair, Vice Chair, and Planning Commissioners
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RE: 9/11/2025 Planning Commission Hearing Agenda, Item 5.1: Request for a Continuance to Ensure Due Process and Meaningful Opportunity for Review and Comment; and

Objections to the 25-0922 Recirculated Final Environmental Impact Report for the South Stockton Commerce Center Project of the City of Stockton (SCH # 2020090561); General Plan Amendment; Rezone; and a Tentative Map Request for the Proposed South Stockton Commerce Center Industrial Development at Multiple Parcels Along South Airport Way (APNS 177-110-04; 177-100-003; 177-110-05; 201-020-01; and 177-050-09) (Application No. P20-0024); and to the Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan

Honorable Chair, Vice Chair, and Members of the Planning Commission:

On behalf of the Carpenters Local Union #152 ("**Local 152**"), our Office is submitting these comments on the Recirculated Final EIR ("**RDEIR**" or "**Recirculated FEIR**" or "**RFEIR**") and its related final documents for the City of Stockton's ("**City**") South Stockton Commerce Center Project ("**Project**"), located on a 422.22-acre site and aiming to create 13 development lots at Parcel APN ## 177-110-040, 177-100-030, 177-110-050, 201-020-010, and 177-050-090 ("**Project Site**").

Per the City's Notice of Availability ("**NOA**") for the RDEIR:

> PROJECT DESCRIPTION: The SSCC Project proposes a **Tentative Map** for the **422.22-acre site** to create **13 development lots**, **two basin lots**, **one park** lot, **one open space** lot, and one **sewer pump** station lot. Of the 13 development lots, **12 will** be for development of a **mix** of **industrial** uses and **one** will be for development of **commercial** uses. Although a **Site Plan** is **not currently** proposed, for planning purposes a **conceptual site plan** was prepared to establish a **target** Floor Area Ratio that was used to generate the **maximum square footage** of **building area** for the Tentative Map and for purposes of environmental review. As described in Chapter 2.0, Project Description, the Project would result in a maximum of **6,091,551 square feet** of **industrial** type land uses, **140,350 square feet** of **commercial** land uses, **54 acres** of **open space**, **41 acres** of **public facilities**, and **18 acres** of **right-of-way circulation** improvements. (NOA, p. 1, emph. added.)

Also, per the NOA:

> The Draft EIR has identified the following environmental issue areas as having **significant and unavoidable** environmental impacts from implementation of the project: **Aesthetics**; **Agricultural** Resources; **Greenhouse Gases**, **Climate Change**, and **Energy**; **Transportation** and **Circulation**; **Cumulative** Aesthetics; **Cumulative** Agricultural Resources; **Cumulative** Air Quality; and **Cumulative** Greenhouse Gases, Climate Change, and Energy; and **Cumulative** Transportation and Circulation. All other environmental issues were determined to have no impact, less than significant impacts, or less than significant impacts with mitigation measures incorporated into the Project
>
> (NOA, p. 1, emph. added.)

Numerous state agencies, including the Department of State and Attorney General commented on the adverse impacts of the Project on the environment and most critically on the disadvantaged population near the Project site. Yet, the City appears to be inclined – and now recommends the Planning Commission – to adopt a Statement of Overriding Considerations and overlook all the adverse impacts, including on human beings, by claiming that those impacts are outweighed by economic, employment, tax considerations and other monetary considerations.

Local 152 is a labor union that represents thousands of union carpenters who live and work in San Joaquin County, and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects.

Individual members of Local 152 live, work, and recreate in the City and surrounding communities and would be directly affected by the Project's environmental impacts.

Local 152 expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing and proceeding related to this Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Local 152 incorporates by reference all comments related to the Project or its CEQA review, including on the Initial Study, original Draft EIR and on the Recirculated DEIR. See *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project's environmental documentation may assert any issue timely raised by other parties).

Moreover, Local 152 requests that the City provide **advance notice** of any upcoming hearings, as well as for any and all notices referring or related to the Project, as required by the Municipal Code, as well as under the California Environmental Quality Act (**CEQA**) (Pub. Res. Code, § 21000 *et seq.*), and the California Planning and Zoning Law ("**Planning and Zoning Law**") (Gov. Code, §§ 65000–65010). California Public Resources Code Sections 21092.2, and 21167(f) and California Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body. We request that such notice be *both* mailed and **e-mailed** to us.

I. THE CITY SHOULD CONTINUE THE PLANNING COMMISSION HEARING FOR FAILURE TO PROVIDE THE REQUIRED AND REQUESTED NOTICE TO LOCAL 152 AND FOR THEREBY DEPRIVING LOCAL 152 THE OPPORTUNITY TO HAVE A MEANINGFUL TIME TO REVIEW THE FEIR AND TO HAVE A FAIR HEARING

First and foremost, the City has been repeatedly failing in its assurances and duty to provide advance notice to Labor 152 despite our repeated requests for the same.

For example – and as we had noted in our prior 02/10/2025 RDEIR comment, the City failed to provide us advance notice of the published RDEIR and the comment period, despite the fact that our law firm has repeatedly requested advance notice, including in its Public Records Act requests to the City and its recent comment on the City's Notice of Preparation of the Recirculated DEIR. At the time we reiterated our request: "**We, therefore, once again reiterate our request for an advance notice of all hearings and notices** related to the Project and **request** that such advance notice be both **emailed and mailed to us**." (See, RFEIR, p. 2.0-94 [2/10/2025 Local 152 Comment].) Notably, the City's response to that comment is: "This comment is noted. This comment serves as an introduction to the comment letter, and reiterates details about the Project. No response is necessary." (RFEIR, p. 2.0-568.)

Local 152 – and our Office – reasonably and detrimentally relied on the City's notice of our advance notice requests which, as the City noted in the Final EIR, were "noted."

But the City failed to give our Office advance notice yet again – and this time for the RFEIR and its final critical hearings. The City's Staff Report for the 9/11/2025 Planning Commission ("PC") hearing provides:

> **Notice** for the Planning Commission public hearing for this proposed project was **published** in The Record on August 22, 2025, and **mailed notice** was sent to **all property owners** within a 300-foot radius at least **twenty (20) days** prior to this meeting. As of the writing of this staff report, **no written comments** have been submitted.

(**Exhibit 1,** p. 9, emph. added [9/11/2025 PC Staff Report].)

The PC Staff Report further admits:

> Throughout the CEQA process, **interested parties** have been in communication with staff regarding **status** of the environmental documents and **timing** of the public hearing process. Staff has also received **multiple public records requests** for all documentation related to the project from multiple groups.

(*Id.,* emph. added.)

Notably, indeed, in all of our communications with the planner of the Project, we have been reiterating our request to be provided advance notice of any public hearing and the City – with after significant delays and follow-ups – responded to us and assured us that our Office *would* get such notice: "Lastly, your firm is on our noticing

list. We do not provide emailed notices, but a mailed notice will be sent to you." (**Exhibit 2,** p. 2 [5/15/2025 Email communication from/to the City].)

And yet, despite the aforementioned assurances, as the PC Staff Report admits, no notice has been mailed to any interested party, but only to "**property owners** within a 300-foot radius." (**Exhibit 1,** p. 9.)

Because the City failed in its duty and commitment to provide us adequate advanced notice for the 9/11/2025 Planning Commission hearing, and because such failure precluded our meaningful opportunity to be timely apprised of the PC hearing, to review all the relevant documents, and to meaningfully and substantively participate in the CEQA process of a Project with several significant and unavoidable impacts not only to the environment but also derivatively to the public, our Office **hereby requests the City:**

1) **to continue the PC hearing on the Project for at least another 20 days; and**
2) **to provide our Office and all the interested parties new and timely notice of the upcoming public hearing.**

Failure to continue the PC hearing will deprive our Office and the interested parties of the due process and fair hearing rights, will violate CEQA's mandate and purpose to allow for a meaningful public participation, and will further confirm that the City's repeated failures to provide advance notice to our Office were not by accident.

II. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY'S ECONOMIC DEVELOPMENT AND ENVIRONMENT

As also noted in our prior comments on the City's Notice of Preparation of the RDEIR and the RDEIR, we reiterate our request that the City require the Project to be built by contractors who participate in a Joint Labor-Management Apprenticeship Program approved by the State of California and make a commitment to hiring a local workforce.

Community benefits such as local hire can be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project site can reduce the length of vendor trips, reduce greenhouse gas emissions, and provide localized economic benefits.

Incorporation of local workforce will further help to reduce the significant and unavoidable impacts identified in the RFEIR, including air quality and greenhouse gas emissions ("**GHG**").

In response to our same comment to the RDEIR, the City responded: "Response F-2: The Project applicant will consider utilizing local workforce for the Project." (RFEIR, p. 2.0-568.) And yet, we have not seen any commitment by the Project Applicant or any binding mitigation measure proposed by the City in any of its resolutions to address the issue of using local workforce for the Project to, *inter alia,* mitigate the Project's impacts including on air quality and GHG.

To avoid repetition, **we hereby fully incorporate** our prior **2/10/2025 comment** on the RDEIR on the issue of the use of local workforce, and **we request** that the City address it through a binding mitigation measure or condition of approval of the Project.

Making the use of local workforce a condition of approval for the Project will not only meet CEQA's goals of mitigation significant impacts, but also further the General Plan's goals and policies of "aimed at attracting and retaining companies that offer high-quality jobs with wages that are competitive with the region and state (Goal LU-4), and attracting employment and tax-generating businesses in the city (Policy LU-4.2)." (**Exhibit 2**, p. 2.)

III. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. The City's Responses to the Public Comments Show the Project's EIR Is Inadequate and Violates CEQA

That the City's and the Project's RFEIR is inadequate and the RFEIR should not be certified as an adequate and complete CEQA clearance for the Project is manifest from the responses the City provided to comments, including to the comment of Labor 152, as well as comments by public agencies.

- **City's Responses to Labor 152 Comment**

In its comment on the RDEIR, Labor 152 raised the concern about the Project's inaccurate and incomplete description, in light of the lack of information on the specific uses and their location on over 422 acres of land. As an example of a similar

incomplete EIR, which was struck down by the Court, Labor 152 cited to *Stopthemilleniumhollywood.com* case.

In response, the City confirms that the EIR is a *project-level* document. (RFEIR, p. 2.0-569.) But it attempts to distinguish this case from the *Stopmilleniumhollywood.com* case, claiming that "the information provided in the RDEIR is ***much more detailed*** than an "impact envelope"; instead, **the more detailed information and conceptual site plan** included in Chapter 2.0 of the RDEIR, based on the worse-case, maximum buildout of the existing land uses as zoned for the property, allows for quantitative analysis at a detailed level to inform the public and decision makers of the project's potential impacts." (*Id.,* emph. added.) And yet, there is no substantive difference between the "conceptual plan" provided by the RFEIR or RDEIR here and the "impact envelope" provided in the *Stopmilleniumhollywood.com* case.

If anything, the information in the RFEIR for the Project here is even more vague than in the *Stopmilleniumhollywood.com* case: it provides that warehouses will be built on 12 out of 13 lots, and one of those lots will have a commercial development, but it fails to mention what kind of commercial development is expected. And, as also pointed out by the San Joaquin County's Air Pollution District, such commercial development may be restaurants, with their specific impacts related to cooking and emission of hazardous materials in the process of cooking meat. (RFEIR, p. 2.0-590.) And yet, the City's response to this dismisses the issue by claiming that, as compared with the rest of the Project, the commercial portion is minimal. (RFEIR, p. 2.0-611.)

The RFEIR repeatedly, in its responses to comments, admits that numerous details of the Project and mitigation of impacts will be determined and shaped by the "end-users." For example, the RFEIR provides:

> With regard to additional potential mitigation measures, such additional mitigation measures are not feasible. For example, regarding the commentor's [sic.] concern about heavy-duty (HHD) truck vehicles, the **exact end-users** are not known at this time; therefore, requiring heavy-duty (HHD) truck vehicles to be of a newer year is not feasible, since this would severely limit the financial viability of the Project, as the exact end-users are not known at this time.

(RFEIR, p. 2.0-20-21, emph. added; *see also*, p. 2.0-71 ["Ultimately, given that the end-users of the Project are not known at this time, no other mitigation measures are feasible to reduce **GHG emissions**." (Emph. added)].)

As another problem with the City's RFEIR, it speaks about the *phases* of constructing the Project and suggests that some mitigation measures will be determined during the implementation of such phases:

> Furthermore, Mitigation Measure 3.3-1 requires that **individual phases** of development **coordinate** with the SJVAPCD to **ensure compliance** with Rule 9510 for both operational and construction emissions. Therefore, **additional** mitigation **may** be implemented at the **individual phase level** at the **time** of **development** (i.e., final maps, improvement plans, site plan review, etc.), to **demonstrate** that the **individual project** does **not exceed** the applicable SJVAPCD criteria **pollutant thresholds** for project operations or construction. A **determination** on including such **onsite mitigation** is based, in part, on the **specific characteristics** of the **end user**, and the **building**(s) that would be **constructed** on **each** individual lot. Refer to Section 3.3: Air Quality for further detail. No further response to this comment is warranted.
>
> (RFEIR, p. 2.0-604, emph. added.)

In the same vein, the RFEIR provides:

> The offsite mitigation is specified by the SJVAPCD at the time it can be reasonably accurately calculated, which is typically at Building Permit phase of the project. This is because highly specific information is required by the SJVAPCD for **each individual phase** of development and/or **each individual development proposal**, under the Rule 9510 process. That is, information such as **specific information** such as **end user**, **exact final construction schedule**, and **first date** of **operation**, are required by the SJVAPCD, to ensure accurate Rule 9510 fees are applied. Because there is **not** an **identified end user** at **this time**, **site plan review** has **not been** completed, **architectural plans** are **not** available, **exact construction** schedule for **each individual development proposal** is **not currently known**, etc., it is **not possible** to **reasonably calculate** the **final emissions** or **onsite mitigation** of the **end user/site/building**, making it **impossible** to **calculate** the offsite **mitigation needs**.
>
> This would require a **level** of **speculation** that is **not appropriate** at this **stage** of development. While it is technically possible to submit a Rule 9510 application to the SJVAPCD, and even have it approved relying on **rough assumptions**, it would need to be resubmitted and reapproved,

> should any changes to the individual development proposal be made (including any changes to construction schedule, end user, etc.), which is
>
> inevitable given the lack of specific information regarding individual development proposal end user, exact construction schedule, and first date of operation, etc., at this time.
>
> The assumptions that have been made in the modeling effort for the purposes of CEQA are reasonable assumptions to analyze the probable effects of the proposed Project based on development allowances under the General Plan and Zoning Ordinance. Future approval process requires an analysis of the site plan once an end user is known. When that time arrives, Rule 9510 will be ripe for implementation. No further response to this comment is warranted.
>
> (RFEIR, p. 2.0-612-613, emph. added.)

But if, as the City admits, the Project involves a *phased* implementation of multiple development projects, the details of which are *not* clear yet and hence the impact/mitigation analysis cannot be determined, and that determination of additional mitigation, including for air quality, as the case here, depends on some future end-users and future buildings and their locations, then the City should have proceeded with a *program-based* EIR, rather than a *project-based* EIR.

To wit, the City claims: "The Recirculated Draft EIR is a project-level EIR." (RFEIR, p. 2.0-560.) But, under CEQA, a *phased* project, such as here, should proceed with a *program* EIR, to allow for adequate analysis of environmental impacts at each phase and to prevent the type of skewed CEQA review, as occurred here.

Specifically, under CEQA Guidelines section 15165:

"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." (Emph. added.)

And the referenced CEQA Guidelines Section 15168, subdivision (b) provides the *advantages* of such a program EIR:

> (b) Advantages. Use of a program EIR can provide the following advantages. The program EIR can:

> (1) Provide an **occasion** for a **more exhaustive consideration** of effects and alternatives than would be **practical** in an **EIR** on an individual action,
>
> (2) Ensure consideration of **cumulative impacts** that might be slighted in a **case-by-case** analysis,
>
> (3) Avoid duplicative reconsideration of basic policy considerations,
>
> (4) Allow the Lead Agency to consider broad policy alternatives and program wide mitigation measures **at an early time** when the agency has **greater flexibility** to deal with basic problems or **cumulative** impacts, and
>
> (5) Allow reduction in paperwork.

(Emph. added.)

But because, as the City claims, its RFEIR is contemplated as a project-level document, it ends CEQA here. Therefore, given the City's above-quoted admissions that it was unable to perform quantitative analysis of impacts, including traffic, air quality, GHG, and others, in light of the uncertainty about the end-users of the 13 lots and the location and type of development and types of buildings there, the RFEIR is inadequate here, as a matter of law, and it violates CEQA by leaving out the analysis of impacts and mitigation from public review and information of decisionmakers.

As related, the RFEIR's project description is inaccurate, non-finite, and incomplete, in violation of CEQA.

Second, the City's positions on the feasible alternatives in the RFEIR is also legally erroneous. It appears to claim, without any analysis or evidence, that a further reduction in the size of the Project from 25% (in the reduced alternative) to 50% (as suggested by Labor 152) would still leave some impacts significant and unavoidable, there is no need for such reduction:

> Notably, an alternative that **reduces** the uses by **50 percent** (instead of **25 percent**) would **not eliminate** the **significant** and **unavoidable** VMT impact because VMT is expressed on per dwelling unit or per thousand square feet (ksf) basis. VMT is not expressed as an absolute value in miles. If this was the case, then a decreased project size could potentially reduce impacts to less than significant. Use of **absolute VMT**, rather than **VMT measures** per capita or on a similar basis, is **contrary** to **guidance**

> provided in the Technical Advisory of Evaluating Transportation Impacts in CEQA (OPR 2018) for **industrial projects**.
>
> Similarly, an alternative that reduces the **uses** by **50 percent** (**instead of 25 percent**) **would not eliminate** the significant and unavoidable impact to important farmland because Prime Farmland and Farmland of Statewide Importance would still be converted to urban uses.

(RFEIR, p. 2.0-572, emph. added.)

There are at least *several* flaws in the City's reasoning. First, it suggests that the reduction of the Project size would not result in less VMT and that an absolute VMT reduction is contrary to state guidance. And yet, there is no evidence for those claims. The claims also disregard the nature of the industrial project here: warehouses, which admittedly involve heavy-duty trucks which involve long-distance driving.

Second, the City incorrectly suggests that, just because the impact of a project will not be *eliminated* in full, there is no need to mitigate those impacts at all. But CEQA provides: "Each public agency shall **mitigate** or **avoid** the **significant effects** on the environment of projects that it carries out or approves **whenever** it is **feasible** to do so." (Pub. Res. Code § 21001.2(b), emph. added.) Similarly, CEQA Guidelines section 15002(a)(2) sets of the purposes of CEQA as: "Identify the ways that environmental damage can be avoided or *significantly reduced*." (Emph. added.)

For the same purpose, CEQA allows a statement of overriding consideration when impacts cannot be *significantly reduced:*

> When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or **substantially lessened**, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(CEQA Guidelines § 15093(b), emph. added.)

As such, the City's suggestion or claim that it was justified not to consider a reduction of the size of the Project from 25% to 50% only because the impacts to VMT or agricultural lands would not have been 100% "eliminated" and further its failure to support its conclusions with any shred of evidence show that the City's RFEIR is based on the legally erroneous reasoning and neither the RFEIR nor the Statement of

Overriding Considerations may be adopted and certified in light of the noted legal flaws as well as failure to support the City's analysis therein with substantial evidence.

The above-noted examples of the City's flawed responses to the Labor 152 comment on the RDEIR are not exhaustive but only illustrative. As noted in Section I, *supra,* we have been unable to provide a more complete analysis of the City's RFEIR, in light of the City's utter failure to provide us with an advance notice of its completed RFEIR and related documents and of the PC hearing date.

Upon the City's grant of continuance of the PC hearing as requested above, we will provide more substantive comments on additional points as to why the City's responses to public comments, including Labor 152, are flawed and why the EIR may not be certified, as a result thereof.

- **The RFEIR Dismiss Critical Comments by Public Agencies and Show that the Project's CEQA Review Has Been Improperly Piecemealed and Evaded a Full Impact Review**

As yet another fatal flaw of the RFEIR, it dismisses critical comments by public agencies and shows that the RFEIR of the Project has been tainted by a piecemeal review.

First, the comment by the **San Joaquin C.aunty Multi-Species Habitat Conservation & Open Space Plan (SJMSCP),** its comment on the RDEIR was based on the view that the Project is only about the Tentative Tract Map approval and no disturbance was yet to occur:

> At **this time**, the applicant is requesting a **Tentative Map** with **no ground disturbance**. Any **future ground** disturbing activities (e.g. roads, curb, gutter, electrical, water, etc.) or any physical structures that require ground disturbance on this or subsequent divided parcels will be **subject** to **participate** in the SJMSCP before ANY ground **disturbance** occurs and should be **resubmitted** to this **agency**. **Current** or **future owners** of this-or subdivided properties should be **made aware** of the conditions that are placed by the SJMSCP on future development on the created parcels.
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> (RFEIR, p. 2.0-579, emph. added.)

The comment above shows that the City's allegedly project-based EIR is incomplete and inadequate on the issue of biological resources, their impact or mitigation, since there are no guarantees that the impacts of such future physical disturbance would be

duly studied and mitigated and also presented for public review and approval by the elected decisionmakers. Instead, it is manifest that any future review or mitigation, if at all, will occur outside of the public eye and without the approval of the elected decisionmakers. In sum, the Project will evade a meaningful CEQA review, including as to the biological resources.

The City's response to this comment confirms that outcome:

> **Mitigation Measure 3.4-1** of **Section 3.4** of the Draft EIR **requires** that the applicant, "**seek coverage** under the San Joaquin County Multi-Species Habitat Conservation Plan (SJMSCP) to mitigate for habitat impacts to covered special status species. Coverage involves compensation for habitat impacts on covered species through implementation of incidental take and minimization measures (ITMMs) and **payment of fees** for conversion of lands that may provide habitat for covered special status species. These **fees** are used to **preserve** and/or **create habitat** in preserves to be managed in perpetuity. Obtaining coverage for a Project includes incidental take authorization (permits) under the Endangered Species Act Section 10(a), California Fish and Game Code Section 2081, and the Migratory Bird Treaty Act (MBTA). Coverage under the SJMSCP would fully mitigate all habitat impacts on covered special-status species."
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> Because Mitigation Measure 3.4-1 would implement the commenter's recommendations, no changes to the RDEIR are necessary.

(RFEIR, p. 2.0-582, emph. added.)

And yet, contrary to the City's claims, the noted Mitigation Measure 3.4-1 fails to ensure any commitment on the Applicant's part, much less on the *future* and yet *unknown end users* to mitigate any impacts on biological resources. Neither is it shown that the Project will indeed *preserve* or will *create habitat* for the disturbed biological resources and species with the payment of fees.

In addition and as relevant, on these facts, the City's conclusion that the Project will not have significant biological impacts is unwarranted.

Second and similarly, the City dismisses many of the concerns of the San Joaquin County's Environmental Health Department, including by claiming that certain details will not be determined until the *design* stage:

> This comment is noted. The Draft EIR includes a requirement to prepare **a final geotechnical evaluation** of **soils** at a **design-level**,

> consistent with the requirements of the California Building Code. Implementation of this mitigation measure would ensure **that all on-site** fill soils are properly compacted and comply with the applicable safety requirements established by the CBC to **reduce risks associated** with **unstable soils** and excavations and fills, and that any issues associated with unstable soils are **addressed** at the **design level**. This work will be performed at a design level, and it **is not known** at **this** time if drilling would be necessary, or if a less sampling method would be appropriate.
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> Nevertheless, it is the City's policy to require any geotechnical drilling to be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-1115.3 and 9-1115.6). This is an existing regulation that is in place and there is not a need for a measure requiring this existing requirement.
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> (RFEIR, p. 2.0-585, emph. added.)

This response, however, means that the EIR failed to study the geological impacts of the Project and ensure that the soils at the Project site would be sufficiently stable to withstand the proposed massive developments on over 422 acres. This, in turn, shows that the EIR is inadequate and incomplete as to the issue of the Project's soils and geology impacts.

Third, the City dismisses many of the concerns of the San Joaquin Valley Air Pollution Control District. For example, in response to that agency's concern about the miles travelled and understated air quality pollution of heavy-duty trucks and the need for their disclosure in the EIR, the City conveniently chooses to rely on the arbitrary data provided by the EIR's consultant and faults the District in failing to provide evidence to rebut such arbitrary minimal estimates of heavy-duty trucks, stating:

> This comment is noted. However, the commentor [sic.] does **not provide** any **evidence** to **substantiate** their claim that the truck trip length distance for HHD trucks was analyzed incorrectly by the RDEIR. In fact, the CalEEMod model reflects a daily VMT of 777,176 VMT associated with proposed Project, including 114,743 VMT associated with HHD trucks. This VMT estimate is validated based on trip length assumptions and VMT calculations provided by the professional traffic engineering firm Fehr & Peers.
>
> Specifically, this is based on the **approximately 14.8% of all vehicles** traveling to and from the Project site that **would be HHD vehicles**, as provided by **Fehr & Peers**. This VMT calculation includes Project trips

> of all relevant distances, and accounts for all the various trip types and lengths that the Project is anticipated to generate, consistent with the traffic modeling by Fehr & Peers. Although the Traffic Impact Assessment **does not identify overall Project average trip lengths** per se, the CalEEMod model **accounts for the VMT modeled** for the Project by **Fehr & Peers**, since it takes into account trip lengths by its very nature (since VMT = total trips multiplied by average trip length), and therefore fully captures the various trips and their trip lengths that are anticipated to be generated by the proposed Project, including HHD truck trips. See Appendix B of the RDEIR for further detail. No further response to this comment is warranted.

(RFEIR, p. 2.0-598, emph. added.)

The City's response is improper since it fails to provide any evidence for the Fehr & Peers' estimate that the HHD truck trips will comprise only 14.8% of all vehicles traveling to/from the Project site. There is no evidence to support this estimate especially where, as here, the City repeatedly claims in other responses to comments that the ultimate impacts, including of VMTs, will depend on the end-users who are not identified at this time.

The City's response is also improper as it makes the public or public agencies look for evidence for the EIR, whereas it is the City's duty, as the lead agency, to investigate all data and to address all the concerns, especially expressed by public agencies, as here.

As noted earlier for the City's inadequate responses to Labor 152's comment and concerns, the above-referenced flaws in the City's responses to public agencies are only illustrative and not exhaustive. We reserve the right to provide more examples of the City's flawed responses upon continuance of the PC hearing, as requested in this letter.

IV. THE PROJECT VIOLATES THE SUBDIVISION MAP ACT AND SHOULD NOT BE APPROVED

One of the requirements of the Subdivision Map Act is that the Project not have substantial impacts on the environment. As discussed and shown above, that is not the case here.

The Subdivision Map Act (Gov. Code, §§ 66410- 66499.37) mandates denial of a tentative map if "the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat." (Govt. Code § 66474(e); Govt. Code § 66474.61(e);

Carson Harbor Village, Ltd. v. City of Carson (2015) 239 Cal.App.4th 56, 63.) Thus, a public agency must conduct an environmental review and undertake a complete environmental analysis as part of any approval under the Subdivision Map Act.

In *Topanga Ass'n for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348, the court ruled that Government Code Section 66474(e), which requires a governmental agency to deny a map application if the agency finds that subdivision design or improvements are likely to cause substantial environmental damage, provides for an environmental review separate from and independent of CEQA. The court stated as follows: "Appellants argue that elimination of their CEQA causes of action does not foreclose an environmental challenge to the approval of the project because the Subdivision Map Act, in Government Code section 66474, subdivision (e), provides for environmental impact review separate from and independent of the requirements [of the CEQA. We agree. [T]he finding required by section 66474, subdivision (e) is in addition to the requirements for the preparation of an environmental impact report or a negative declaration pursuant to the CEQA. (59 Ops.Cal.Atty.Gen. 129, 130 (1976).)" Topanga at 1355–56, emphasis added. Moreover, the court noted that: "The term 'substantial environmental damage' as used in subdivision (e) of section 66474 of the Government Code is the equivalent of 'significant effect on the environment;' which is defined in section 21068 of the Public Resources Code as 'a substantial, or potentially substantial, adverse change in the environment.' (68 Ops.Cal.Atty.Gen. 108, 111, fn. 2 (1985).)" *Topanga at 1356*, fn. 3.

Because the Project and its proposed subdivision of 422 acres into 13 lots, as well as its impacts and mitigation are not fully studied and mitigated, including due to the end users being unknown, the Project here must be denied under the requirement of the Subdivision Map Act. That the Project will have numerous significant and unavoidable impacts, which could have been mitigated if only the City applied a further reduced project alternative, the Project further violates the Subdivision Map Act in having a significant and unavoidable impact that could have been mitigated but was not.

For this reason, the Project's tentative tract map should not be approved, since the Project violates the Subdivision Map Act and will have a significant and unmitigated impact on the environment.

V. THE PROJECT VIOLATES THE GENERAL PLAN AND ZONING AND THE PLANNING AND ZONING LAW AND ITS SOUGHT

GENERAL PLAN AND ZONING AMENDMENT SHOULD NOT BE APPROVED

The City claims that the Project is consistent with the General Plan and Zoning relying mostly on the industrial uses proposed on the Project Site and pointing to the General Plan and zoning designation of "industrial" on certain lots. However, the City and the RFEIR fail to acknowledge that some of the parcels of the Project site are zoned O (open space) and the City fails to show how the proposed Project or its zoning are consistent with the O zoning.

Moreover, the City and the RFEIR claim that the Project is consistent with the General Plan's goals of creating jobs in the area. However, the City fails to explain how building warehouses where trucks will be traveling from long distances will create jobs in the area.

Moreover, it appears that the City's analysis is based on the *consistencies* of the Project with the General Plan and fails to identify the inconsistencies.

Moreover, the City's responses in the RFEIR acknowledge that the Project is located in the disadvantage community area, but fail to mitigate impacts to air quality and GHG which will necessarily affect the surrounding people. Moreover, the City relies on the 1300 feet distance from sensitive receptors and claims that it is more than 1000 feet threshold and therefore certain air pollution will be dispersed by the time it reaches sensitive receptors. The City's reliance on the thresholds here is unsupported in light of the heavy-duty trucks which will be traveling to/from the Project site and the City's focus on the Project site only. Notably, the Planning and Zoning Law mandates consideration of air quality and GHG impacts on disadvantaged communities, which the City failed to do here.

For this reason, the Project's sought entitlements should be denied since there is no support for the City's conclusions of the General Plan or zoning consistency of the Project and because the Project is inconsistent with the General Plan's other provisions, including to protect the disadvantaged communities, as also required by the Planning and Zoning Law.

VI. CONCLUSION

In view of the above-noted concerns, we respectfully request that the City continue its PC hearing for another 20 days, provide our Office with the advance notice in email of the new date, and further not certify the EIR or approve the entitlements of the

Project. The RFEIR here fails to provide such serious consideration of the Project's impacts and confirms that the Project will have significant unstudied and unmitigated impacts on the surrounding environment.

If the City has any questions or concerns, please feel free to contact my Office.

Sincerely,

Naira Soghbatyan
Attorneys for Carpenters
Local Union #152

Attached:

9/11/2025 Staff Report (**Exhibit 1**); and

5/15/2025 Email Communications with the City (**Exhibit 1**)