FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE HARDT AND BRIER BUISNESS PARK PROJECT

Lead Agency:

City of San Bernadino
Planning Department
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Project Applicant:

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April 2024

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1 INTRODUCTION

1.1 PURPOSE AND SCOPE

This document is an Initial Study and Mitigated Negative Declaration (IS/MND) prepared pursuant to the California Environmental Quality Act (CEQA) for the proposed Hardt and Brier Business Park Project (Project, proposed Project), to allow the development and establishment of five new speculative business park/service commercial buildings with a total combined footprint of 77,380 square feet (SF) on eight parcels encompassing approximately 5.81 acres adjacent to Hardt Street and East Brier Drive (Project). This IS/MND has been prepared in accordance with CEQA, Public Resources Code Sections 21000 et seq., and the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines).

An initial study is conducted by a lead agency to determine if a project may have a significant effect on the environment. In accordance with CEQA Guidelines Section 15064, an environmental impact report (EIR) must be prepared if the initial study indicates that the proposed project under review may have a potentially significant impact on the environment. A negative declaration may be prepared instead, if the lead agency prepares a written statement describing the reasons why a proposed project would not have a significant effect on the environment, and, therefore, why it does not require the preparation of an EIR (State CEQA Guidelines Section 15371). According to State CEQA Guidelines Section 15070, a negative declaration shall be prepared for a project subject to CEQA when either:

(a) The initial study shows there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
(b) The initial study identified potentially significant effects, but:
(1) Revisions in the project plans or proposals made by or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
(2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

If revisions are adopted into the proposed project in accordance with the State CEQA Guidelines Section 15070(b), a mitigated negative declaration is prepared. This document includes such revisions in the form of mitigation measures. Therefore, this document is a Mitigated Negative Declaration and incorporates all of the elements of an initial study. Hereafter this document is referred to as an IS/MND.

This IS/MND incorporates by reference the City of San Bernardino General Plan EIR and the technical documents that relate to the proposed Project or provide additional information concerning the environmental setting of the proposed Project. The information within this IS/MND is based on the following technical studies and/or planning documents:

- City of San Bernadino General Plan

  (https://sanbernardino.hosted.civiclive.com/city_hall/community_economic_development/planning)

- City of San Bernardino General Plan EIR

  (https://sanbernardino.hosted.civiclive.com/city_hall/community_economic_development/planning/environmental_documents)

- City of San Bernadino Municipal Code

  (https://www.sbcity.org/city_hall/city_clerk/municipal_code)

- City of San Bernardino Development Code

  (https://www.sbcity.org/city_hall/community_economic_development/development_code)

- Technical studies, personal communications, and web sites listed in Section 7, *References*

In addition to the websites listed above, all documents are available for review at the City of San Bernadino Planning Division, located at 290 N D Street, San Bernardino, CA 92401.

The proposed Project evaluated herein involves construction of five new speculative service commercial buildings with a total combined footprint of approximately 77,380 SF on eight parcels encompassing approximately 5.81 acres located adjacent to Hardt Street and East Brier Drive. The Project site has a General Plan land use designation of Commercial (CR-3) and a zoning designation of Commercial Regional Tri-City/Club (CR-3) and Transit Overlay District (TD).

This IS/MND serves as the environmental review for the proposed Hardt and Brier Business Park Project. The Project proposes development of a site within the boundaries of the City of San Bernadino, which would fulfill the purpose of the City's General Plan and land use designation for the site.

2 PROJECT SETTING

2.1 PROJECT LOCATION

The proposed Project site is in the southeastern portion of the City of San Bernardino within the County of San Bernardino. Regional access to the Project site is provided by Interstate 10 (I-10) and Interstate 215 (I-215). Local access to the Project site is currently available via surrounding roadways East Brier Drive, a secondary arterial, Hardt Street, a local road, and South Tippecanoe Avenue, a major arterial. The Project site and surrounding area is shown in Figure 2-1, *Regional Location* and Figure 2-2*, Local Vicinity*.

2.2 EXISTING PROJECT SITE

The Project site consists of eight parcels encompassing approximately 5.81 acres. The site is identified by Assessor's Parcel Numbers (APNs) 0281-301-17, 0281-311-06, -07, -08, -11, -12, -18, and -19. Four parcels (APNs 0281-301-17, 0281-311-08, -07, -06) are located north of Hardt Street. The remaining four parcels are located south of Hardt Street. APN's 0281-311-11 and 0281-311-12 are to the east and directly south of Hardt Street and APN's 0281-311-18 and 0281-311-19 are further to the south, directly north of East Brier Drive. The Project site APNs are illustrated in Figure 2-3, *APN Map*.

The Project site is undeveloped and vacant with exposed soil and sparse vegetation. A concrete lined drainage channel borders the site to the north and traverses east-west. The Project site's existing conditions are shown in Figure 2-4, *Aerial View* and Figure 2-5a-b*, Site Photos*.

2.3 EXISTING LAND USES AND ZONING DESIGNATION OF THE PROJECT SITE

The Project site has a General Plan land use designation of Commercial (CR-3) and a zoning designation of Commercial Regional Tri-City/Club (CR-3). The Project is consistent with the General Plan designation of CR-3, which is intended for local and regional serving retail, personal service, entertainment, office, and related commercial uses. The CR-3 zone provides for a mixture of regional serving uses including corporate and professional offices, retail commercial, entertainment (theaters, nightclubs, etc.), financial establishments, restaurants, hotels/motels, warehouse/promotional retail, supporting retail and services, and similar uses. The CR-3 zone allows a maximum lot coverage of 75 percent.

The Project site is also within the Transit Overlay District (TD) zone which is intended to allow and encourage an appropriate mix and intensity of land uses in a compact pattern around transit stations that will foster transit usage, create new opportunities for economic growth, encourage infill and redevelopment, reduce dependency on the automobile, improve air quality, and promote high quality, interactive neighborhoods. Within the TD zone, the Project is within the Hospitality Lane and Tippecanoe Avenue Transit Station Area which serves as a concentrated employment area within the City. The TD establishes standards and regulations beyond those required by the site's underlying CR-3 zone.

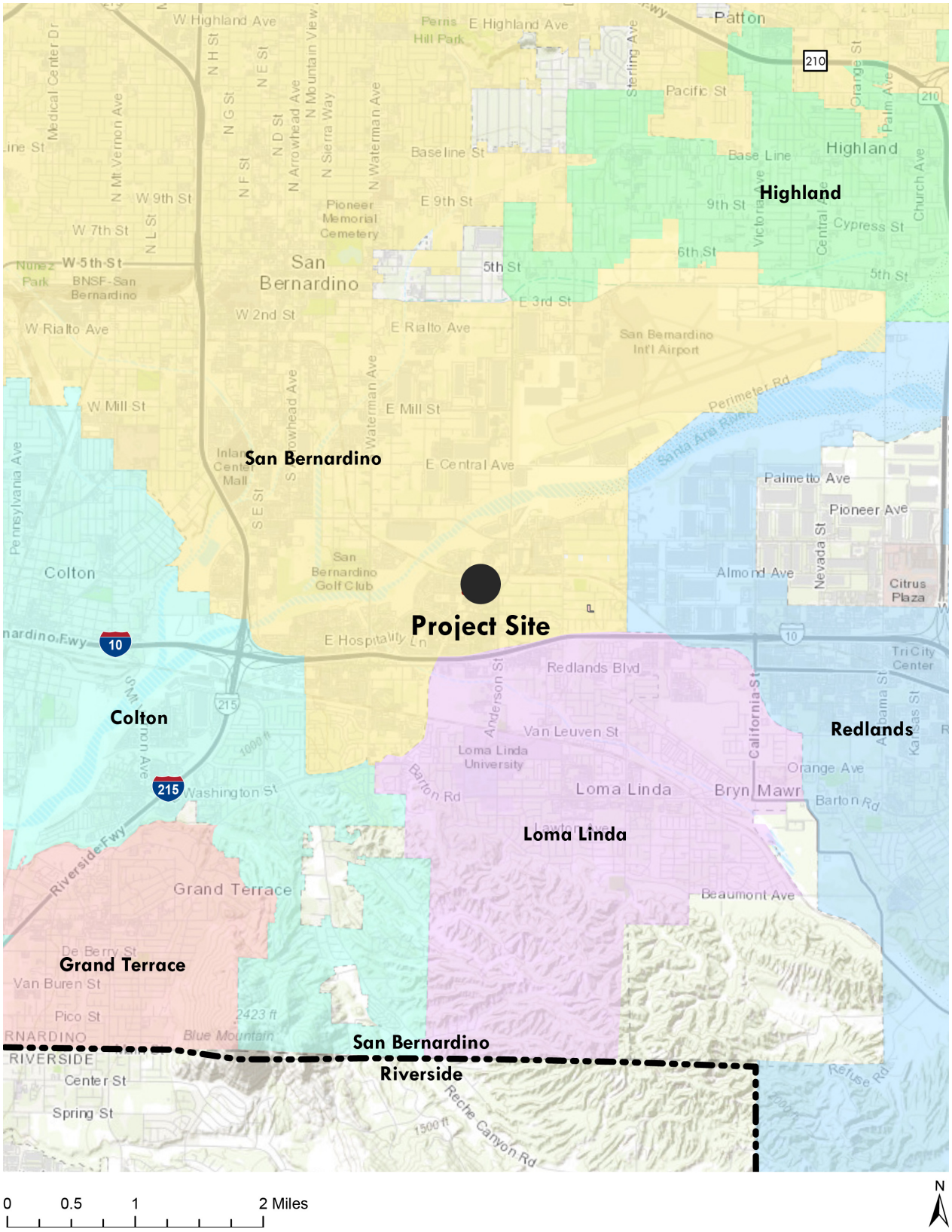
2.4 SURROUNDING GENERAL PLAN AND ZONING DESIGNATIONS

The Project site is located within a predominately developed area. The surrounding land uses are described in Table 2-1.

Table 2-1: Surrounding Existing Land Use and Zoning Designations

	Existing Land Use	General Plan Designation	Zoning Designation
North	Concrete lined drainage channel followed by railroad (Metrolink San Bernardino Line)	Commercial (CR-3)	Commercial Regional Tri-City/Club (CR-3)
West	Utility infrastructure followed by public institution uses (Summit College and other office uses); vacant undeveloped land	Commercial (CR-3)	Commercial Regional Tri-City/Club (CR-3)
South	East Brier Drive followed by office and commercial uses with parking	Commercial (CR-3)	Commercial Regional Tri-City/Club (CR-3)
East	Light industrial warehouse, commercial use and surface parking lot (Residential use 585 feet from site)	Commercial (CR-3)	Commercial Regional 3 (CR-3)
Central	Government office and parking	Commercial (CR-3)	Commercial Regional 3 (CR-3)

Regional Location



Hardt and Brier Business Park
City of San Bernardino

Figure 2-1

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Local Vicinity

Hardt and Brier Business Park
City of San Bernardino

Figure 2-2

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APN Map

Hardt and Brier Business Park
City of San Bernardino

Figure 2-3

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Aerial View

Hardt and Brier Business Park
City of San Bernardino

Figure 2-4

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Existing Site Photos

Northwest corner of site on Hardt St facing northeast.

View of the site between Hardt St and Brier Dr looking southbound.

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Existing Site Photos

View of the project site from the southwest corner on Brier Dr.

Southeast corner on Brier Dr.

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3 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

The Project applicant is proposing three lot mergers to develop five new speculative business park/commercial service buildings with a total combined footprint of 77,380 SF. The Project would include associated parking, sidewalks, utility infrastructure including bioretention basins, and landscape improvements corresponding with each building. Figure 3-1, *Conceptual Site Plan*, illustrates the proposed site plan.

3.2 PROJECT FEATURES

Lot Mergers
The Project proposes three lot mergers in order to accommodate buildings A, B, and C. The three lot mergers are described below.

- The first lot merger would combine APNs 0280-301-17 and 0281-311-08 to create a 1.25-acre lot for proposed Building A.
- The second lot merger would combine APNs 0281-311-06 and -07 to create a 1.30-acre lot for proposed Building B.
- The third lot merger would combine APNs 0281-311-11 and -12 to create a 1.24-acre lot for proposed Building C.

Building Summary and Architecture
The proposed development would consist of five new concrete tilt-up buildings with a combined total building area of 81,210 SF and a combined total footprint area of approximately 77,380 SF. As illustrated in Figure 3-1, *Conceptual Site Plan*, Buildings A and B would be located in the northern portion of the site, north of Hardt Street, Building C would be located the central easternmost portion of the Project site, south of Hardt Street, and Buildings D1 and D2 would be located in the southeastern portion of the Project site, north of East Brier Drive.

As shown in Figures 3-2a-d, *Elevations*, the proposed Project would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme. The proposed concrete tilt-up buildings would be beige and white with dark gray accents. Cutouts and decorative window facades would be installed to create variety in scale and texture. The proposed buildings would be setback from all street frontages and from each adjacent lot, and landscaping would also be provided in all setback areas. A summary of each building within the Project is provided in Table 3-1.

Table 3-1. Building Data Summary

	Building A	Building B	Building C	Building D1	Building D2	Total
Site Area	54,315 SF 1.25 ac	56,564 SF 1.30 ac	54,041 SF 1.24 ac	44,241 SF 1.02 ac	44,241 SF 1.02 ac	253,402 SF 5.81 ac
APNs	0281-301-17 & 0281-311-08	0281-311-07 & -06	0381-311-11 & -12	0281-311-19	0281-311-18	-
Total Building Area	17,783 SF	17,586 SF	18,323 SF	13,759 SF	13,759 SF	81,210 SF
Total Footprint Area	16,514 SF	16,300 SF	17,048 SF	13,759 SF	13,759 SF	77,380 SF
Mezzanine	1,269 SF	1,286 SF	1,275 SF	-	-	3,830 SF
FAR	0.33	0.31	0.34	0.31	0.31	0.32
Building Coverage	30 percent	29 percent	32 percent	31 percent	31 percent	31 percent
Building Height	40’	38’ 4”	40’	31’ 8”	31’ 8”	-

Building A

Building A is proposed on 1.25 acres of land (APNs 0281-301-17 and 0281-311-08) located in the northwest portion of the Project site. Building A would have a building footprint of 16,514 SF and a total building area of 17,783 SF, inclusive of 1,269 SF mezzanine space. Building A would result in a floor area ratio (FAR) of 0.33. The proposed building would be single-story and have a maximum height of 40-feet. Building A’s frontage would be oriented towards Hardt Street. Building A would be set back a minimum of 15 feet from Hardt Street, a minimum of 63 feet from the northern property line, a minimum of 36 feet from the western property line and a minimum of 44 feet from the eastern property line.

Building B

Building B is proposed on 1.30 acres of land (APNs 0281-311-06 and -07) located in the northeast portion of the Project site. Building B would have a building footprint of 16,300 SF and a total building area of 17,586 SF, inclusive of 1,286 SF mezzanine space. Building B would result in a FAR of 0.31. The proposed building would be single-story and have a maximum height of 38-feet and 4-inches. Building B’s frontage would be oriented towards Hardt Street. Building B would be set back a minimum of 15 feet from Hardt Street, a minimum of 63 feet from the northern property line, 43 feet from the western property line and 82 feet from the eastern property line.

Building C

Building C is proposed on 1.24 acres of land (APNs 0281-311-11 and -12) located in the central portion of the Project site, south of Hardt Street. Building C would have a building footprint of 17,048 SF and a total building area of 18,323 SF, inclusive of 1,275 SF of mezzanine space. Building C would result in a FAR of 0.32. The proposed building would be single-story and have a maximum height of 40-feet. Building C’s frontage would be oriented towards Hardt Street. Building C would be set back 15 feet from Hardt Street, a minimum of 55 feet from the southern property line, a minimum of 67 feet from the western and eastern property lines.

Buildings D1 & D2

Building D1 is proposed on 1.02 acres of land (APN 0281-311-19) located in southeastern portion of the Project site. Building D1 would have a total building area of 13,759 SF and a FAR of 0.31. The proposed building would be single-story and have a maximum height of 31-feet and 8-inches. Building D1’s frontage would be oriented toward East Brier Drive. Building D1 would be set back 15 feet from East Brier Drive, a

minimum of 56 feet from the northern property line, a minimum of 60 feet from the western property line and a minimum of 43 feet from the eastern property line.

Building D2 is proposed on 1.02 acres of land (APN 0281-311-18) located in southeastern portion of the Project site. Building D2 would have a total building area of 13,759 SF and a FAR of 0.31. The proposed building would be single-story and have a maximum height of 31-feet and 8-inches. Building D2's frontage would be oriented toward East Brier Drive. Building D2 would be set back 15 feet from East Brier Drive, a minimum of 56 feet from the northern property line, a minimum of 33 feet from the western property line and a minimum of 64 feet from the eastern property line.

Access, Circulation and Parking

Building A

Building A would be accessible via two proposed 26-foot-wide driveways on Hardt Street. Buildings A and B would share the central access drive off Hardt Street. Internal circulation would consist of a 26-foot drive aisle adequate for fire access. As shown in Table 3-2: Parking Summary, Building A would provide 43 automobile parking spaces, including ADA, van accessible, and clean air vehicle spaces, along the western and northern perimeter of the building. A truck loading space is also proposed directly above the northeast corner of the building. Pedestrian access would be via a proposed 6-foot-wide sidewalk along the building's Hardt Street frontage. Additionally, bicycle parking would be provided.

Building B

Building B would be accessible via two proposed 26-foot-wide driveways along Hardt Street. Buildings A and B would share the central access drive off Hardt Street. Internal circulation would consist of a 26-foot-wide drive aisle adequate for fire access. As shown in Table 3-2: Parking Summary, Building B would provide 43 automobile parking spaces, including ADA, van accessible, and clean air vehicle spaces, along the western, eastern, and northern perimeter of the building. A truck loading space is also proposed directly above the northwest corner of the building. Pedestrian access would be via a proposed 6-foot-wide sidewalk along the building's Hardt Street frontage. Additionally, bicycle parking would be provided.

Building C

Building C would be accessible via two proposed 30-foot-wide driveways along Hardt Street. Internal circulation would consist of a 27-foot-wide to 30-foot-wide drive aisle with fire access. As shown in Table 3-2: Parking Summary, Building C would provide 46 automobile parking spaces, including ADA, van accessible, and clean air vehicle spaces, along the western, eastern, and northern perimeter of the building. A truck loading space is also proposed south of the building adjacent to the proposed parking stalls. Pedestrian access would be via a proposed 6-foot-wide sidewalk along the building's Hardt Street frontage. Additionally, bicycle parking would be provided.

Buildings D1 and D2

Buildings D1 and D2 would be accessible via two proposed 26-foot-wide driveways along East Brier Drive. Internal circulation would consist of a 26-foot-wide drive aisle adequate for fire access. As shown in Table 3-2: Parking Summary, Building D1 includes 41 parking spaces and Building D2 includes 40 parking spaces for a total of 81 parking spaces. Parking for both buildings would include ADA, van accessible, and clean air vehicle spaces, along the western, eastern, and southern perimeter of the building. Each building also includes one truck loading space located north of the buildings, across from the grade level doors. Pedestrian access would be via a proposed 6-foot-wide sidewalk along the buildings' East Brier Drive frontage. Additionally, bicycle parking would be provided.

Table 3-2. Parking Summary

	Building A	Building B	Building C	Building D1	Building D2	Total
Standard Stalls	37	37	40	35	34	183
Accessible Standard Stalls	1	1	1	1	1	5
Accessible Van Stalls	1	1	1	1	1	5
Clean Air Vehicle Stalls	4	4	4	4	4	20
Total	**43**	**43**	**46**	**41**	**40**	**213**
Truck Loading Stall	1	1	1	1	1	5

Landscaping and Fencing

As shown in Table 3-3, Proposed Landscaping, the proposed Project includes approximately 63,147 SF of ornamental landscaping that would cover approximately 24 percent of the overall Project site. Proposed landscaping would include 36-inch and 24-inch box trees, 5-gallon trees, various shrubs and groundcover. Project landscaping would be consistent with the City landscaping standards per the City of San Bernardino Municipal Code Chapter 19.28.010, Landscaping Standards. Screening walls approximately 6-feet tall are also proposed throughout the Project site to conceal the trash enclosures within each property boundary. Figures 3-3a-d, *Landscape Plans,* illustrate the proposed landscaping for each building.

Table 3-3. Proposed Landscaping

	Building A	Building B	Building C	Building D1	Building D2	Total
Landscape Area	15,030 SF	13,356 SF	13,367 SF	10,697 SF	10,697 SF	63,147 SF
Percent of Total Site Area	27.67%	23.61%	24.73%	24.18%	24.18%	24.92%

Easements

Building A

A 5-foot utility easement is proposed along the southern property line and a parking easement for eight cars would be included on Lot 31 adjacent to Building A.

Building B

A 15-foot sewer easement is proposed along the western property line.

Building C

A 5-foot utility easement is proposed along the northern property line, south of Hardt street.

Buildings D1 & D2

A 15-foot sewer easement is proposed along the western property line of Building D1.

Infrastructure Improvements

The proposed Project would construct onsite infrastructure, including onsite gutter and storm drain improvements and would connect to the existing utility infrastructure along Hardt Street and East Brier Drive.

Water and Sewer Improvements

The Project would install new onsite water lines for Buildings A, B and C which would connect to the existing 12-inch water line in Hardt Street. The Project would also install new onsite water lines for Buildings D1and D2 which would connect to the existing 12-inch water line in East Brier Drive.

Additionally, the Project would install new onsite sewer lines for Buildings A, B and C which would connect to the existing 8-inch sewer line in Hardt Street and onsite sewer lines for Buildings D1and D2 which would connect to the existing 8-inch sewer line in East Brier Drive.

Drainage Improvements

The Project would collect drainage via multiple inlets which would convey stormwater to proposed onsite water quality bioretention basins and underground detention systems for treatment and discharge.

Drainage for Buildings A and B would be accommodated via two biofiltration basins and an underground detention system. The two biofiltration basins would be located southwest and south of Building A and would discharge treated runoff onto Hardt Street. The underground detention system would be located underground to the east of Building A. The underground detention system would convey runoff into a modular wetlands system for water quality and ultimately be discharged via pump onto Hardt Street. In the 100-year storm event, runoff would spill over the top of the proposed biofiltration basins and discharge onto Hardt Street.

Drainage for Building C would be accommodated via two biofiltration basins located northeast and northwest of the building. Treated runoff would discharge onto Hardt Street. In the 100-year storm event, runoff would spill over the top of the biofiltration basins and flow onto Hardt Street.

Drainage for Buildings D1 and D2 would be accommodated via a modular wetlands system and an underground detention system located beneath the central drive aisle. The underground detention system would convey runoff into a modular wetlands system for water quality and ultimately be discharged via pump onto Brier Drive. In the 100-year storm event, runoff would spill over the top of the proposed biofiltration basin and discharge onto Brier Drive.

3.3 CONSTRUCTION AND PHASING

Construction activities for the Project would occur over two phases and would include site preparation, grading, building construction, paving, and architectural coatings. Phase one would include all grading activities, street improvements, and construction of Buildings A, B, and C. The second phase would include construction of Buildings D1 and D2. Grading work of soils is expected to result in a total cut of 5,300 cubic yards (CY) and total fill of 2,300 CY of soils for a net soil export of 3,000 CY1. Table 3-4 lists the anticipated cut and fill amount for the proposed buildings. Construction is expected to occur over eight months and would occur within the hours allowable by the San Bernardino Code Chapter 8.54.070, which states that construction shall occur only between the hours of 7:00 AM and 8:00 PM.

1 Note: The modeling used in the air quality, greenhouse gas and noise analysis relied on a previous grading plan which included slightly lower grading quantities. However, this change is negligible and does not affect or change the conclusions of the modeling.

Table 3-4: Approximate Cut and Fill from Grading Work

Building	Cut (Cubic Yards)	Fill (Cubic Yards)
A & B	2,300	500
C & D1/D2	3,000	1,800
Total	**5,300**	**2,300**

3.4 OPERATIONAL CHARACTERISTICS

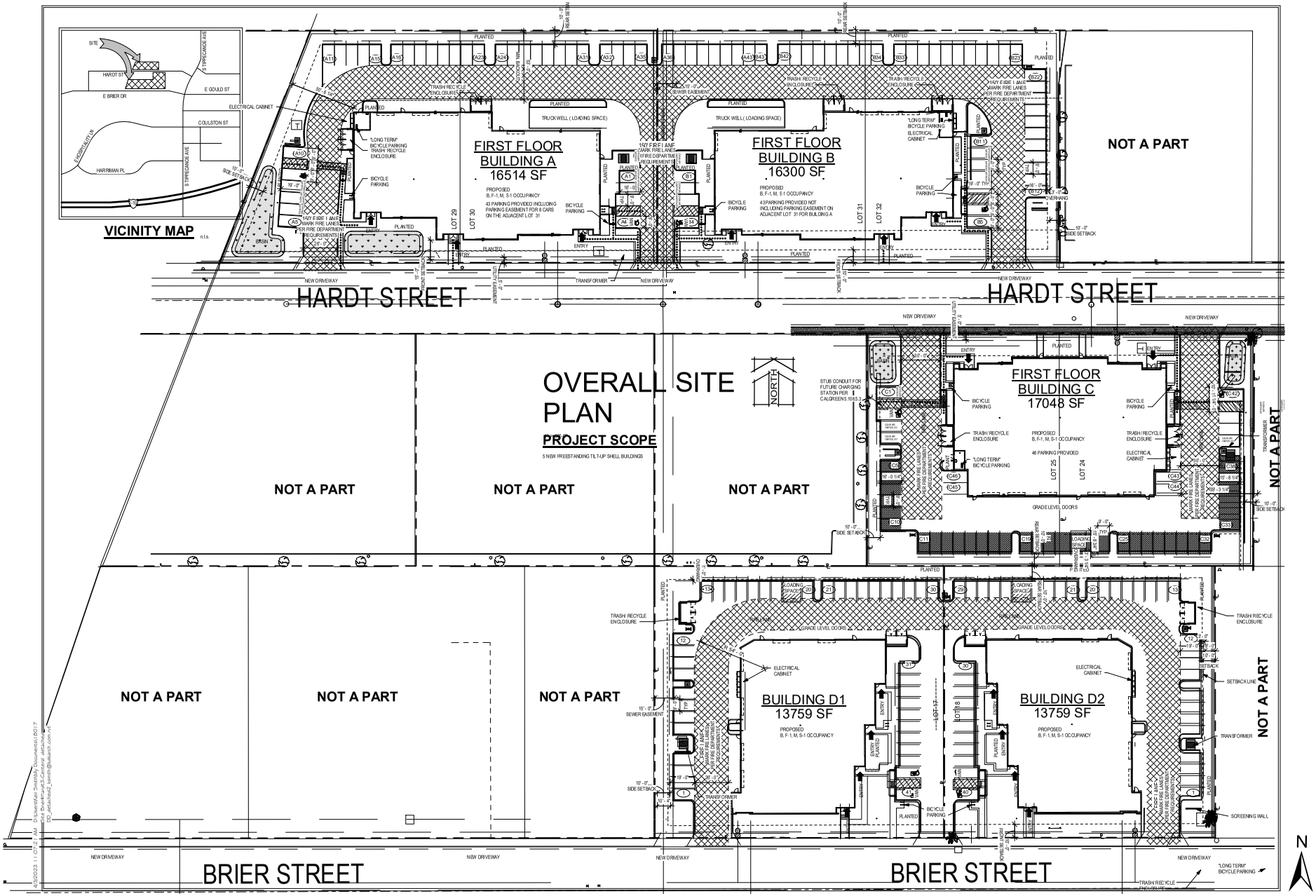
The Project would maintain and operate five speculative business park/commercial service buildings. The buildings are anticipated to be operated 24 hours a day, 7 days a week and would be used to accommodate single or multi tenants. Additionally, trucks are anticipated to support the operations of future tenants.

3.5 DISCRETIONARY APPROVALS, PERMITS, AND STUDIES

The following discretionary approval, permits, and studies are anticipated from the City of San Bernardino to be necessary for implementation of the proposed Project:

- Development Plan Approval
- Lot Mergers
- Approvals and permits necessary to execute the proposed Project, including but not limited to, demolition permit, grading permit, building permit, etc.

Conceptual Site Plan



Hardt and Brier Business Park
City of San Bernardino

Figure 3-1

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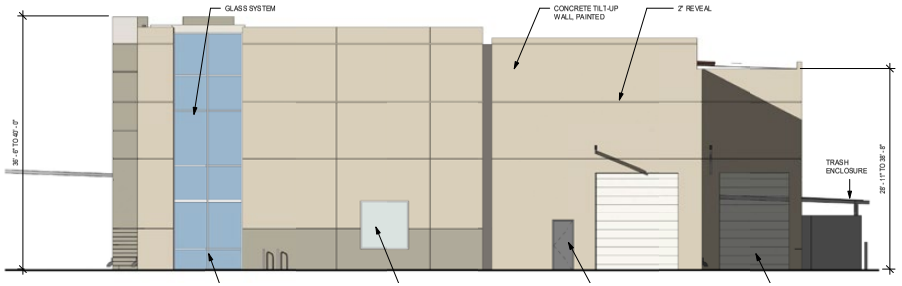
Elevations Building A

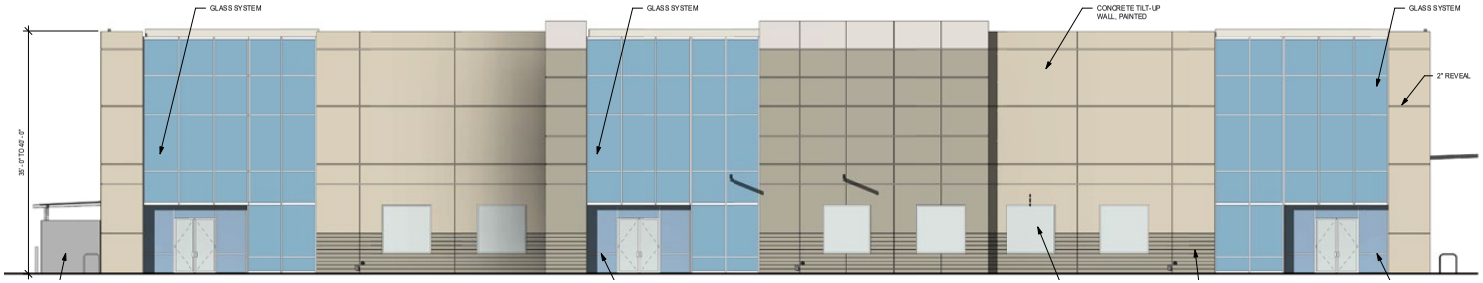


EAST

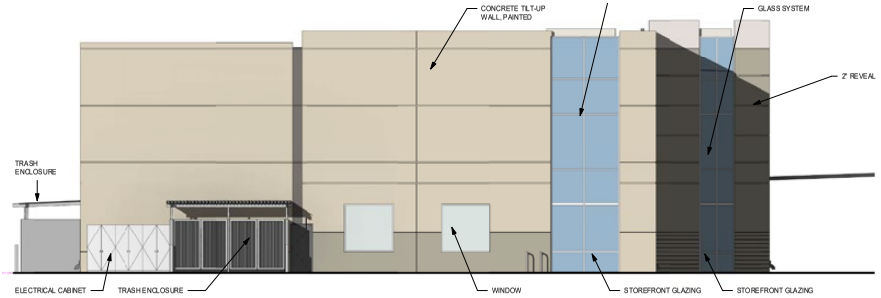
EXTERIOR PAINT :

COLORS SHALL BE SHERWIN-WILLIAMS PAINT TO MATCH NUMBERS BELOW.

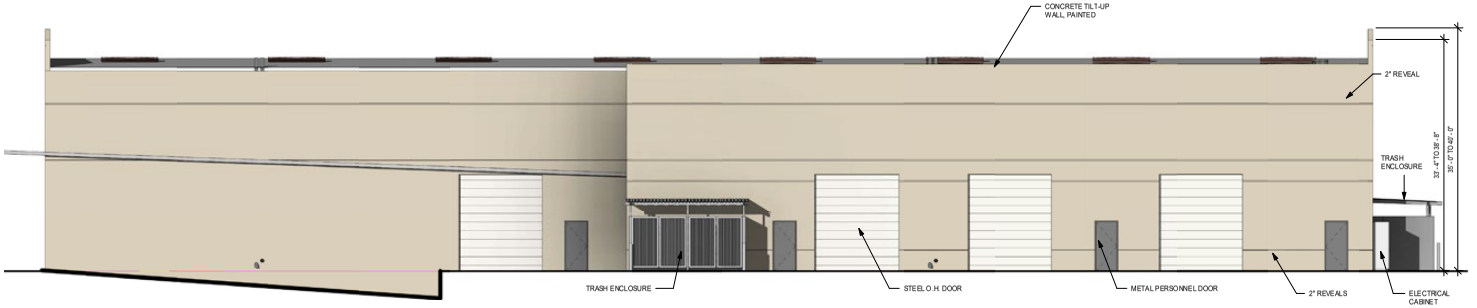
- A SW 6203 SPARE WHITE
- B SW 7667 ZIRCON
- C SW 7669 SUMMIT GRAY



SOUTH



WEST



NORTH

Hardt and Brier Business Park
City of San Bernardino

Figure 3-2a

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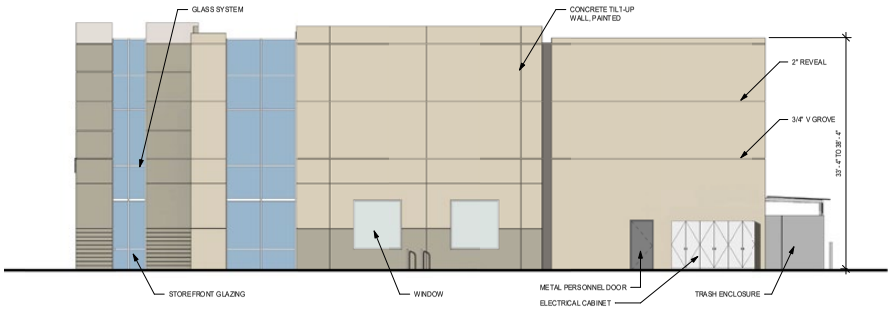
Elevations Building B



EAST

EXTERIOR PAINT :

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- A SW 6203 SPARE WHITE
- B SW 7667 ZIRCON
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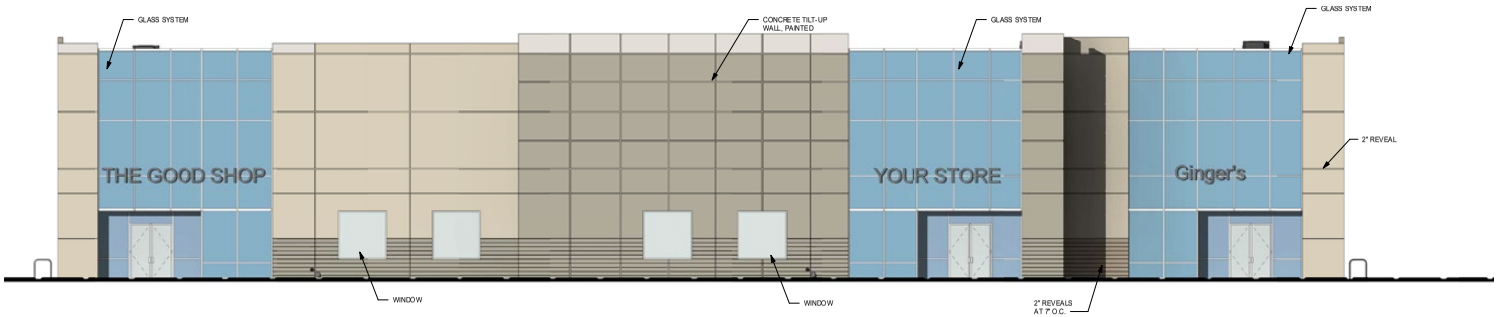
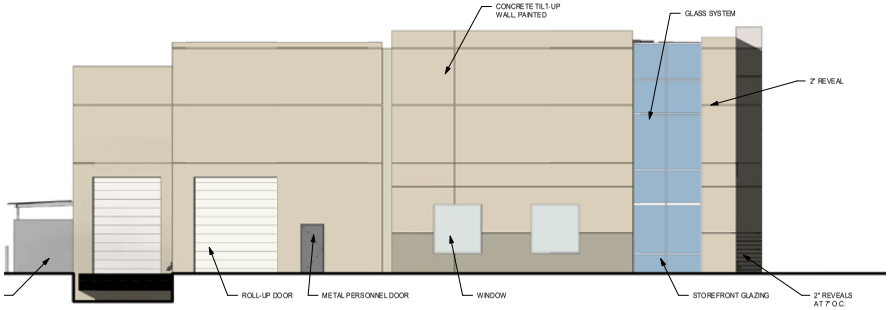


SOUTH



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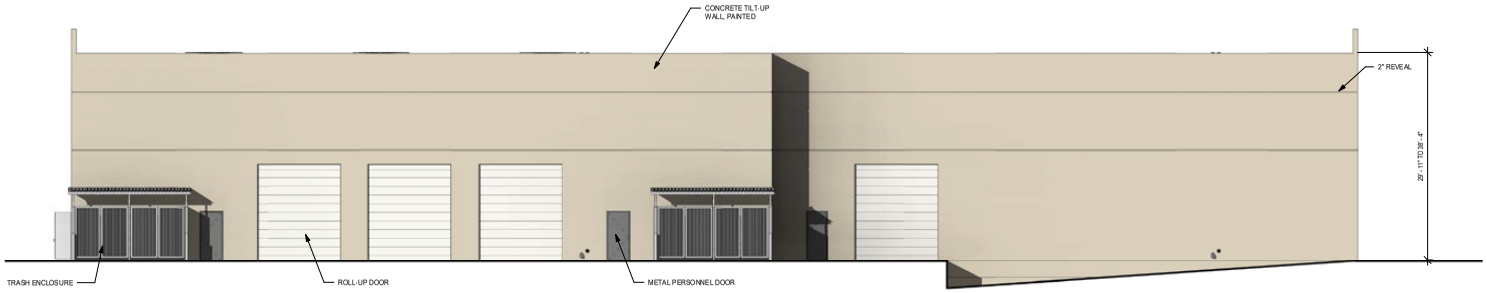

NORTH

Hardt and Brier Business Park
City of San Bernardino

Figure 3-2b

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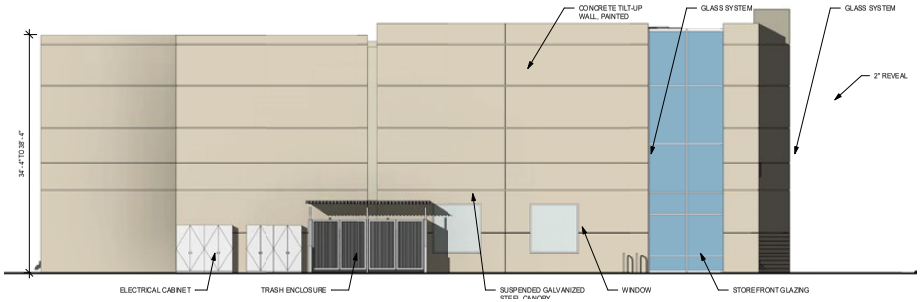
Elevations Building C



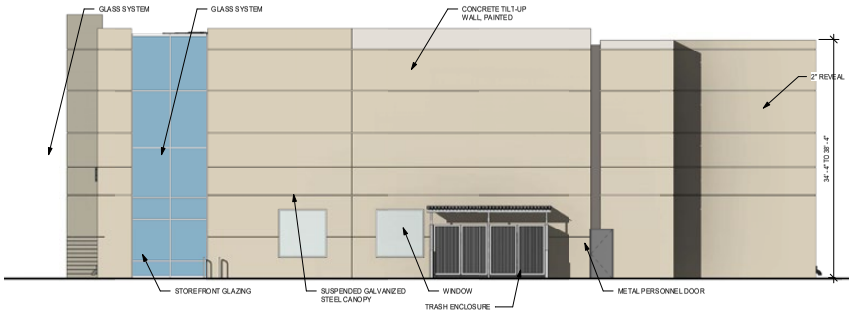
EAST

EXTERIOR PAINT :

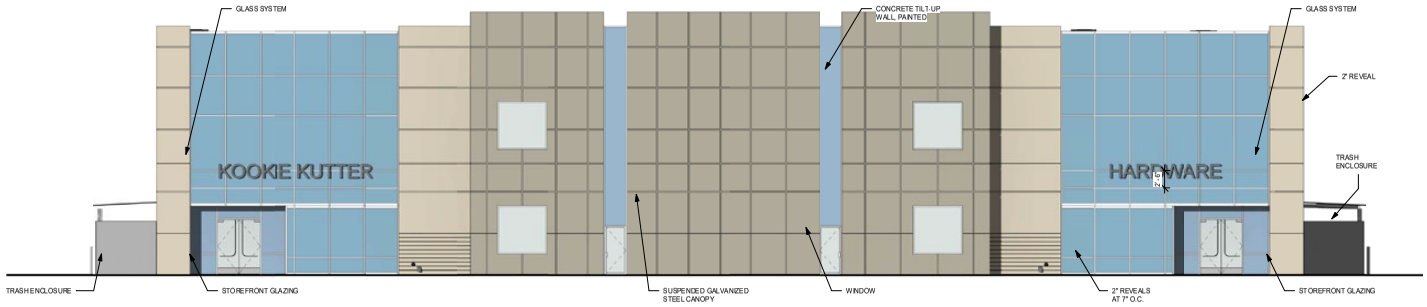
COLORS SHALL BE SHERWIN-WILLIAMS PAINT TO MATCH NUMBERS BELOW.

- A SW 6203 SPARE WHITE
- B SW 7667 ZIRCON
- C SW 7669 SUMMIT GRAY

SOUTH



WEST



NORTH

Hardt and Brier Business Park
City of San Bernardino

Figure 3-2c

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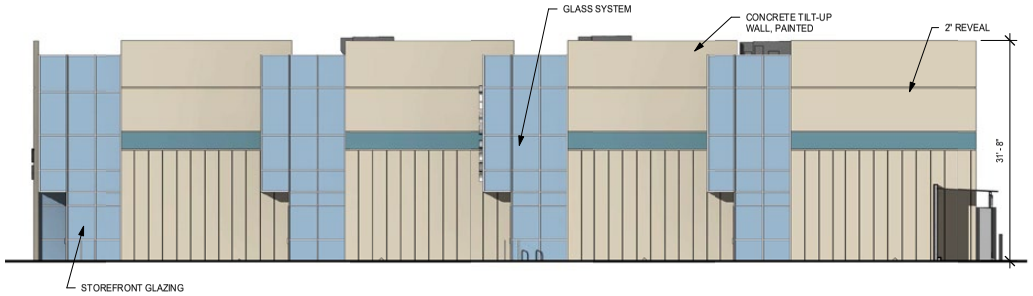
Elevations Buildings D1 and D2



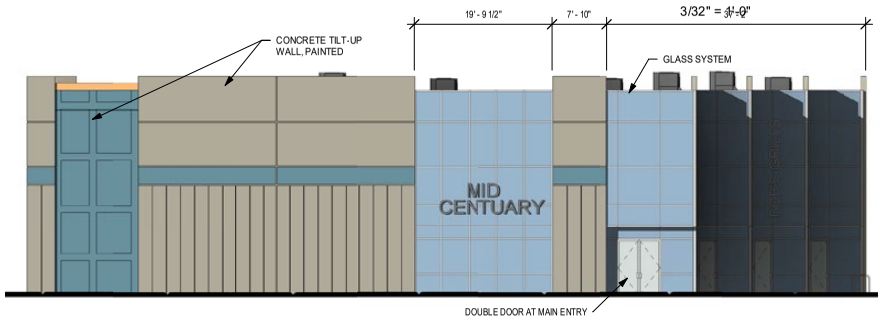
EAST

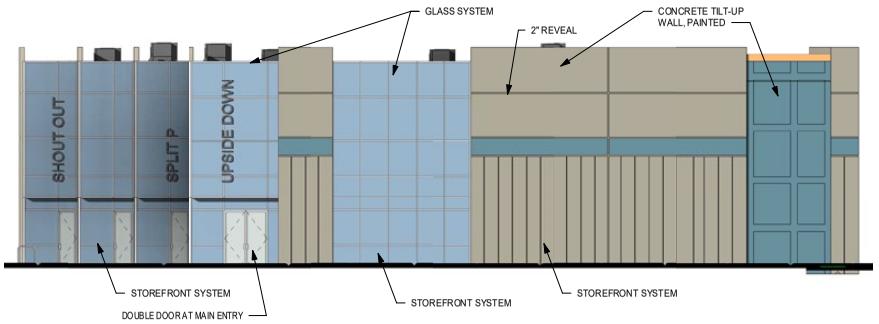
EXTERIOR PAINT :

COLORS SHALL BE SHERWIN-WILLIAMS PAINT TO MATCH NUMBERS BELOW.

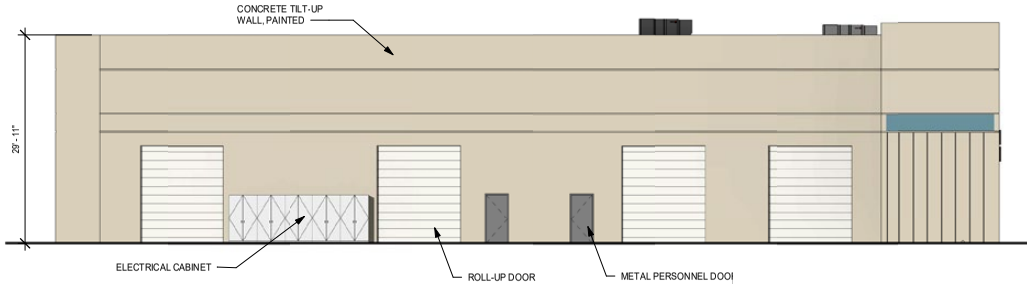
A	SW 6203 SPARE WHITE	
B	SW 7667 ZIRCON	
C	SW 7669 SUMMIT GRAY	

D2 ELEVATIONS ARE A FLOP OF D1





BRIER ST ELEVATION



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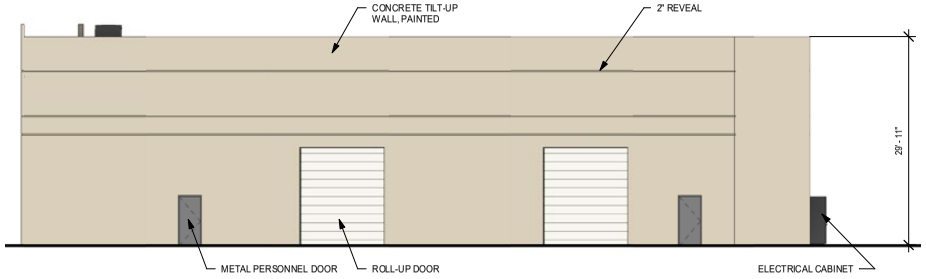

NORTH

Hardt and Brier Business Park
City of San Bernardino

Figure 3-2d

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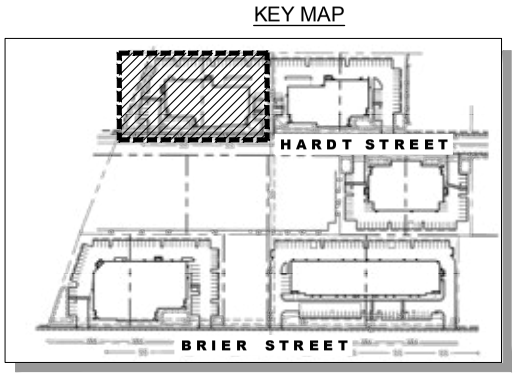
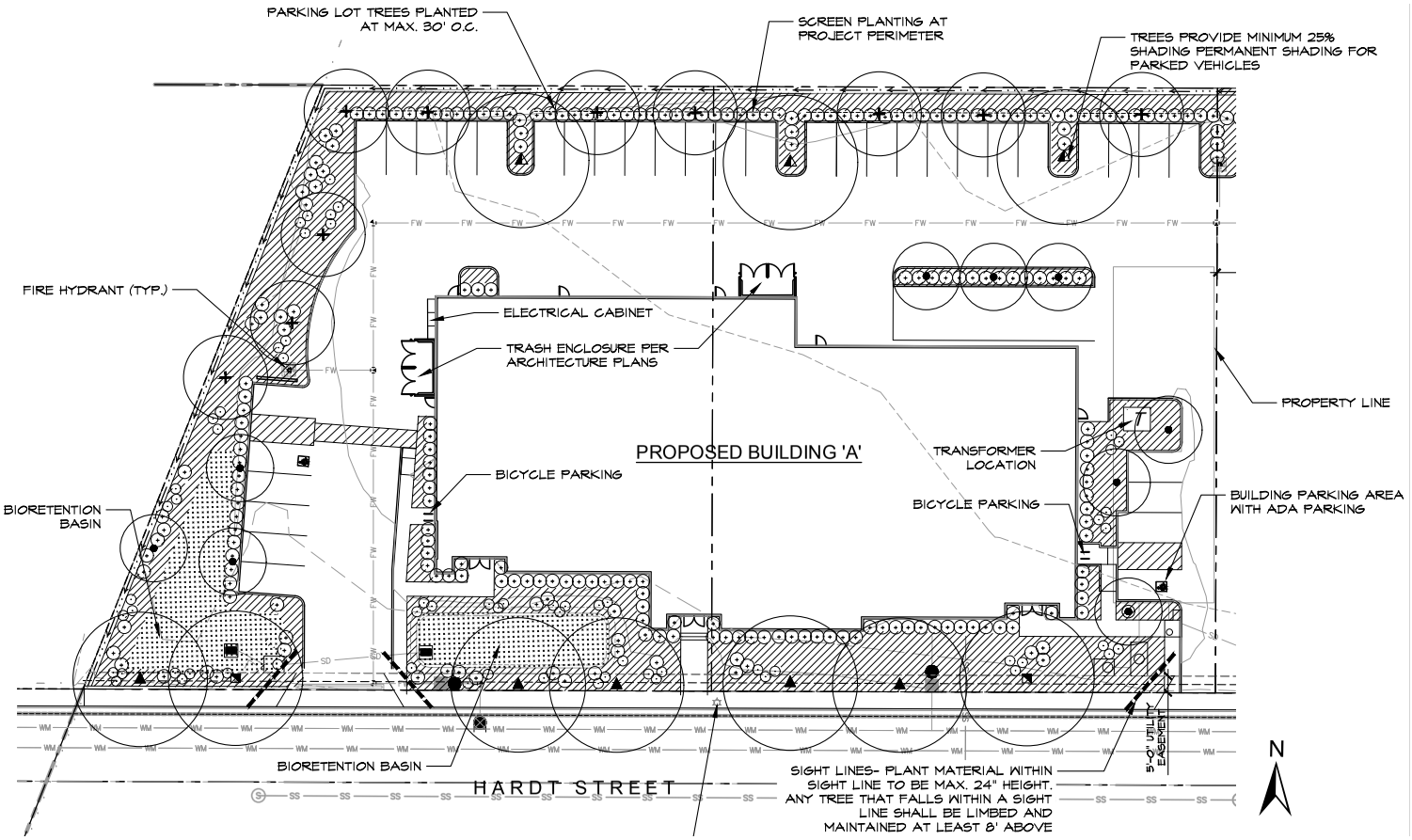
Landscaping Plan: Building A





Hardt and Brier Business Park
City of San Bernardino

Figure 3-3a

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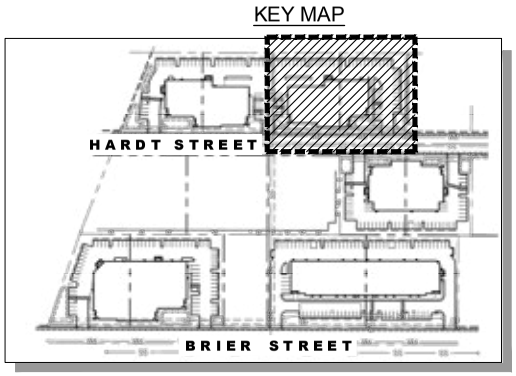
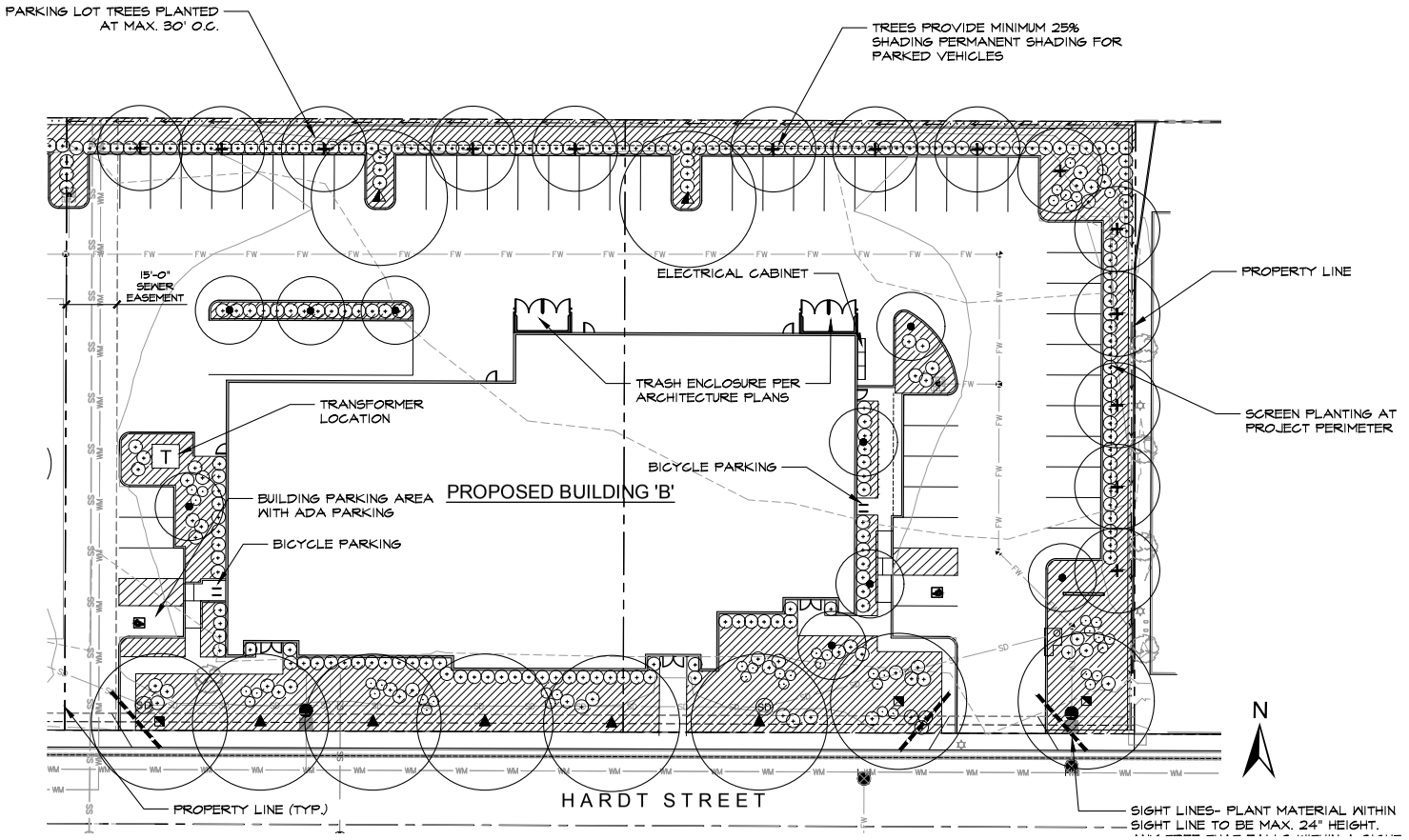
Landscaping Plan: Building B





Hardt and Brier Business Park
City of San Bernardino

Figure 3-3b

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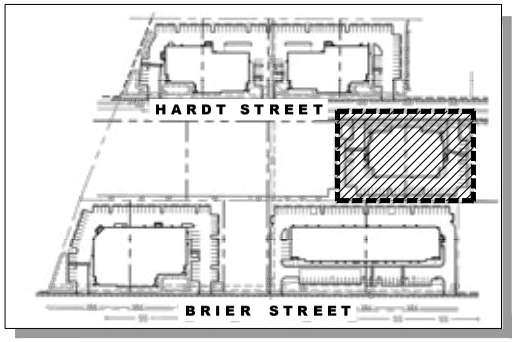
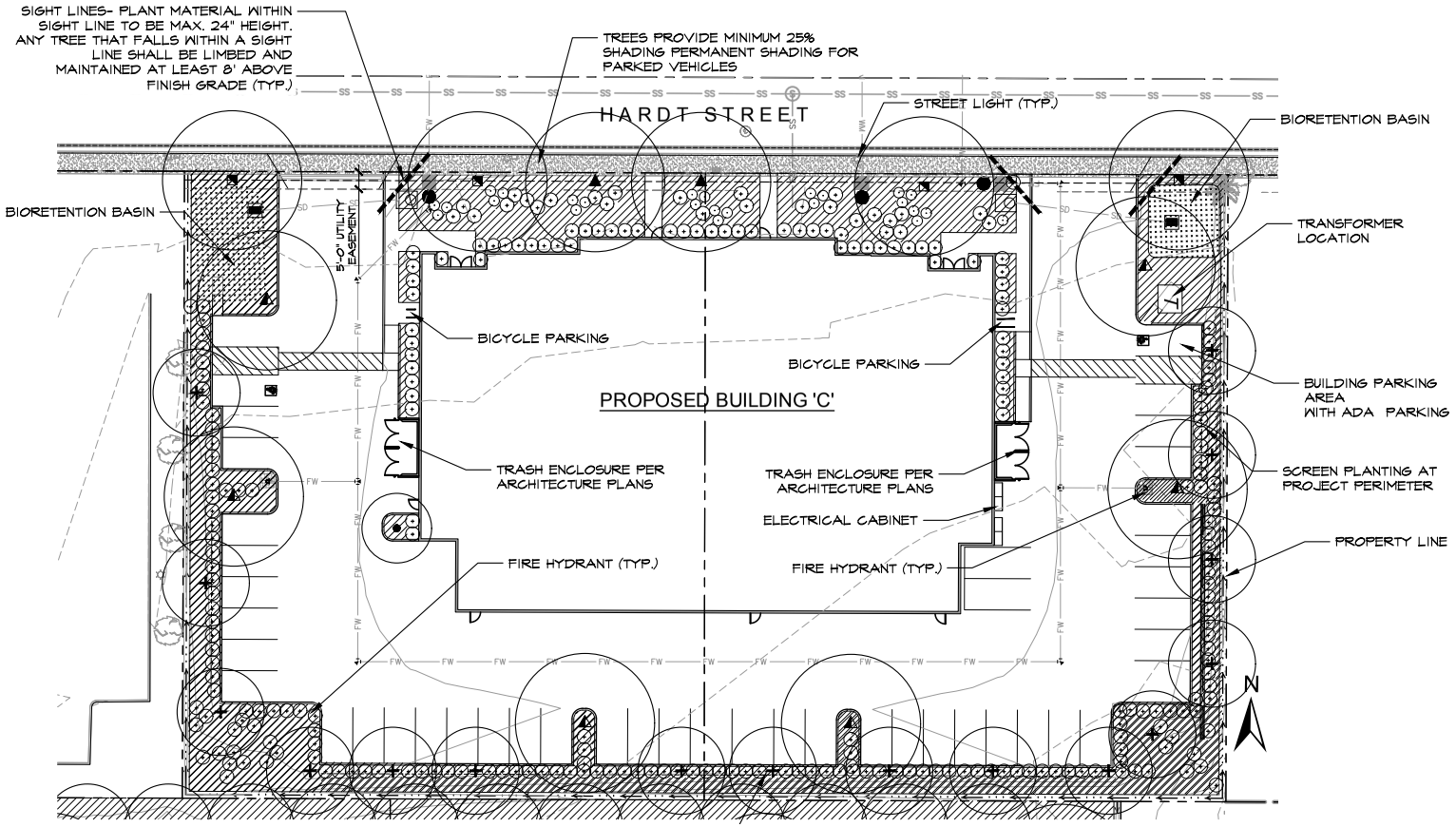
Landscaping Plan: Building C

KEY MAP





Hardt and Brier Business Park
City of San Bernardino

Figure 3-3c

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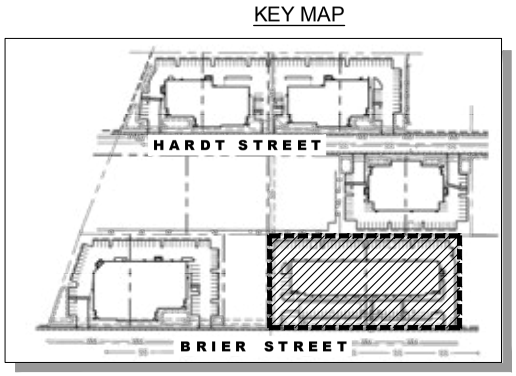
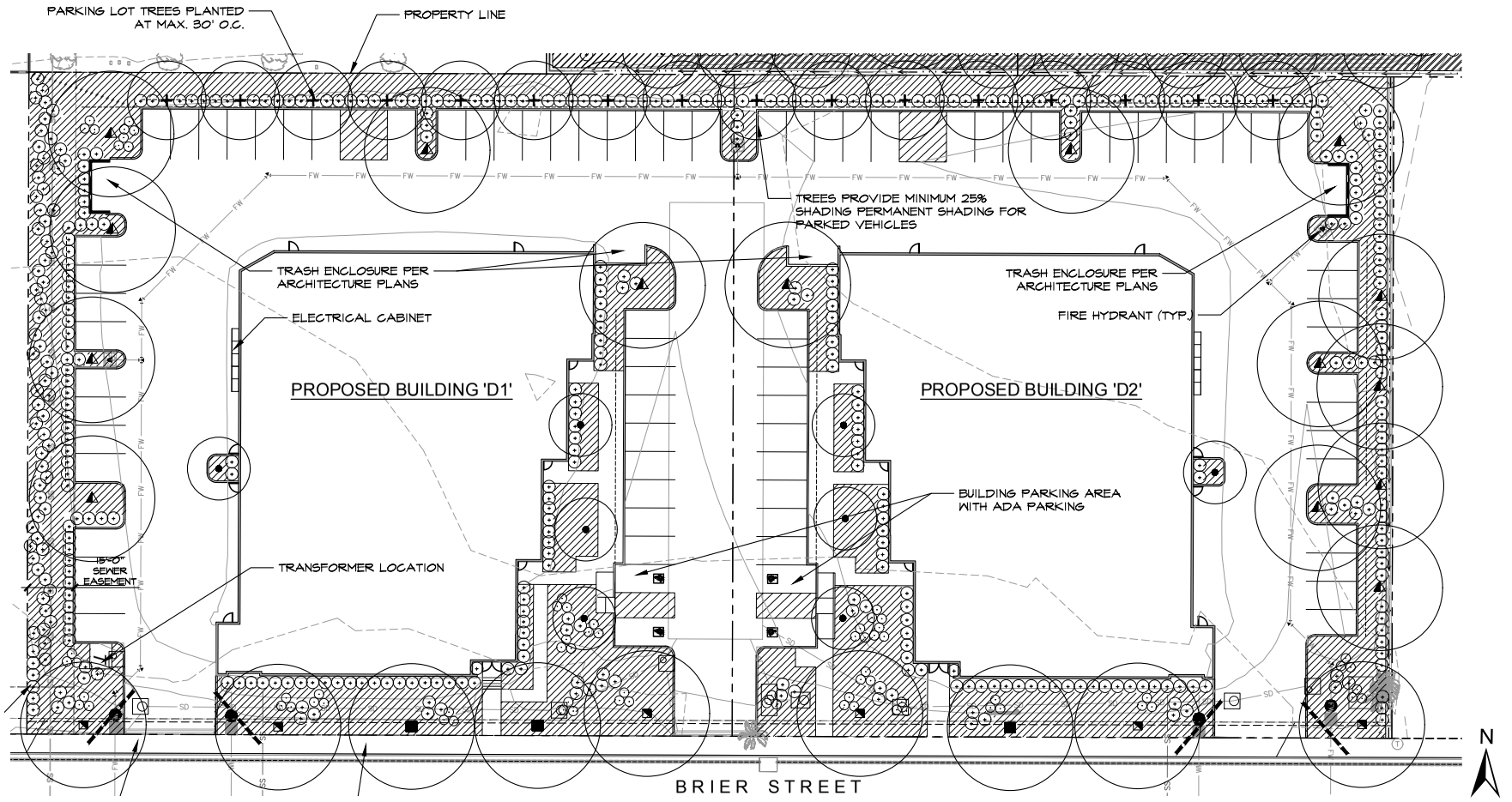
Landscaping Plan: Building D





Hardt and Brier Business Park
City of San Bernardino

Figure 3-3d

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4 ENVIRONMENTAL CHECKLIST

4.1 BACKGROUND

Date: October 2023
Project Title: Hardt and Brier Business Park Project
Lead Agency: City of San Bernardino, 290 N D Street San Bernardino, CA 92401
Lead Agency Contact: Mike Rosales City of San Bernardino, Planning Department Rosales_Mi@sbcity.org (909) 384-5930
Project Location: 5.81-acre site comprised of eight parcels located within the southeastern portion of the City of San Bernardino and is bounded by East Brier Drive and Hardt Street with South Tippecanoe Avenue 500 feet east from the site.
Project Sponsor's Name and Address: Hamann Construction 1000 Pioneer Way El Cajon, CA 92020
General Plan and Zoning Designation: The Project site has a General Plan land use designation of Commercial (CR-3) and a zoning designation of Commercial Regional Tri-City/Club (CR-3) and Transit Overlay District (TD).
Project Description: The Project applicant is proposing three lot mergers to develop five new speculative business park/commercial service buildings with a total combined footprint of 77,380 SF. The Project would include associated parking, sidewalks, utility infrastructure including bioretention basins, and landscape improvements corresponding with each building. Figure 3-1, *Conceptual Site Plan*, illustrates the proposed site plan.
Other Public Agencies Whose Approval is Required: Not Applicable

4.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below (☒) would be potentially affected by this Project, involving at least one impact that is a "Potentially Significant Impact" or "Less than Significant with Mitigation Incorporated" as indicated by the checklist on the following pages.

☐	Aesthetics	☐	Agriculture and Forest Resources	☐	Air Quality
☒	Biological Resources	☐	Cultural Resources	☐	Energy
☐	Geology/Soils	☐	Greenhouse Gas Emissions	☒	Hazards and Hazardous Materials
☐	Hydrology/Water Quality	☐	Land Use/Planning	☐	Mineral Resources
☐	Noise	☐	Population/Housing	☐	Public Services
☐	Recreation	☐	Transportation	☒	Tribal Cultural Resources
☐	Utilities/Service Systems	☐	Wildfire	☒	Mandatory Findings of Significance

4.3 DETERMINATION:

(To be completed by the Lead Agency) on the basis of this initial evaluation

☐	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
☒	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
☐	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
☐	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
☐	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

10/24/23

Signature Date

Michael B Rosales

Printed Name For

EVALUATION OF ENVIRONMENTAL IMPACTS

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to

a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analysis," as described in (5) below, may be cross-referenced).

5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(d). In this case, a brief discussion should identify the following:

   (a) Earlier Analysis Used. Identify and state where they are available for review.

   (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   (c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

5 ENVIRONMENTAL ANALYSIS

This section provides evidence to substantiate the conclusions in the environmental checklist.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.1 AESTHETICS. Except as provided in Public Resources Code Section 21099 would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

a) Have a substantial adverse effect on a scenic vista?

Less Than Significant Impact. Scenic vistas consist of expansive, panoramic views of important, unique, or highly valued visual features that are seen from public viewing areas. This definition combines visual quality with information about view exposure to describe the level of interest or concern that viewers may have for the quality of a particular view or visual setting. A scenic vista can be impacted in two ways: a development project can have visual impacts by either directly diminishing the scenic quality of the vista or by blocking the view corridors or "vista" of the scenic resource. Important factors in determining whether a proposed project would block scenic vistas include the project's proposed height, mass, and location relative to surrounding land uses and travel corridors. The City of San Bernardino General Plan (GP) describes visual resources, such as the hills that establish the dramatic visual backdrop to the City, should be thoughtfully integrated into the ever- developing urban fabric, with particular focus on preserving significant ridgelines and other unique formations to ensure that future generations may enjoy the City's distinctive vistas. Areas that could benefit from sensitive treatment of the land include Kendall Hills, San Bernardino Mountains, the hillsides adjacent to Arrowhead Springs, Lytle Creek Wash, East Twin Creeks Wash, the Santa Ana River, Badger Canyon, Bailey Canyon, and Waterman Canyon.

The proposed Project is surrounded by existing development, trees, and lighting poles that obstruct views from vantage points on East Brier Drive and Hardt Street. No unobstructed expansive scenic vistas or protected viewsheds exist from vantage points near the Project site on East Brier Drive or Hardt Street. The only partially unobstructed viewshed from nearby public vantage points are of the San Bernardino Mountains to the northeast. However, the proposed Project would include setbacks and other building

standards that are consistent with the zoning designation of HI and other nearby developments, as shown in Table AES-1. Thus, partial views of the San Bernardino Mountains to the northeast from East Brier Drive and Hardt Street would not be further obstructed from implementation of the proposed Project in compliance with development standards. Therefore, the Project would not impact any scenic vistas or protected viewsheds and impacts would be less than significant.

b) Substantially damage scenic resources, including trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The Project site is not near to, nor visible from, any state scenic highways. The closest Officially Designated State Scenic Highway is a portion of State Route 38, approximately 35 miles east from the Project site. The closest Eligible State Scenic Highway is another portion of State Route 38, located approximately 5.5 miles from the Project site. The Project site is not visible from the officially designated or eligible portions of State Route 38. Therefore, due to the distance of the Project site from either a designated or eligible State scenic highway and the lack of scenic resources on-site, the proposed Project would not have a substantial effect upon a scenic highway corridor within which it is located and there would be no impacts.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less Than Significant Impact. The Project site is located in an urbanized and developed area in the City of San Bernardino. Implementation of the proposed Project would develop the 5.81-acre site with five new speculative business park/commercial service buildings. The following regulatory standards are applicable to development of the Project site and would ensure the preservation of visual character and quality through architecture, landscaping, and site planning.

City of San Bernardino Municipal Code

The following provisions from the Municipal Code are intended to minimize adverse aesthetic impacts associated with new development projects and are relevant to the proposed Project, as demonstrated below in Table AES-1.

Table AES-1: Project Consistency with Commercial Regional Tri-City/Club Development Standards

Commercial Regional Tri-City/Club (CR-3) Development Standards		Project Consistency
Minimum Net Lot Area	10,000 SF	54,041 SF (Minimum lot area Site C)
Maximum Lot Coverage	75%	31%
Maximum Structure Height	4 stories/52 feet	40 feet
Minimum Front Yard Setback	15 feet	15 feet
Minimum Rear Yard Setback	10 feet	55 feet
Minimum Side Yard Setback	10 feet	52 feet (east and west)
Parking	1 space per 250 SF	213 spaces

Source: Table 06.02 and Section 19.24.040 of the City of San Bernardino Development Code

As shown above in Table AES-1, the proposed Project would be consistent with the CR-3 zone development standards regarding aesthetics and scenic quality. The proposed Project is also within the Transit Overlay District (TD), specifically, the Employment Center Station (ECS) area. The TD establishes standards beyond those required by the underlying base zones. Whenever the requirement of the TD conflicts with the underlying base zone, CR-3 for the proposed Project, the requirement of the TD shall govern. The TD and ECS provide additional standards for development; however, no conflict exists between the development standards provided within the CR-3 zone and the TD as defined in the City of San Bernardino Municipal Code Section 19.19A. Additionally, although the proposed Project has fewer onsite parking stalls than required by the CR-3 and TD standards, reductions in onsite parking can be justified as part of Project

approval by utilizing shared parking, unbundled parking, in-lieu parking fees, or other parking reduction techniques. The proposed Project would comply with Assembly Bill 2097 which prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, that is located within 12 mile of public transit, thereby reducing the number of automobile parking stalls required for the Project. The Project site is located within a half a mile of the Tippecanoe Metrolink Station; therefore, the Project is eligible to utilize AB 2097. Additionally, the reduction in parking would be in line with the State's initiative to reduce dependency on automobiles as well as the intent of the City of San Bernardino's Transit Overlay District which allows the city to refine the parking requirements, applying techniques such as parking maximums (e.g., no minimum parking requirements) as the transit system matures, as defined above.

In addition, the proposed Project includes approximately 63,147 SF of ornamental landscaping that would cover approximately 25 percent of the overall Project site. Proposed landscaping would include 36-inch and 24-inch box trees, 5-gallon trees, various shrubs and groundcover to screen the proposed buildings, bioretention basins, and parking and loading areas from off-site viewpoints. The use of landscaping on site would provide visual depth and distance between the adjacent roadways and proposed structures. Project landscaping would be consistent with the city landscaping standards per the City of San Bernardino Municipal Code Chapter 19.28.010, Landscaping Standards. As a result, the Project would not result in the creation of an aesthetically offensive site open to public view. Therefore, while the proposed Project would physically alter the visual character of the site, it would not substantially degrade the existing visual character or quality of its surroundings. As discussed above, the proposed Project is consistent with the existing visual character and quality of the site and its surroundings, being urbanized and developed, and is consistent with development standards for the designations. Therefore, the Project would result in less than significant impacts on visual character and quality.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less Than Significant Impact. Implementation of the proposed Project would develop the undeveloped site with approximately 81,210 SF of commercial space, which would result in an average FAR of 0.32. The Project would be located in a primarily developed and urbanized area in the City of San Bernardino alongside other commercial developments in the CR-3 zone. Implementation of existing regulatory requirements per the City's Municipal Code Section 19.20.030 (General Standards – Glare; General Standards – Lighting), would be incorporated into development of the Project. As per the code, no glare incidental to any use shall be visible beyond any boundary line of the parcel. Per Section 19.20.030, exterior lighting is required to be shielded or recessed so that direct glare and reflections are contained within the boundaries of the Project site. Additionally, the City's Municipal Code Section 19.19A.050 (Building Form and Placement) sets the ground floor transparency standard at a minimum 50 percent for the Employment Center Station Areas within the TD overlay zone, where the ground floor building façade facing a street frontage line shall consist of minimum standard of glass doors, windows, or other transparent materials.

The proposed building materials do not consist of highly reflective materials, lights would be shielded consistent with Municipal Code requirements, and the proposed landscaping along Project boundaries would screen sources of light and reduce the potential for glare. The proposed Project would create limited new sources of light or glare from security and site lighting but would not adversely affect day or nighttime views in the area given the similarity of the existing lighting in the surrounding urbanizing environment. As a result, the Project would not result in the creation of an aesthetically offensive site open to public view. Therefore, while the proposed Project would physically alter the site, it would not substantially degrade the existing visual character or quality of its surroundings. As discussed above, the proposed Project is consistent with the existing visual character and quality of its surroundings and is consistent with development standards for the site designations. Therefore, the Project would result in less than significant impacts on visual character and quality.

Plans, Programs, or Policies (PPPs)

PPP AES-1: Outdoor Lighting. All outdoor luminaires installed shall be appropriately located and adequately shielded and directed such that no direct light falls outside the parcel of origin, or onto the public right-of-way. In addition, outdoor luminaires shall not blink, flash, or rotate and shall be shown on electrical plans submitted to the Department of Building and Safety for plan check approval and shall comply with the requirements of Municipal Code Section 19.20.030.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.2 AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. The State of California Department of Conservation's Farmland Mapping and Monitoring Program is charged with producing maps for analyzing impacts on the state's agricultural resources. California's agricultural lands are rated based on soil quality and irrigation status. For CEQA purposes, the following categories qualify as "agricultural land": Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, and Grazing Land.

The proposed Project would develop five new single-story business park/commercial service buildings on an undeveloped 5.81-acre site consisting of eight parcels of land. There are currently no agricultural activities within or adjacent to the Project site, which is developed and urban. In addition, the Project site is identified as "Urban Built-Up Land" by the California Department of Conservation's California Important Farmland Finder (FMMP, 2023). Therefore, the Project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance by the California Department of Conservation. The Project site is currently designated as a CR-3 GP land use and has a zoning designation of CR-3. The current zoning designation does not allow for agricultural uses and no agricultural uses are expected to occur in the future. Implementation of the proposed Project would therefore not involve the conversion of any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses and no impacts related to the conversion of Farmland from the proposed Project would occur.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. The Williamson Act (California Land Conservation Act of 1965) restricts the use of agricultural and open space lands to farming and ranching by enabling local governments to contract with private landowners for indefinite terms in exchange for reduced property tax assessments. As described previously, the Project site has a GP land use designation of CR-3 and a zoning designation of CR-3. The current zoning designation does not allow for agricultural uses and no agricultural uses are expected to occur in the future. The Project site is not designated or zoned for agricultural use, used for agriculture, or subject to a Williamson Act contract. In addition, the Project site is identified as "Urban Built-Up Land" by the California Department of Conservation's California Important Farmland Finder (FMMP, 2023). Therefore, development of the site for commercial uses would not have an impact on agricultural zoning or a Williamson Act contract, and no impact would occur.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No Impact. "Forest land" is defined as "land that can support 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits." "Timberland" is defined as "land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees." "Timberland Production Zone" (TPZ) is defined as "an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, as defined in subdivision (h)."

The Project site is vacant and undeveloped and located in an urban area within the City of San Bernardino. There are no forest lands or resources on or in proximity to the Project site. Additionally, the Project site is not designated or zoned for forest or timber land or used for foresting. As such, development of the proposed Project would not cause rezoning of forest land, timberland, or timberland zoned Timberland Production, and no impacts would occur.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. As described previously, the Project site is vacant and undeveloped and located in an urban and developed area within the City of San Bernardino. There are no forest lands or forest resources on or in proximity to the Project site. Therefore, development of the proposed Project would not cause loss of forest land or convert forest land to non-forest use. No impact would occur to forest land or timberlands due to the loss or conversion of forest land to non-forest use.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

No Impact. The proposed Project includes the construction of five new speculative business park/commercial service buildings that would be consistent with the GP land use designation and zoning of the site.

As previously discussed within this section, the Project site does not contain existing farmland or forest land as designated by the GP, and therefore, development of the Project would not convert farmland or forest land. In addition, the Project site is identified as "Urban Built-Up Land" by the California Department of Conservation's California Important Farmland Finder. Based on the site location and its urban nature, the proposed Project would not cause conversion of farmland or forest land as the proposed Project would be developed consistent with the intended designated uses. Therefore, the Project would result in no impact.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.3 AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) affecting a substantial number of people?	☐	☐	☒	☐

This section was prepared using the Air Quality, Energy, and Greenhouse Gas Analysis Impact Analysis prepared by LSA in May 2023 (Appendix A). The Project was conservatively modeled over one phase of construction, as opposed to two phases as proposed by the applicant.

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less Than Significant Impact. The proposed Project site is located in the South Coast Air Basin (SCAB) and is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The SCAQMD and the Southern California Association of Governments (SCAG) are responsible for preparing the Air Quality Management Plan (AQMP), which addresses federal and state Clean Air Act (CAA) requirements. The AQMP details goals, policies, and programs for improving air quality in the SCAB. In preparation of the AQMP, SCAQMD and SCAG uses regional growth projections to forecast, inventory, and allocate regional emissions from land use and development-related sources. For purposes of analyzing consistency with the AQMP, if a proposed project would result in growth that is substantially greater than what was anticipated, then the proposed project would conflict with the AQMP. On the other hand, if a project's density is within the anticipated growth of a jurisdiction, its emissions would be consistent with the assumptions in the AQMP, and the project would not conflict with SCAQMD's attainment plans (Consistency Criterion 1). In addition, the SCAQMD considers a project consistent with the AQMP if the project would not result in an increase in the frequency or severity of existing air quality violations or cause a new violation (Consistency Criterion 2).

Furthermore, the SCAB is in a non-attainment status for federal ozone standards, and state and federal particulate matter standards. The SCAB has a maintenance status for federal PM_{10} standards. Any development in the SCAB, including the proposed Project, could cumulatively contribute to these pollutant violations. Should construction or operation of the proposed Project exceed these thresholds, a significant impact could occur; however, if estimated emissions are less than the thresholds, impacts would be considered less than significant.

The proposed Project applicant would develop the site with five speculative business park/commercial service buildings. The Project site has a GP land use designation of CR-3 and a zoning designation of CR-3. The proposed Project would develop the 5.81-acre site with a total building area of 81,210 SF. The proposed buildings would result in a total FAR of 0.32 and a building coverage of 31 percent, which is within the maximum allowable coverage of 75 percent in the CR-3 zone. Thus, implementation of the Project would not exceed the growth assumptions for the Project site as it is consistent with the GP land use and zoning. As a result, the proposed Project would be consistent with Consistency Criterion No. 1.

As discussed below, the emissions generated by the construction and operation of the proposed Project would not exceed applicable thresholds, and the Project would not result in an increase in the frequency or severity of existing air quality violations or cause a new violation. As such, the proposed Project would be consistent with Consistency Criterion No. 2. Therefore, impacts related to conflict with the AQMP from the proposed Project would be less than significant.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard)?

Less than Significant Impact. The SCAB is in non-attainment status for federal ozone standards, and state and federal particulate matter standards. The SCAB is designated as a maintenance area for federal PM_{10} standards. Any development in the SCAB, including the proposed Project, could cumulatively contribute to these pollutant violations. Evaluation of the cumulative air quality impacts of the proposed Project has been completed pursuant to SCAQMD's cumulative air quality impact methodology. SCAQMD states that if an individual project results in air emissions of criteria pollutants (VOC, CO, NOx, SOx, PM_{10}, and $PM_{2.5}$) that exceed the SCAQMD's recommended daily thresholds for project-specific impacts, then it would also result in a cumulatively considerable net increase of the criteria pollutant(s) for which the Project region is in non-attainment under an applicable federal or state ambient air quality standard. SCAQMD has established daily mass thresholds for regional pollutant emissions, which are shown in Table AQ-1.

Table AQ-1: SCAQMD Regional Daily Emissions Thresholds

Air Pollutant	Maximum Daily Emissions (pounds/day)	
	Construction	Operation
VOCs	75	55
NOx	100	55
CO	550	550
SO_2	150	150
PM_{10}	150	150
$PM_{2.5}$	55	55

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

Construction

Construction activities associated with the proposed Project would generate pollutant emissions from the following: (1) site preparation, (2) grading, (3) building construction, (4) paving, and (5) architectural coating. The amount of emissions generated on a daily basis would vary, depending on the intensity and types of construction activities occurring.

It is mandatory for all construction projects to comply with several SCAQMD Rules, including Rule 403 for controlling fugitive dust, PM_{10}, and $PM_{2.5}$ emissions from construction activities. Rule 403 requirements include, but are not limited to, applying water in sufficient quantities to prevent the generation of visible dust plumes, applying soil binders to uncovered areas, reestablishing ground cover as quickly as possible, utilizing a wheel washing system to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project site, covering all trucks hauling soil with a fabric cover and maintaining a freeboard height of 12-inches, and maintaining effective cover over exposed areas.

Compliance with Rule 403, included as PPP AQ-2, was accounted for in the construction emissions modeling. In addition, implementation of SCAQMD Rule 1113, included as PPP AQ-3, which governs the VOC content in architectural coating, paint, thinners, and solvents was accounted for in construction emissions modeling. As shown in Table AQ-2, the California Emissions Estimator Model (CalEEMod) results indicate that construction emissions generated by the proposed Project would not exceed SCAQMD regional thresholds. Therefore, construction activities would result in a less than significant.

Table AQ-2: Project Construction Emissions and Regional Thresholds

Construction Activity	Maximum Daily Regional Emissions (lbs/day)					
	VOCs	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Site Preparation	0.6	2.7	29.3	<0.1	8.0	4.1
Grading	0.4	4.7	20.1	<0.1	3.6	1.6
Building Construction	0.4	2.6	17.2	<0.1	0.6	0.2
Paving	0.4	2.0	11.7	<0.1	0.2	0.1
Architectural Coating	10.2	0.7	1.4	<0.1	0.1	<0.1
Maximum (lbs/day)	**10.7**	**4.7**	**29.3**	**<0.1**	**8.0**	**4.1**
SCAQMD Thresholds	75.0	100.0	550.0	150.0	150.0	55.0
Exceeds?	**No**	**No**	**No**	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)
Note: The Project was conservatively modeled over one phase of construction, as opposed to two phases as proposed by the applicant.

Operation

Implementation of the proposed Project would result in long-term regional emissions of criteria air pollutants and ozone precursors associated with area sources, such as natural gas consumption, landscaping, applications of architectural coatings, and consumer products. Operation of the proposed Project would include emissions from vehicles traveling to the Project site and from vehicles in the parking lots and loading areas. Area source emissions would occur from operation of the five speculative business park/service commercial buildings.

Operational emissions associated with the proposed Project were modeled using CalEEMod Version 2022.1 land use emission model and compared to the SCAQMD operational emissions thresholds. Emissions associated with operation of the proposed Project are presented in Table AQ-3. As shown, the proposed Project would result in long-term regional emissions below the SCAQMD's applicable thresholds. Therefore, the Project's operational emissions would not exceed the NAAQS and CAAQS, would not result in a cumulatively considerable net increase of any criteria pollutant, and impacts would be less than significant.

Table AQ-3: Project Operational Emissions and Regional Thresholds

Operational Activity	Maximum Daily Regional Emissions (lbs/day)					
	VOCs	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Mobile Sources	4.7	6.4	58.1	0.2	5.1	1.0
Area Sources	2.5	<0.1	3.5	<0.1	<0.1	<0.1
Energy Sources	<0.1	0.6	0.5	<0.1	0.1	0.1
Total trip Project Emissions	**7.3**	**7.0**	**62.2**	**0.2**	**5.1**	**1.1**
SCAQMD Thresholds	55.0	55.0	550.0	150.0	150.0	55.0
Significant?	**No**	**No**	**No**	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

c) Expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant Impact. The SCAQMD's *Final Localized Significance Threshold Methodology* (SCAQMD 2008) recommends the evaluation of localized NOx, CO, PM_{10}, and $PM_{2.5}$ construction-related impacts to

sensitive receptors in the immediate vicinity of the Project site. Such an evaluation is referred to as a localized significance threshold (LST) analysis. According to the SCAQMD's *Final Localized Significance Threshold Methodology*, "off-site mobile emissions from the Project should not be included in the emissions compared to the LSTs" (SCAQMD 2008). SCAQMD has developed LSTs that represent the maximum emissions from a project that are not expected to cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standards, and thus would not cause or contribute to localized air quality impacts. LSTs are developed based on the ambient concentrations of NOx, CO, PM_{10}, and $PM_{2.5}$ pollutants for each of the 38 source receptor areas (SRAs) in the Basin. The City of San Bernardino is located within SRA 34 (Central San Bernardino Valley).

Sensitive receptors can include residences, hospitals, schools, playgrounds, childcare centers, athletic facilities. The nearest sensitive receptor to the Project site is a surgery center located south of the Project, approximately 355 feet from the southern property line. Project construction and operation emissions were compared to the LST screening tables in SRA 34, based on a 109-meter source-receptor distance (355 feet) and a disturbed acreage of 3.5 acres.

Localized Construction Air Quality Analysis

Construction of the proposed Project may expose nearby residential sensitive receptors to airborne particulates as well as a small quantity of construction equipment pollutants (i.e., usually diesel-fueled vehicles and equipment). However, construction contractors would be required to implement measures to reduce or eliminate emissions by following SCAQMD's standard construction practices. Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. Rule 403 requires that fugitive dust be controlled with the best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. As shown in Table AQ-4, Project construction-source emissions would not exceed SCAQMD LSTs, and impacts would be less than significant.

Table AQ-4: Project Localized Significance Summary of Construction Emissions (lbs/day)

Source	NO_x	CO	PM_{10}	$PM_{2.5}$
On-Site Project Emissions	2.6	28.3	7.8	4.0
Localized Significance Threshold	331.0	3,800.0	57.0	16.0
Exceeds Threshold?	**No**	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)
The Project was conservatively modeled over one phase of construction, as opposed to two phases as proposed by the applicant.

Localized Operational Air Quality Analysis

Operation of the proposed Project would include mobile source emissions from vehicles traveling to the Project site and from vehicles in the parking lots and loading areas. Area source emissions would occur from landscaping maintenance and periodic architectural coating. Energy source emissions would occur from natural gas and electricity consumption. As demonstrated in Table AQ-5, emissions would not exceed SCAQMD LSTs for operations, and impacts would be less than significant.

Table AQ-5: Project Localized Significance Summary of Operation Emissions (lbs/day)

Source	NO_x	CO	PM_{10}	$PM_{2.5}$
On-Site Project Emissions	1.0	6.9	0.3	0.2
Localized Significance Threshold	331.0	3,800.0	14.0	4.4
Exceeds Threshold?	**No**	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

Long-Term Microscale (CO Hot Spot) Analysis

Vehicular trips associated with the proposed Project would contribute to congestion at intersections and along roadway segments in the Project vicinity. Localized air quality impacts would occur when emissions from vehicular traffic increase as a result of the proposed Project. The primary mobile-source pollutant of local concern is CO, a direct function of vehicle idling time and, thus, of traffic flow conditions. CO transport is

extremely limited; under normal meteorological conditions, CO disperses rapidly with distance from the source. However, under certain extreme meteorological conditions, CO concentrations near a congested roadway or intersection may reach unhealthful levels, affecting local sensitive receptors (e.g., residents, schoolchildren, the elderly, and hospital patients). Typically, high CO concentrations are associated with roadways or intersections operating at unacceptable levels of service or with extremely high traffic volumes. In areas with high ambient background CO concentrations, modeling is recommended to determine a project's effect on local CO levels.

An assessment of Project-related impacts on localized ambient air quality requires that future ambient air quality levels be projected. Existing CO concentrations in the immediate project vicinity are not available. Ambient CO levels monitored at the San Bernardino station, the closest station to the project site, showed a highest recorded 1-hour concentration of 2.0 ppm (the State standard is 20 ppm) and a highest 8-hour concentration of 1.6 ppm (the State standard is 9 ppm) during the past 3 years (Appendix A). The highest CO concentrations would normally occur during peak traffic hours; hence, CO impacts calculated under peak traffic conditions represent a worst-case analysis.

As described in the Traffic Impact Analysis Report, the proposed Project would generate 110 AM peak hour trips and 99 PM peak-hour trips. Given the extremely low level of CO concentrations in the project area, and lack of traffic impacts at any intersections, Project-related vehicles are not expected to contribute significantly to result in the CO concentrations exceeding the State or federal CO standards. As such, impacts related to CO would be less than significant.

Construction Health Risk Analysis

A construction HRA, which evaluates construction-period health risk to off-site receptors, was performed for the proposed Project. Table AQ-6, below, identifies the results of the analysis assuming the use of Tier 4 construction equipment, as proposed by the Project, at the Maximum Exposed Individual (MEI), which is the nearest sensitive receptor. The residential receptor MEI includes the single-family homes located at approximately 585 feet east of the Project site across Tippecanoe Avenue, the worker receptor MEI includes the office uses located immediately west of the project site, and the school receptor MEI includes the Victoria Elementary School, located approximately 3,135 feet east of the project site across Richardson Street. As shown in Table AQ-6, the maximum cancer risk for the residential receptor MEI would be 0.38 in one million, which would not exceed the SCAQMD cancer risk threshold of 10 in one million. The worker receptor risk and the school receptor risk would be lower at 0.07 in one million, which would also not exceed the SCAQMD cancer risk thresholds. The total chronic hazard index would be less than 0.001 for the residential and school receptor MEI and 0.006 for the worker receptor MEI, which is below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0.

Table AQ-6: Health Risks from Project Construction to Off-Site Receptors

Location	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Acute Inhalation Hazard Index
Residential Receptor Risk	0.38	<0.001	0.000
Worker Receptor Risk	0.07	0.006	0.000
School Receptor Risk	0.07	<0.001	0.000
SCAQMD Significance Threshold	**10.0 in one million**	**1.0**	**1.0**
Significant?	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)
The Project was conservatively modeled over one phase of construction, as opposed to two phases as proposed by the applicant.

Therefore, construction of the proposed project would not exceed SCAQMD thresholds and would not expose nearby sensitive receptors to substantial pollutant concentrations. No significant health risk would occur from Project construction emissions and impacts would be less than significant.

Operational Health Risk Analysis

The land use with the greatest potential exposure to Project operational-source DPM emissions are as indicated above. The carcinogenic and chronic health risks from the proposed Project are shown in Table AQ-7. The residential risk incorporates both the risk for a child living in a nearby residence for 9 years (the standard period of time for child risk) and an adult living in a nearby residence for 30 years (considered a conservative period of time for an individual to live in any one residence). As shown in Table AQ-7, the maximum cancer risk for the residential receptor MEI would be 7.55 in one million, less than the threshold of 10 in one million. The worker receptor risk would be 2.53 in one million and the school receptor would be 0.30 in one million, which is less than the threshold of 10 in one million. The total chronic hazard index would be 0.003 for the residential receptor MEI, 0.008 for the worker receptor MEI, and less than 0.001 for the school receptor MEI, which is below the threshold of 1.0. In addition, the total acute hazard index would be less than 0.001, which would also not exceed the threshold of 1.0.

Table AQ-7: Health Risks from Project Operation to Off-Site Receptors

Location	Carcinogenic Inhalation Health Risk in One Million	Chronic Inhalation Hazard Index	Acute Inhalation Hazard Index
Residential Receptor Risk	7.55	0.003	<0.001
Worker Receptor Risk	2.53	0.008	<0.001
School Receptor Risk	0.30	<0.001	<0.001
SCAQMD Significance Threshold	**10.0 in one million**	**1.0**	**1.0**
Significant?	**No**	**No**	**No**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

Therefore, all health risk levels to nearby residents from operation-related emissions of Toxic Air Contaminants (TACs) would be well below the SCAQMD's HRA thresholds. No significant health risk would occur from project operation emissions and impacts would be less than significant.

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Less Than Significant Impact. The proposed Project would not generate other emissions, not described previously. The Project site does not contain land uses typically associated with emitting objectionable odors. According to the SCAQMD CEQA Air Quality Handbook, land uses associated with odor issues include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting activities, refineries, landfills, dairies, and fiberglass molding operations. The proposed Project would develop and operate five speculative business park/commercial service buildings, which would not involve the types of uses that lead to odors.

Potential odor sources associated with the proposed Project may result from construction equipment exhaust and the application of asphalt and architectural coatings during construction activities and the temporary storage of typical solid waste (refuse) associated with the proposed Project's operational uses. Standard construction requirements would minimize odor impacts from construction. The construction odor emissions would be temporary, short-term, and intermittent in nature and would cease upon completion of construction; no impact would occur.

It is expected that Project-generated refuse would be stored in covered containers and removed at regular intervals in compliance with the County's solid waste regulations. The proposed project would also be required to comply with SCAQMD Rule 402 (included as PPP AQ-1) to prevent occurrences of public nuisance odors. Therefore, other emissions (such as those leading to odors) that could adversely affect a substantial number of people would not occur from the proposed Project.

Plans, Programs, or Policies (PPPs)

PPP AQ-1: Rule 402. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 402. The Project shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

PPP AQ-2: Rule 403. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 403, which includes the following:

- All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.
- The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the project are watered, with complete coverage of disturbed areas, at least 3 times daily during dry weather; preferably in the mid-morning, afternoon, and after work is done for the day.
- The contractor shall ensure that traffic speeds on unpaved roads and project site areas are reduced to 15 miles per hour or less.

PPP AQ-3: Rule 1113. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule (SCAQMD) Rule 1113. Only "Low-Volatile Organic Compounds" paints (no more than 50 gram/liter of VOC) and/or High Pressure Low Volume (HPLV) applications shall be used.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.4 BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☒	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

This section was prepared using the General Biological Assessment prepared by Hernandez Environmental Services in March 2023 (Appendix B).

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Less Than Significant Impact. A General Biological Assessment was prepared by Hernandez Environmental Services for the proposed Project, which included a field survey conducted on November 5, 2021, and a literature review (Appendix B). The General Biological Assessment describes that the majority of the site is undeveloped with minor human disturbance from vehicle access and consists primarily of ruderal habitat

characterized by sparse non-native vegetation. The Project site supports two land cover types that are classified as disturbed and undeveloped. According to the California Natural Diversity Database (CNDDB), U.S. Fish and Wildlife Service (USFWS), and California Native Plant Society (CNPS) Rare Plant Inventory, 56 sensitive plant species and 65 sensitive wildlife species have the potential to occur on or within the vicinity of the Project site. These include those species listed or candidates for listing by the USFWS, California Department of Fish and Wildlife (CDFW) and CNPS. All habitats with the potential to be used by sensitive species were evaluated during the field survey for their presence or potential presence.

Sensitive Plant Species

According to the CNDDB and the California Native Plant Society (CNPS), a total of 14 species are listed as state and/or federally Threatened, Endangered, Candidate, Rare, or as 1B.1 in the CNPS Rare Plant Inventory; or have been recorded within the vicinity of the Project site. No special-status plant species were observed on-site during the field investigation. Table BIO-1 shows survey results for listed and potential plant species.

As described in the General Biological Assessment, the Project site has been previously disced, contains ruderal habitat, and is surrounded by development. Thus, the suitability of the habitat to support special-status plant species known to occur in the general vicinity of the Project site has been greatly reduced. Additionally, the proposed Project site is not located within any designated federal critical habitat. Based on habitat requirements for specific special-status plant species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status plant species known to occur in the area.

However, historic data from the CNDDB found a past sighting of smooth tarplant within the Project boundary from 2003. This species was not found during the on-site field investigation; however, focused botanical surveys were conducted and completed on May 20, 2023, during the plants bloom period and found approximately 300 individuals of smooth tarplant, with the majority concentrated in the northern three parcels (Appendix E of the General Biological Assessment, included as Appendix B of this document). Smooth tarplant is ranked as a 1.B1 CNPS species and is not state or federally listed as Threatened or Endangered or listed under Section 670.2, Title 14, of the California Code of Regulations and is thereby not declared to be endangered, threatened (as defined by section 2067 of the Fish and Game Code) or rare (as defined by section 1901 of the Fish and Game Code). Additionally, there are no local or regional protections, policies, or removal requirements for this species. Since smooth tarplant is not listed or protected by a local, state, federal, or any outside agency, and no removal requirements currently exist, determination on the significance of the smooth tarplant individuals identified on the Project site is deferred to the certified biologist.

The onsite location that the smooth tarplant individuals were found in is disturbed and fragmented. Smooth tarplant is not considered to be part of suitable habitat supporting other potential special status species onsite, as habitat for all other potential plant and wildlife species was considered absent from the Project site as described above and within Appendix B. Thus, removal of the onsite smooth tarplant during Project construction would not constitute as a significant direct or indirect impact through habitat modifications, on any species identified as a candidate, sensitive, or special status, and no mitigation would be required.

Table BIO-1: Potentially Occurring Plant Species

Species Name	Presence
San Diego ambrosia	Not Present
Marsh sanwort	Not Present
Horn's milk-vetch	Not Present
Nevin's barberry	Not Present
Smooth tarplant	Present
Thread-leaved brodiaea	Not Present
Salt marsh bird's-beak	Not Present

Parry's spineflower	Not Present
Slender-horned spineflower	Not Present
Santa Ana River woollystar	Not Present
Coulter's goldfields	Not Present
Mesa horkelia	Not Present
Gambel's water cress	Not Present
Brand's star phacelia	Not Present

Sensitive Wildlife Species

According to the CNDDB, a total of 19 special-status wildlife species that are listed as state or federally Threatened, Endangered, or Candidate have the potential to occur within the Project region. However, Table BIO-2 shows survey results for listed and potential animal species and no special-status wildlife species were observed onsite during the field investigation conducted on November 5, 2021. Based on habitat requirements for special-status species and the availability and quality of on-site habitats, it was determined that the Project site does not have the potential to support these species. All special-status wildlife species are presumed to be absent from the Project site due to a lack of quality habitat.

Table BIO-2: Potentially Occurring Animal Species

Animal Species	**Presence**
Tricolored Blackbird	Not Present
Burrowing Owl	Not present
Swainson's hawk	Not Present
Santa Ana sucker	Not Present
Southern rubber boa	Not Present
Western yellow-billed cuckoo	Not Present
San Bernardino kangaroo rat	Not Present
Stephen's kangaroo rat	Not Present
Southwestern willow flycatcher	Not Present
Quino checkerspot butterfly	Not Present
Bald eagle	Not present
California black rail	Not present
Steelhead-southern California DPS	Not Present
Coastal California gnatcatcher	Not Present
California red-legged frog	Not Present
Southern mountain yellow-legged frog	Not Present
Delhi Sands flower-loving fly	Not Present
Riverside fairy shrimp	Not present
Least Bell's vireo	Not present

Special Status Plant Communities

According to the CNDDB, no special-status plant communities were observed onsite during the field investigation or occur within the Project vicinity.

Therefore, the Project would result in no impact on special status wildlife species and special status plant communities, and a less than significant impact on special status plant species.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

No Impact. Riparian habitats are those occurring along the banks of rivers and streams. Sensitive natural communities are natural communities that are considered rare in the region by regulatory agencies, known to provide habitat for sensitive animal or plant species, or known to be important wildlife corridors.

The Project site is not located within any designated critical habitat areas, and the closest federal critical habitat is the San Bernardino kangaroo rat critical habitat located 0.23 miles north of the project site within the Santa Ana River. As described in the General Biological Assessment (Appendix B), the Project site does not contain any drainage, riparian, or riverine features. In addition, there are no sensitive natural communities on site. Therefore, the proposed Project would result in no impacts related to riparian habitat or other sensitive natural communities identified in local or regional plans and no mitigation is required.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. As discussed in the General Biological Assessment (Appendix B), the Project site does not include any federally or state protected wetlands or vernal pools. In addition, there are no CDFW, United States Army Corps of Engineers (USACE), or Regional Water Quality Control Board (RWQCB) jurisdictional waters within the Project site boundaries. Therefore, the proposed Project would result in no impact to any state or federally protected wetlands.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Less Than Significant Impact with Mitigation Incorporated. Wildlife corridors are linear features that connect areas of open space and provide avenues for the migration of animals and access to additional areas of foraging. The General Biological Assessment evaluated the Project site and its function as a wildlife corridor that species would use to move between wildlife habitat zones. Usually, mountains, canyons, or riparian corridors are used by wildlife as corridors. The project site is flat and surrounded by urban development. No wildlife movement corridors were found to be present on the project site. Additionally, the surrounding area is predominantly developed with commercial and industrial developments not suitable as wildlife corridors. Thus, development of the site would not result in impacts related to established native resident or migratory wildlife corridor.

The Project site; however, does contain areas with shrubs that can be used by nesting songbirds during the nesting bird season of February 1 to September 15. Therefore, if vegetation is required to be removed during the nesting bird season, Mitigation Measure BIO-1 has been included to require a nesting bird survey to be conducted three days prior to initiating vegetation clearing. Additionally, if nesting birds are encountered during vegetation removal Mitigation Measure BIO-2 has been included to require establishment of avoidance buffer zones near discovered nests to avoid activities that would adversely affect the nests. Therefore, the proposed Project would result a less than significant impact to the movement of migratory wildlife with the implementation of Mitigation Measure BIO-1 and BIO-2.

e) Conflict with any local policies or ordinances protecting biological resources?

No Impact. There are no sensitive or protected biological resources on the Project site. The site is currently vacant and undeveloped, containing ruderal habitat with very sparse vegetation. Additionally, there are no trees set to be removed as part of the proposed Project. Therefore, the proposed Project would not conflict with local policies or ordinances protecting biological resources.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. A General Biological Assessment was prepared for the proposed Project, which included a field survey conducted on November 5, 2021 (Appendix B). The General Biological Assessment found that the Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The Project site is not located within a Habitat Conservation Plan or Natural Community Conservation Plan, and therefore, would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. As such, the proposed Project would result in no impact.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

Mitigation Measure BIO-1: Nesting Bird Survey. Vegetation removal should occur outside of the nesting bird season (generally between February 1 and September 15). If vegetation removal is required during the nesting bird season, the applicant must conduct take avoidance surveys for nesting birds prior to initiating vegetation removal/clearing. Surveys will be conducted by a qualified biologist(s) within three days of vegetation removal. If active nests are observed, a qualified biologist will determine appropriate minimum disturbance buffers and other adaptive mitigation techniques (e.g., biological monitoring of active nests during construction-related activities, staggered schedules, etc.) to ensure that impacts to nesting birds are avoided until the nest is no longer active. At a minimum, construction activities will stay outside of a 300-foot buffer around the active nests. For raptor species, the buffer is to be expanded to 500 feet. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist and City of San Bernardino Planning Division verify that the nests are no longer occupied, and the juvenile birds can survive independently from the nests. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities may occur.

Mitigation Measure BIO-2: Nesting Bird Buffer. If nesting birds are encountered, a qualified biologist must establish an avoidance buffer zone around the nest (buffer zones vary according to species involved and shall be determined by the qualified biologist). No activities that would adversely affect the nest shall occur within the buffer zone until the qualified biologist has determined the nest is no longer active and the young are no longer dependent on the nest.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.5 CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

This section was prepared using the Cultural Resources Study prepared by Brian F. Smith and Associates, Inc. on January 13th, 2022, and revised May 16, 2023 (Appendix C).

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

No Impact. According to the *State CEQA Guidelines*, a historical resource is defined as something that meets one or more of the following criteria: (1) listed in, or determined eligible for listing in, the California Register of Historical Resources; (2) listed in a local register of historical resources as defined in Public Resources Code (PRC) Section 5020.1(k); (3) identified as significant in a historical resources survey meeting the requirements of PRC Section 5024.1(g); or (4) determined to be a historical resource by the Project's Lead Agency. Implementation of the proposed Project would not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the State CEQA Guidelines, as there are no eligible historical resources on the Project site.

The California Register of Historical Resources defines a "historical resource" as a resource that meets one or more of the following criteria: (1) associated with events that have made a significant contribution to the broad patterns or local or regional history of the cultural heritage of California or the United States; (2) associated with the lives of persons important to local, California, or national history; (3) embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

A Cultural Resources Assessment was conducted for the proposed Project to locate and record any cultural resources that may be present within the Project site (Appendix C). Aerial photographs indicate the property has been vacant since at least the late 1930s, and that the entirety of the property has been previously disced. As part of the Cultural Resources Assessment, an archaeological records search was conducted through the South-Central Coastal Information Center (SCCIC) at Cal State University, Fullerton (CSU Fullerton). The results of the records search did not identify any resources within the Project site; however, 37 previously recorded resources were identified within a one-mile radius of the Project boundaries. All of these resources are historic and consist of two trash scatters, a railroad bridge, a railroad alignment, the Gage Canal, two sets of foundations with associated trash scatters, two foundations, 16 single family residences/properties, one motel, the Loma Linda Academy, eight commercial buildings, a golf course, and one road. Additionally, the records search indicated that 33 previous cultural resources studies have been

conducted within a one-half mile of the Project site, one of which intersects the Project site. The study that intersected the Project site was conducted in 1998 and consisted of a large overview focused on the evaluation of structures and does not directly address the current Project.

In addition to the records search, a Sacred Lands File (SLF) search was requested from the Native American Heritage Commission (NAHC) on December 27, 2021 (Appendix C). The NAHC responded on March 1, 2022, stating the SLF search was positive for previously known tribal cultural resources or sacred lands within one mile of the Project site. Additional outreach has been conducted by the City of San Bernardino under the official AB 52 Native American consultation process and is discussed in Section 5.18, *Tribal Cultural Resources*. Further, a field survey of the Project site was conducted on December 29, 2021, and did not identify the presence of any historic or prehistoric cultural resources as defined by CEQA. Therefore, the Project would not result in direct impacts to any of the previously known historic resources pursuant to §15064.5. No impact would occur.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Less Than Significant Impact. In its existing setting, the Project site is undeveloped and vacant with exposed soil and sparse vegetation. As discussed above, the records search indicated that no resources have been recorded within the Project site boundaries. Additionally, the field survey did not identify any archaeological resources within the Project site boundaries. The Project site has been previously disturbed; therefore, there is reduced potential for the Project to impact archeological resources. While the records search found previously identified resources within the Project vicinity, due to previous ground-disturbing activities and the absence of identified cultural resources within the Project boundaries, there is little potential for cultural resources to be present or disturbed by the proposed development (BFSA 2023). Therefore, the proposed Project would not substantially change the significance of an archeological resource pursuant to §15064.5, and impacts would be less than significant.

c) Disturb any human remains, including those interred outside of formal cemeteries?

Less Than Significant Impact. The Project site has not been previously used as a cemetery. Thus, human remains are not anticipated to be uncovered during project construction. In addition, California Health and Safety Code Section 7050.5, CEQA Section 15064.5, and Public Resources Code Section 5097.98, included as PPP CUL-1, mandates the process to be followed in the event of an accidental discovery of any human remains. Specifically, California Health and Safety Code Section 7050.5 requires that if human remains are discovered, disturbance of the site shall remain halted until the coroner has conducted an investigation into the circumstances, manner, and cause of death, and made recommendations concerning the treatment and disposition of the human remains to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code (included as PPP CUL-1). If the coroner determines that the remains are not subject to his or her authority and if the coroner has reason to believe the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. Compliance with existing law would ensure that impacts to human remains would be less than significant.

Plans, Programs, or Policies (PPPs)

PPP CUL-1: Human Remains. Should human remains or funerary objects be discovered during project construction, the project would be required to comply with State Health and Safety Code Section 7050.5, which states that no further disturbance may occur in the vicinity of the body (within a 100-foot buffer of the find) until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission, which will determine the identity of and notify a Most Likely Descendant (MLD). With the permission of the landowner

or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD must complete the inspection within 48 hours of being granted access to the site.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.6 ENERGY.				
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

This section was prepared using the Air Quality, Energy, and Greenhouse Gas Analysis Impact Analysis prepared by LSA in May, 2023 (Appendix A).

a) Result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Less than Significant Impact.

Construction

Construction of the proposed Project would consume energy in three general forms:

1. Petroleum-based fuels used to power off-road construction vehicles and equipment on the Project site, construction worker travel to and from the Project site, as well as delivery truck trips;
2. Electricity associated with providing temporary power for lighting and electric equipment; and
3. Energy used in the production of construction materials, such as asphalt, steel, concrete, pipes, and manufactured or processed materials such as lumber and glass.

Transportation energy represents the largest energy use during construction and would occur from the transport and use of construction equipment, delivery vehicles and haul trucks, and construction worker vehicles that would use petroleum fuels (e.g., diesel fuel and/or gasoline). Therefore, the analysis of energy use during construction focuses on fuel consumption. Estimates of fuel consumption (diesel fuel and gasoline) from construction equipment, construction trucks, and construction worker vehicles were based on default construction equipment assumptions and trip estimates from CalEEMod and fuel efficiencies from EMFAC2021(Appendix A).

Construction activities related to the proposed Project and associated infrastructure are not expected to result in demand for fuel greater on a per-development basis than other development projects in Southern California. Table E-1 shows the overall fuel consumption for construction of the proposed Project. As shown, construction of the Project would consume approximately 7,436.5 gallons of gasoline fuel and 28,026.8 gallons of diesel fuel.

Table E-1: Proposed Project Energy Consumption Estimates during Construction

Energy Type	Total Energy Consumption	Percentage of Increase Countywide
Diesel Fuel (total gallons)	28,026.8	0.01
Gasoline (total gallons)	7,436.5	<0.01

Source: Air Quality, Energy, and Greenhouse Gas Impact Analysis (Appendix A)

Construction of the Project would result in fuel consumption from the use of construction tools and equipment, haul truck trips, and vehicle trips generated from construction workers traveling to and from the site. As indicated in Table E-1, the project would consume approximately 28,026.8 gallons of diesel fuel and approximately 7,436.5 gallons of gasoline during construction. Based on fuel consumption obtained from EMFAC2021, approximately 907.3 million gallons of gasoline and approximately 325.0 million gallons of diesel will be consumed from vehicle trips in San Bernardino County in 2023. Therefore, construction of the proposed project would increase the annual construction generated fuel use in San Bernardino County by approximately 0.01 percent for diesel fuel usage and by less than 0.01 percent for gasoline fuel usage.

There are no unusual Project characteristics that would cause the use of construction equipment that would be less energy efficient compared with other similar construction sites in other parts of the state. Therefore, construction-related fuel consumption by the proposed Project would not result in inefficient, wasteful, or unnecessary energy use compared with other construction sites in the region, and impacts would be less than significant.

Operation

Once operational, the proposed Project would generate demand for electricity, natural gas, as well as gasoline for fuel tanks. Operational use of energy includes the heating, cooling, and lighting of the buildings, water heating, operation of electrical systems and plug-in appliances, parking lot and outdoor lighting, and the transport of electricity, natural gas, and water to the areas where they would be consumed. However, this use of energy is typical for urban development, and no operational activities or land uses would occur that would result in extraordinary energy consumption.

The State of California provides a minimum standard for building design and construction standards through Title 24 of the California Code of Regulations (CCR). Compliance with Title 24 is mandatory at the time new building permits are issued by local governments. The City's administration of the Title 24 requirements includes review of design components and energy conservation measures that would occur during the permitting process, which ensures that all requirements are met. Typical Title 24 measures include insulation; use of energy-efficient heating, ventilation and air conditioning equipment (HVAC); energy-efficient indoor and outdoor lighting systems; reclamation of heat rejection from refrigeration equipment to generate hot water; and incorporation of skylights, etc. In complying with the Title 24 standards, impacts to peak energy usage periods would be minimized, and impacts on statewide and regional energy needs would be reduced. Thus, operation of the Project would not use large amounts of energy or fuel in a wasteful manner, and no operational energy impacts would occur. As detailed in Table E-2, operation of the proposed Project is estimated to result in the annual use of approximately 234,688.7 gallons of gasoline fuel, 38,480.3 gallons of diesel fuel, approximately 22,289 therms of natural gas, and approximately 1,448,176 kilowatt-hours (kWh) of electricity per year.

Table E-2: Proposed Project Operational Energy Demand Summary

Energy Type	Annual Energy Consumption
Electricity Consumption (kWh/year)	1,448,176.0
Natural Gas Consumption (therms/year)	22,289.0
Gasoline (gallons/year)	234,688.7
Diesel Fuel (gallons/year)	38,480.3

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

Therefore, construction and operations-related fuel consumption by the proposed Project would not result in inefficient, wasteful, or unnecessary energy use compared with other construction sites in the region, and impacts would be less than significant.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less than Significant Impact. The California Title 24 Building Energy Efficiency Standards are designed to ensure new and existing buildings achieve energy efficiency and preserve outdoor and indoor environmental

quality. These measures (Title 24, Part 6) are listed in the CCR. The California Energy Commission is responsible for adopting, implementing and updating building energy efficiency. Local city and county enforcement agencies have the authority to verify compliance with applicable building codes, including energy efficiency. As required by Municipal Code, Chapter 15.04 Building Codes, prior to issuance of a building permit, the Project applicant shall submit plans showing that the Project would be in compliance with 2022 Title 24 requirements. Therefore, the Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency, and impacts would not occur. As such, the Project would have less than significant impacts related to energy.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.7 GEOLOGY AND SOILS. Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

This section was prepared using the Geotechnical Investigation prepared by Construction Testing and Engineering, South, Inc., on June 24, 2021 (Appendix D) and the Paleontological Assessment prepared by Brian F. Smith and Associates on January 12, 2022 (Appendix E).

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

Less Than Significant Impact. In 1972, the Alquist-Priolo Special Studies Zones Act was signed into law. In 1994, it was renamed the Alquist-Priolo Earthquake Fault Zoning Act (A-P Act). The primary purpose of the Act is to mitigate the hazard of fault rupture by prohibiting the location of structures for human occupancy across the trace of an active fault. The A-P Act requires the State Geologist (Chief of the California Geology Survey) to delineate "Earthquake Fault Zones" along with faults that are "sufficiently active" and "well-defined." The boundary of an "Earthquake Fault Zone" is generally about 500 feet from major active faults and 200 to 300 feet from well-defined minor faults. The A-P Act dictates that cities and counties withhold development permits for sites within an Alquist-Priolo Earthquake Fault Zone until geologic investigations demonstrate that the site zones are not threatened by surface displacements from future faulting.

A Geotechnical Investigation was conducted by Construction Testing and Engineering, South, Inc., for the Project site (see Appendix D). As described in the Geotechnical Investigation, according to the California Department of Conservation and the California Geologic Survey, the Project site is not located within or adjacent to an Alquist-Priolo Earthquake Fault Zone. Additionally, no known active fault underlies the Project site. Thus, the potential for surface rupture is considered low. The closest active fault to the project site is the San Jacinto Fault which is located approximately 1.4 miles from the project site. As the Project site does not contain an earthquake fault and is not affected by a state-designated Alquist-Priolo Earthquake Fault Zone impacts would be less than significant.

ii. Strong seismic ground shaking?

Less Than Significant Impact. The amount of motion caused from seismic activity can vary depending upon the distance to the fault, the magnitude of the earthquake, and the local geology. Greater movement can be expected at sites located closer to an earthquake epicenter, which consist of poorly consolidated material such as alluvium, and in response to an earthquake of great magnitude. As mentioned previously, the Project site is not within an Alquist-Priolo Earthquake Fault Zone but is in a seismically active region of Southern California. Thus, the potential for surface rupture is considered low and strong seismic ground shaking has a lower likelihood of occurring at the site. The closest active fault to the project site is the San Jacinto Fault which is located approximately 1.4 miles from the project site.

Structures built in the city are required to be built in compliance with the California Building Code (CBC [California Code of Regulations, Title 24, Part 2]), included in the Municipal Code as Chapter 15.04. Compliance with the CBC would ensure earthquake safety based on factors including occupancy type, the types of soils onsite, and the probable strength of the ground motion. Compliance with the CBC would include the incorporation of 1) seismic safety features to minimize the potential for significant effects as a result of earthquakes; 2) proper building footings and foundations; and 3) construction of the building structures so that it would withstand the effects of strong ground shaking. Therefore, with CBC compliance, the proposed Project would not expose people or structures to potentially substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking more than other developments in Southern California. Impacts would be less than significant.

iii. Seismic-related ground failure, including liquefaction?

Less Than Significant Impact. Liquefaction occurs when soils are transformed from a solid state into a liquefied state due to increased pressure. Liquefaction is most likely to occur when soils of higher porosity (i.e., clay) become saturated and subjected to seismic activity. Areas where the groundwater table is within approximately 50 feet below ground surface are also more susceptible to liquefaction. Additionally, Seismic settlement (otherwise known as subsidence) occurs when loose to medium dense granular soils densify during

seismic events. The Geotechnical investigation performed a seismic settlement analysis using the program LiquefyPro and based on the results of the analysis, included as Appendix C within the Geotechnical Investigation, the potential for liquefaction of site soils is considered very low. The depth of groundwater was not recorded within 50 feet of the ground surface and the analysis estimated total settlement at the site due to post-earthquake settlement of granular soils to be 2.94 inches. Furthermore, according to the City of San Bernardino GP Safety Element Figure 10-25: *Liquefaction Susceptibility*, the Project site is not located in an area mapped for high susceptibility to liquefaction. Thus, the soils underlying the Project site would not be considered at risk for liquefaction. Additionally, all structures built in the City are required to be developed in compliance with the CBC (California Code of Regulations, Title 24, Part 2), which is adopted as Chapter 15.04 of the City Code. Compliance with the CBC is included as a condition of approval and verified by the City's review process would ensure that impacts related to liquefaction are less than significant.

iv. Landslides?

No Impact. Landslides are the downhill movement of masses of earth and rock and are often associated with earthquakes; but other factors, such as the slope, moisture content of the soil, composition of the subsurface geology, heavy rains, and improper grading can influence the occurrence of landslides. According to the Geotechnical Investigation, no features typically associated with landsliding were noted during the site investigation. In the reference review, no evidence of landsliding was found to have occurred within the vicinity of the site (Construction Testing and Engineering 2022). The Project site is relatively flat with elevations ranging from 1,046 feet above mean sea level (AMSL) to 1,053 feet AMSL and there are limited elevation changes in the Project vicinity. As the Project site and the adjacent parcels are flat and do not contain any hills or steep slopes, no landslides on or adjacent to the Project site are expected to occur. Thus, there would be no impact.

b) Result in soil erosion or the loss of topsoil?

Less Than Significant Impact. The proposed Project includes the construction of five new speculative business park/commercial service buildings consistent with the GP land use designation and zoning of the site. The Project would involve earthmoving activities that would disturb soil and leave exposed soil on the ground surface. As such, the proposed Project would be required to comply with the City's grading standards and erosion control measures, included in Municipal Code Section 8.80.502 (General Permit for Storm Water Discharges from Construction Activity). To comply, all graded areas must be protected from erosion through slope stabilization methods such as planting, walls, or netting. Interim erosion control plans shall be required, certified by the project engineer, and reviewed and approved by the Public Works Department.

The proposed Project would also be subject to the National Pollution Discharge Elimination System (NPDES) permitting regulations, including the Construction General Permit (CGP; Order No. R8-2002-0011) issued by the State Water Resources Control Board (SWRCB), that regulates construction activities to minimize water pollution, including sediment. Included as part of the CGP is implementation of a Stormwater Pollution Prevention Plan (SWPPP) and associated Best Management Practices (BMPs), included as PPP WQ-1. BMPs may include a combination of mitigative construction methods to reduce, prevent, or minimize soil erosion from project-related grading and construction activities. With compliance with City Municipal Code stormwater management requirements, Regional Water Quality Control Board (RWQCB) SWPPP requirements, and installation of BMPs, which would be ensured by the City's project review by the Department of Building and Safety, construction impacts related to erosion and loss of topsoil would be less than significant.

The proposed Project includes installation of 63,147 SF of landscaping adjacent to the five proposed speculative business park/commercial service buildings and throughout the proposed parking areas. With this landscaping, areas of loose topsoil that could be eroded by wind or water would not exist upon operation of the proposed Project. In addition, as described in Section 5.10, *Hydrology and Water Quality*,

the hydraulic features of the proposed Project have been designed to slow, filter, and retain stormwater within landscaping and the proposed bioretention basins, which would also reduce the potential for stormwater to erode topsoil. Furthermore, implementation of the Project requires City approval of a Water Quality Management Plan (WQMP), which would ensure that RWQCB requirements and appropriate operational BMPs would be implemented to minimize or eliminate the potential for soil erosion or loss of topsoil to occur, included as PPP WQ-1. As a result, with implementation of existing requirements, impacts related to substantial soil erosion or loss of topsoil would be less than significant.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

Less Than Significant Impact. As described above, Project site elevations range from 1,046 feet above msl to 1,053 feet above msl (Construction Testing and Engineering 2022). The Project site is relatively flat and does not contain nor is adjacent to any significant slope or hillside area. The Project would not create slopes. Thus, on or off-site landslides would not occur from implementation of the Project.

Lateral spreading is a type of liquefaction induced ground failure associated with the lateral displacement of surficial blocks of sediment resulting from liquefaction in a subsurface layer. Once liquefaction transforms the subsurface layer into a fluid mass, gravity plus the earthquake inertial forces may cause the mass to move downslope towards a free face (such as a river channel or an embankment). Lateral spreading may cause large horizontal displacements and such movement typically damages pipelines, utilities, bridges, and structures. As described previously, high groundwater does not exist in the Project vicinity and the Project site is not located in an area mapped for high susceptibility to liquefaction. Therefore, the Geotechnical Investigation determined that the Project site is not susceptible to liquefaction (Construction Testing and Engineering 2022). Similarly, the site is not susceptible to lateral spreading. Impacts would be less than significant with compliance with the mandatory CBC requirements.

Ground subsidence is the gradual settling or sinking of the ground surface with little or no horizontal movement, and occurs in areas with subterranean oil, gas, or groundwater. Effects of subsidence include fissures, sinkholes, depressions, and disruption of surface drainage. The Geotechnical Investigation identified that construction settlement is expected to occur as loads are applied and structures are brought to their operational weight. Long-term settlement is expected to occur over time as a result of compression of wet or partially saturated soil. Although differential settlement generally occurs slowly enough that its effects are not dangerous to inhabitants, it can cause building damage over time. However, risk of subsidence would be lowered through adherence to CBC grading and earthwork operation recommendations. Compliance with the requirements of the CBC as part of the building plan check and development review process, would ensure that impacts related to subsidence would be less than significant.

As described previously, compliance with the requirements of the CBC and related recommendations in the Geotechnical Investigation related to compaction of soils and development of foundations is required as part of the building plan check and development permitting process, and would reduce potential impacts related to liquefaction, settlement, and ground collapse to a less than significant level.

d) Be located on expansive soil, as defined in in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Less Than Significant Impact. Expansive soils contain certain types of clay minerals that shrink or well as the moisture content changes; the shrinking or swelling can shift, crack, or break structures built on such soils. Arid or semiarid areas with seasonal changes of soil moisture experiences, such as southern California, have a higher potential of expansive soils than areas with higher rainfall and more constant soil moisture.

The Geotechnical Investigation, included as Appendix D, performed an evaluation for the potential for expansive soils at the site and an expansion index testing was performed on selected samples of on-site

soils in the upper 10-feet which are anticipated to be within the zone of influence of the planned improvements. The results of the expansion index testing indicated that near surface soils have a low expansion potential. However, it is anticipated that site soil will be compressible relative to the post-construction overburden. As described previously, compliance with the CBC would require specific engineering design recommendations be incorporated into grading plans and building specifications as a condition of construction permit approval to ensure that Project structures would withstand the effects of related to ground movement, including expansive soils. Therefore, impacts due to expansive soild would be less than significant.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact. The proposed Project would construct new onsite sewer lines that would connect to existing sewer lines in Hardt Street and east Brier Drive. Thus, the Project would not use septic tanks or alternative methods for disposal of wastewater into subsurface soils. As a result, no impacts related to septic tanks or alternative wastewater disposal systems would occur from implementation of the proposed Project.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less Than Significant Impact. The proposed Project would develop the site with five new speculative business park/commercial service buildings. The proposed Project would include earthmoving activities, such as grading, with the potential to disturb previously unknown paleontological resources. The Paleontological Resources Assessment (included as Appendix E) describes that the Project site is underlain by middle Holocene axial-channel deposits, which have a low paleontological sensitivity or low potential to yield significant paleontological resources. A paleontological literature review and a locality records search was conducted using records obtained from prior projects within several miles of the Project site. The records search indicated that no known fossil localities are present within the prior project boundaries or within several miles of the prior project. Additionally, a search of published literature also indicated no known nearby fossil localities. According to the Paleontological Assessment and SBCM records, the closest-known fossil localities are located in the City of Fontana and Calimesa.

Based on the results of the Phase I Paleontological Resources Assessment, the Project site is considered to have a low to no paleontological sensitivity and construction activities have a limited potential to impact paleontological resources. Additionally, due to the existence of Holocene axial-channel deposits at the Project site, and the lack of any known fossil specimens or fossil localities from within a several mile radius encompassing the Project site, paleontological monitoring is not recommended during earth disturbance activities. Therefore, the proposed Project would result in a less than significant impact on paleontological resources.

Plans, Programs, or Policies (PPPs)

PPP WQ-1: SWPPP. Prior to grading permit issuance, the project developer shall have a Stormwater Pollution Prevention Plan (SWPPP) prepared by a QSD (Qualified SWPPP Developer) pursuant to the Municipal Code Chapter 13.54. The SWPPP shall incorporate all necessary Best Management Practices (BMPs) and other City requirements to comply with the National Pollutant Discharge Elimination System (NPDES) requirements to limit the potential of polluted runoff during construction activities. Project contractors shall be required to ensure compliance with the SWPPP and permit periodic inspection of the construction site by City of San Bernardino staff or its designee to confirm compliance.

PPP WQ-2: WQMP. Prior to grading permit issuance, the project developer shall have a Water Quality Management Plan (WQMP) approved by the City for implementation. The project shall comply with the City's Municipal Code Section 13.54 and the Municipal Separate Storm Sewer System (MS4) permit requirements in effect for the Regional Water Quality Control Board (RWQCB) at the time of grading permit to control discharges of sediments and other pollutants during operations of the Project.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.8 GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

This section was prepared using the Air Quality, Energy, and Greenhouse Gas Analysis Impact Analysis prepared by LSA in May 2023 (Appendix A).

GHG Thresholds

SCAQMD: SCAQMD does not have approved thresholds; however, SCAQMD does have draft thresholds that provide a tiered approach to evaluate GHG impacts. The current interim SCAQMD thresholds consist of the following:

- Tier 1 consists of evaluating whether or not the project qualifies for any applicable exemption under CEQA.
- Tier 2 consists of determining whether the project is consistent with a GHG reduction plan. If a project is consistent with a qualifying local GHG reduction plan, it does not have significant GHG emissions.
- Tier 3 consists of screening values, which the lead agency can choose, but must be consistent with all projects within its jurisdiction. A project's construction emissions are averaged over 30 years and are added to the project's operational emissions. If a project's emissions are below one of the following screening thresholds, then the project is less than significant:
    - Residential and Commercial land use: 3,000 MTCO2e per year
    - Industrial land use: 10,000 MTCO2e per year
    - Based on land use type: residential: 3,500 MTCO2e per year; commercial: 1,400 MTCO2e per year; or mixed use: 3,000 MTCO2e per year
- Tier 4 has the following options:
    - Option 1: Reduce business as usual emissions by a certain percentage; this percentage is currently undefined.
    - Option 2: Early implementation of applicable AB 32 Scoping Plan measures
    - Option 3, 2020 target for service populations (SP), which includes residents and employee: 4.8 MTCO2e/SP/year for projects and 6.6 MTCO2e/SP/year for plans;
    - Option 3, 2035 target: 3.0 MTCO2e/SP/year for projects and 4.1 MTCO2e/SP/year
- Tier 5 involves mitigation offsets to achieve target significance threshold.

In addition, SCAQMD methodology for a project's construction emissions are to average them over 30-years and then add them to the project's operational emissions to determine if the project would exceed the screening values listed above (Appendix A).

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less Than Significant Impact. Construction activities produce combustion emissions from various sources, such as site excavation, grading, utility engines, heavy-duty construction vehicles onsite, equipment hauling materials to and from the site, asphalt paving, and motor vehicles transporting the construction crew. Exhaust emissions from onsite construction activities would vary daily as construction activity levels change.

The SCAQMD does not have an adopted threshold of significance for construction related GHG emissions. However, lead agencies are required to quantify and disclose GHG emissions that would occur during construction. The SCAQMD then requires the construction GHG emissions to be amortized over the life of the project, defined by the SCAQMD as 30 years, added to the operational emissions, and compared to the applicable interim GHG significance threshold tier. Using CalEEMod, it is estimated that the project would generate approximately 271.0 MT CO2e during construction of the project. When annualized over the 30-year life of the project, annual emissions would be 9.0 MT CO2e. Therefore, based on SCAQMD requirement to simply disclose annual GHG construction emissions, impact related to GHG construction emissions would be less than significant.

In addition, operation of the five proposed speculative business park/commercial service buildings would result in area and indirect sources of operational GHG emissions that would primarily result from vehicle trips, electricity and natural gas consumption, water transport (the energy used to pump water), and solid waste generation. GHG emissions from electricity consumed by the building would be generated off-site by fuel combustion at the electricity provider. GHG emissions from water transport are also indirect emissions resulting from the energy required to transport water from its source.

The estimated operational GHG emissions that would be generated from implementation of the proposed Project are shown in Table GHG-1. Additionally, in accordance with SCAQMD recommendation, the proposed Project's amortized construction related GHG emissions are added to the operational emissions estimate in order to determine the Project's total annual GHG emissions. As shown, GHG emissions would be less than SCAQMD threshold of 3,000 $MTCO_2e$ per year. Therefore, based upon SCAQMD's screening threshold, impacts related to GHG emissions would be less than significant.

Table GHG-1: Greenhouse Gas Emissions

Emissions Sources	Operational Emissions (MT/yr)				
	CO_2	CH_4	N_2O	CO_2e	Percentage of Total
Mobile Sources	2,372.0	0.1	0.1	2,411.0	81
Area Sources	1.7	<0.1	<0.1	1.7	<1
Energy Sources	468.0	<0.1	<0.1	469.0	16
Water Sources	38.1	0.6	<0.1	57.8	2
Waste Sources	9.0	0.9	0.0	31.4	1
Total Project Operational Emissions				**2,970.9**	**100**
Amortized Construction Emissions				9.0	-
Total Annual Emissions				**2,979.9**	**-**
Threshold				3,000	-
Exceed?				**No**	**-**

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less Than Significant Impact. The proposed Project involves the construction of 81,210 SF of speculative business park/commercial service buildings at the Project site. In 2006, the California State Legislature adopted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires CARB to adopt rules

and regulations that would achieve GHG emissions equivalent to statewide levels in 1990 by 2020 through an enforceable statewide emission cap, which was phased in starting in 2012. In 2022, CARB updated their Scoping Plan to reflect a reduction target for 2045 at 85 percent below 1990 levels. Therefore, as the proposed Project meets the current interim emissions targets/thresholds established by SCAQMD, it would also be on track to meet the reduction target of 85 percent below 1990 levels by 2045, as mandated by the State. Furthermore, all of the post-2020 reductions in GHG emissions are addressed via regulatory requirements at the State level, and the proposed Project would be required to comply with these regulations as they come into effect. Therefore, implementation of the proposed Project would not conflict with existing plans, policies, and regulations adopted for the purpose of reducing the emissions of greenhouse gas.

2020-2045 Regional Transportation Plan/Sustainable Communities Strategy

SCAG's Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) determines that land use strategies that focus on new housing and job growth in areas served by high quality transit and other opportunity areas would be consistent with a land use development pattern that supports and complements the proposed transportation network. The core vision in the 2020–2045 RTP/SCS is to better manage the existing transportation system through design management strategies, integrate land use decisions and technological advancements, create complete streets that are safe to all roadway users, preserve the transportation system, and expand transit and foster development in transit-oriented communities. The 2020–2045 RTP/SCS does not require that local general plans, specific plans, or zoning be consistent with the 2020–2045 RTP/SCS but provides incentives for consistency for governments and developers.

Implementation of the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) would greatly reduce the regional GHG emissions from transportation, helping to achieve statewide emissions reduction targets. As shown above, the proposed Project's greenhouse gas emissions of 2,979.9 $MTCO_2e$ per year is below the SCAQMD significance threshold of 3,000 $MTCO_2e$ per year. Therefore, the proposed Project would not interfere with SCAG's ability to achieve the region's GHG reduction target of 19 percent below 2005 per capita emissions levels by 2035. Additionally, the proposed Project is not regionally significant per *State CEQA Guidelines* Section 15206 as it does not require a GP amendment and does not have the potential for causing significant effects on the environment extending beyond the city or county in which the proposed Project is located. As such, it would not conflict with the SCAG RTP/SCS targets since those targets were established and are applicable on a regional level. Based on the nature of the proposed Project, it is anticipated that implementation of the proposed Project would not interfere with SCAG's ability to implement the regional strategies outlined in the RTP/SCS.

2022 Scoping Plan

The 2022 Scoping Plan assesses progress toward the statutory target of reducing GHG emissions to 40 percent below 1990 levels by 2030, while laying out a path to achieving carbon neutrality no later than 2045. The 2022 Scoping Plan focuses on outcomes needed to achieve carbon neutrality by assessing paths for clean technology, energy deployment, natural and working lands, and others, and is designed to meet the State's long-term climate objectives and support a range of economic, environmental, energy security, environmental justice, and public health priorities.

The proposed Project would comply with the CALGreen Code, regarding energy conservation and green building standards. Therefore, the proposed Project would comply with applicable energy measures. The proposed Project would also comply with the CALGreen Code, which includes a variety of different measures, including the reduction of wastewater and water use. In addition, the proposed Project would be required to comply with the California Model Water Efficient Landscape Ordinance. Therefore, the proposed Project would not conflict with any of the water conservation and efficiency measures. Vehicles traveling to the Project site would comply with the Pavley II (LEV III) Advanced Clean Cars Program. Therefore, the proposed Project would not conflict with the identified transportation and motor vehicle measures. Therefore, implementation of the proposed Project would not conflict with existing plans, policies, and regulations

adopted for the purpose of reducing the emissions of greenhouse gas with the 2022 Scoping Plan (Table GHG-2).

Table GHG-2: Project Consistency with 2022 Scoping Plan

Action	Consistency
GHG Emissions Reductions Relative to the SB 32 Target	
40% Below 1990 levels by 2030.	**Consistent.** The project would comply with the 2022 Title 24, Part 6 building energy requirements along with other local and state initiatives that aim to achieve the 40% below 1990 levels by 2030 goal.
Smart Growth/Vehicle Miles Traveled VMT	
VMT per capita reduced 25% below 2019 levels by 2030, and 30% below 2019 levels by 2045.	**Consistent.** The location of the proposed project encourages alternative modes of transportation as it is located within the Transit Overly District. Additionally, the project is consistent with the existing General Plan Land Use, so the project would not interfere with the analysis completed for the Connect SoCal (SCAG, 2020) report outlining VMT reduction targets and measures.
Light-Duty Vehicle (LDV) Zero-Emission Vehicles (ZEVs)	
100% of LDV sales are ZEV by 2035.	**Consistent.** The proposed project would be designed and constructed in accordance with the 2022 Title 24 Part 6 and Part 11 requirements, which includes ZEV designated parking spaces and charging stations.
Truck ZEVs	
100% of medium-duty (MDV)/HDC sales are ZEV by 2040 (AB 74 University of California Institute of Transportation Studies [ITS] report).	**Consistent.** The proposed project would be designed and constructed in accordance with the 2022 Title 24 Part 6 and Part 11 requirements, which includes Truck ZEV charging stations at designated loading docks.
Aviation	
20% of aviation fuel demand is met by electricity (batteries) or hydrogen (fuel cells) in 2045. Sustainable aviation fuel meets most or the rest of the aviation fuel demand that has not already transitioned to hydrogen or batteries.	**Not Applicable.** The proposed project would not utilize aviation fuel.
Ocean-going Vessels (OGV)	
2020 OGV At-Berth regulation fully implemented, with most OGVs utilizing shore power by 2027. 25% of OGVs utilize hydrogen fuel cell electric technology by 2045.	**Not Applicable.** The proposed project would not utilize any OGVs.
Port Operations	
100% of cargo handling equipment is zero-emission by 2037. 100% of drayage trucks are zero emission by 2035.	**Not Applicable.** The proposed project would not impact any operations at any ports.
Freight and Passenger Rail	
100% of passenger and other locomotive sales are ZEV by 2030. 100% of line haul locomotive sales are ZEV by 2035. Line haul and passenger rail rely primarily on hydrogen fuel cell technology, and others primarily utilize electricity.	**Not Applicable.** The proposed project would not involve any freight or passenger rail operations.
Oil and Gas Extraction	
Reduce oil and gas extraction operations in line with petroleum demand by 2045.	**Not Applicable.** The proposed project would not involve any oil or gas extraction.
Petroleum Refining	
CCS on majority of operations by 2030, beginning in 2028. Production reduced in line with petroleum demand.	**Not Applicable.** The proposed project would not involve any petroleum refining.

Electricity Generation	
Sector GHG target of 38 million metric tons of carbon dioxide equivalent (MMTCO2e) in 2030 and 30 MMTCO2e in 2035. Retail sales load coverage134 20 gigawatts (GW) of offshore wind by 2045. Meet increased demand for electrification without new fossil gas-fired resources.	**Consistent.** The project would comply with the 2022 Title 24, Part 6 building energy requirements, including increases in onsite renewable energy generation requirements as well as improved insulation reducing energy consumption.
New Residential and Commercial Buildings	
All electric appliances beginning 2026 (residential) and 2029 (commercial), contributing to 6 million heat pumps installed statewide by 2030.	**Consistent.** The project would comply with the 2022 Title 24, Part 6 building energy requirements, including installing electrical wiring for all built in appliances.
Existing Residential Buildings	
80% of appliance sales are electric by 2030 and 100% of appliance sales are electric by 2035. Appliances are replaced at end of life such that by 2030 there are 3 million all-electric and electric-ready homes—and by 2035, 7 million homes—as well as contributing to 6 million heat pumps installed statewide by 2030.	**Not Applicable.** The proposed project would not involve any existing residential buildings.
Existing Commercial Buildings	
80% of appliance sales are electric by 2030, and 100% of appliance sales are electric by 2045. Appliances are replaced at end of life, contributing to 6 million heat pumps installed statewide by 2030.	**Not Applicable.** The proposed project would not involve any existing commercial buildings.
Food Products	
7.5% of energy demand electrified directly and/or indirectly by 2030; 75% by 2045.	**Consistent.** The proposed project would comply with the 2022 Title 24, Part 6 building energy requirements, including increases in onsite renewable energy generation requirements as well as improved insulation reducing energy consumption.
Construction Equipment	
25% of energy demand electrified by 2030 and 75% electrified by 2045.	**Consistent.** The proposed project would be required to use construction equipment that are registered by CARB and meet CARB's standards. CARB set's its standards to be inline with the goal of reducing energy demand by 25% in 2030 and 75 m% in 2045.
Chemicals and Allied Products; Pulp and Paper	
Electrify 0% of boilers by 2030 and 100% of boilers by 2045. Hydrogen for 25% of process heat by 2035 and 100% by 2045. Electrify 100% of other energy demand by 2045.	**Consistent.** The proposed project could be utilized for pulp and/or paper products food products. The proposed project would comply with the 2022 Title 24, Part 6 building energy requirements, including installing electrical wiring for all built in appliances.
Stone, Clay, Glass, and Cement	
CCS on 40% of operations by 2035 and on all facilities by 2045. Process emissions reduced through alternative materials and CCS.	**Not Applicable**. The proposed project would not involve storage of stone, glass, or cement.
Other Industrial Manufacturing	
0% energy demand electrified by 2030 and 50% by 2045.	**Not Applicable.** The project site does not involve manufacturing operations.
Combined Heat and Power	
Facilities retire by 2040.	**Not Applicable.** The proposed project would not involve any existing combined heat and power facilities.
Agriculture Energy Use	
25% energy demand electrified by 2030 and 75% by 2045.	**Not Applicable.** The proposed project would not involve any agricultural uses.
Low Carbon Fuels for Transportation	

Biomass supply is used to produce conventional and advanced biofuels, as well as hydrogen.	**Not Applicable.** The proposed project would not involve any production of biofuels.
Low Carbon Fuels for Buildings and Industry	
In 2030s, biomethane135 blended in pipeline Renewable hydrogen blended in fossil gas pipeline at 7% energy (~20% by volume), ramping up between 2030 and 2040. In 2030s, dedicated hydrogen pipelines constructed to serve certain industrial clusters	**Not Applicable.** The proposed project would not involve any production of fuels for buildings and industry.
Non-combustion Methane Emissions	
Increase landfill and dairy digester methane capture. Some alternative manure management deployed for smaller dairies. Moderate adoption of enteric strategies by 2030. Divert 75% of organic waste from landfills by 2025. Oil and gas fugitive methane emissions reduced 50% by 2030 and further reductions as infrastructure components retire in line with reduced fossil gas demand	**Not Applicable.** The proposed project would not involve any landfill and/or dairy uses.
High GWP Potential Emissions	
Low GWP refrigerants introduced as building electrification increases, mitigating HFC emissions.	**Not Applicable.** The proposed project does not include refrigeration uses nor would the Project include any manufacturing operations.

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

City of San Bernardino General Plan GHG Reduction Measures

In addition to the 2022 Scoping Plan, the City of San Bernardino GP also includes goals and policies aimed at reducing greenhouse gas emissions. Table GHG-1 below shows the proposed Project's consistency with the City's GP GHG Reduction Measures.

Table GHG-3: Project Consistency with City of San Bernardino GHG Reduction Measures

Measure	Description	Project Consistency
Building Energy		
Energy-1. Building Energy Efficiency	Conserve scarce energy resources 13.1.1: Reduce the City's ongoing electricity use by 10% and set an example for residents and businesses to follow. Conserve scarce energy resources 13.1.3: Consider enrollment in the Community Energy Efficiency Program (CEEP), which provides incentives for builders who attain energy savings 30% above the National Model Energy Code, the Energy Star Program, which is sponsored by the United States Department of Energy and the Environmental Protection Agency and encourages superior energy efficiency by residents and businesses, or the State's Energy Efficiency and Demand Reduction Program, which offer rebates and incentives to agencies and developers who reduce energy consumption and use energy efficient fixtures and energy-saving design elements. Conserve scarce energy resources 13.1.4: Require energy audits of existing public structures and encourage audits of private structures, identifying levels of existing energy use and potential conservation measures.	***Not Applicable.*** This measure is not applicable as the City would be responsible for implementing this measure. However, the proposed project would comply with the CALGreen Code, regarding building energy efficiency and other green building standards

Measure	Description	Project Consistency
	Conserve scarce energy resources 13.1.5: Encourage energy-efficient retrofitting of existing buildings throughout the City. Conserve scarce energy resources 13.1.6: Consider program that awards incentives to projects that install energy conservation measures, including technical assistance and possible low-interest loans. Conserve scarce energy resources 13.1.8: Educate the public regarding the need for energy conservation, environmental stewardship, and sustainability techniques and about systems and standards that are currently available for achieving greater energy and resource efficiency, such as the U.S. Green Building Council's LEED standards for buildings.	
Energy-2. Lighting Efficiency	Electricity 9.6.5: Encourage and promote the use of energy-efficient (U.S. Department of Energy "Energy Star®" or equivalent) lighting fixtures, light bulbs, and compact fluorescent bulbs in residences, commercial, and public buildings, as well as in traffic signals and signs where feasible.	***Consistent.*** The proposed project would comply with the CALGreen Code, regarding energy conservation and green building standards.
Energy-3. All Electric Buildings	Conserve scarce energy resources 13.1.5: Encourage energy-efficient retrofitting of existing buildings throughout the City.	***Not Applicable.*** This measure is not applicable as the proposed project would not retrofit an existing building.
Energy-5. Renewable Energy - New Commercial/Industrial	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space planning, thermal massing and locating landscaping and landscape structures to shade buildings).	***Consistent.*** The proposed project would comply with the CALGreen Code, regarding energy conservation and green building standards.
Energy-6. Solar Energy for Warehouse Space	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space planning, thermal massing and locating landscaping and landscape structures to shade buildings).	***Consistent.*** The proposed project would comply with the CALGreen Code, regarding energy conservation and green building standards.
Energy-7. Solar Installation - Existing Housing	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space planning, thermal massing and locating landscaping and landscape structures to shade buildings).	***Not Applicable.*** This measure is not applicable as the proposed project would not retrofit an existing residential building.
Energy-8. Renewable Energy - Existing Commercial/Industrial	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space	***Not Applicable.*** This measure is not applicable as the proposed project would not retrofit an existing building.

Measure	Description	Project Consistency
	planning, thermal massing and locating landscaping and landscape structures to shade buildings).	
Energy-9. Rooftop Gardens	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space planning, thermal massing and locating landscaping and landscape structures to shade buildings).	***Not Applicable.*** Rooftop gardens would not be applicable to this project. However, the project would provide approximately 63,147 sq ft of landscaping.
Energy-10. Urban Tree Planting for Shading and Energy Savings	Conserve scarce energy resources 13.1.9: Encourage increased use of passive and active solar and wind design in existing and new development (e.g., orienting buildings to maximize exposure to cooling effects of prevailing winds, day lighting design, natural ventilation, space planning, thermal massing and locating landscaping and landscape structures to shade buildings).	***Consistent.*** The proposed project would include landscaping, which would help with shading.
On-Road		
OnRoad-1. Alternative Fueled Transit Fleets	Air Quality 12.6.1 through 12.6.3, 12.6.5, and 12.6.7	***Not Applicable.*** The proposed project would construct 5 industrial buildings and would not include transit fleet vehicles.
OnRoad-2. Encourage Use of Mass Transit	Public Transit 6.6.1, 6.6.2, and 6.6.7 through 6.6.10 CI 3.1: Encourage the reduction of automobile usage through various incentive programs.	***Not Applicable.*** The proposed project would include 5 industrial buildings. Future tenants of the building would implement mass transit encouragement measures as applicable.
OnRoad-3. Transportation Demand Management and Signal Synchronization	Distinct Character and Identity 2.3.2: Promote development that is compact, pedestrian-friendly, and served by a variety of transportation options along major corridors and in key activity areas. Distinct Character and Identity 2.3.1: Commercial centers, open spaces, educational facilities, and recreational facilities should be linked to residential neighborhoods. GOAL CI 4: The County will coordinate land use and transportation planning to ensure adequate transportation facilities to support planned land uses and ease congestion. Redevelopment and Revitalization 2.4.1 Specific Areas 5.5.3 and 5.5.5 Downtown Strategic Area, Strategies 1,3,7, and 13	***Not Applicable.*** The proposed project would generate 1,014 daily trips, including 110 AM peak hour trips and 99 PM peak hour trips. Based on the minimal peak hour trips generated by the proposed project, the project would not be required to implement transportation demand management strategies or signal synchronization.
OnRoad-4. Expand Bike Routes	**District/Neighborhood Design Features 5.3.3:** A well-integrated network of bike and pedestrian paths should connect residential areas to schools, parks, and shopping centers.	***Not Applicable.*** The proposed project would not include residential, school, park, or shopping center uses.
OnRoad-5. Community Fleet Electrification	Air Quality 12.6.1 through 12.6.3, 12.6.5, and 12.6.7	***Not Applicable.*** The proposed project would not involve City fleet vehicles.
Solid Waste Management		

Measure	Description	Project Consistency
Waste-2. Waste Diversion	Solid Waste 9.5.3: Continue to reduce the amount of solid waste that must be disposed of in area landfills, to conserve energy resources, and be consistent with the County Solid Waste Management Plan and State law. Solid Waste 9.5.4 through 9.5.6	***Consistent.*** The proposed project would be consistent with County Solid Waste and State requirements for waste reduction.

Source: Air Quality, Energy, Greenhouse Gas Impact Analysis (Appendix A)

As shown in Table GHG-2 and as described above, the proposed Project is consistent with the actions and measures of the City of San Bernardino GP GHG Reduction Measures, Scoping Plan 2022, and 2020-2045 RTP/SCS and would not interfere with the policies and goals set within them. In addition, the proposed Project's greenhouse gas emissions of 2,979.9 $MTCO_2e$ per year is below the SCAQMD significance threshold of 3,000 $MTCO_2e$ per year. Therefore, the proposed Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Impacts would be less than significant.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.9 HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☒	☐

This section was prepared using the Phase I Environmental Site Assessment prepared by Marc Boogay, Consulting Engineer on March 27, 2023 (Appendix F).

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less Than Significant Impact. Hazardous material is typically defined as any material that due to its quantity, concentration, or physical or chemical characteristics, poses a significant potential hazard to human health and safety or the environment if released. Hazardous materials may include, but are not limited to hazardous substances, hazardous wastes, and any material that would be harmful if released.

Development and long-term operation of the Project would not require standard transport of hazardous materials and waste. The types and amounts of hazardous materials to be used and disposed for the proposed Project would be typical of those used during construction activities and those typically used in the operation of commercial and retail facilities, as discussed in the following analysis.

Construction

Heavy construction equipment (e.g., dozers, excavators, tractors) would be operated for development of the Project. The equipment would be fueled and maintained by petroleum-based substances such as diesel fuel, gasoline, oil, and hydraulic fluid, which are considered hazardous if improperly stored, handled, or transported. Other materials used—such as paints, adhesives, and solvents—could also result in accidental releases or spills that could pose risks to people and the environment. These risks are standard; however, on all construction sites, and the Project would not cause greater risks than would occur on other similar construction sites.

Construction contractors would be required to comply with federal, state, and local laws and regulations regarding the transport, use, and storage of hazardous materials. Applicable laws and regulations include CCR, Title 8 Section 1529 (pertaining to ACM) and Section 1532.1 (pertaining to LBP); CFR, Title 40, Part 61, Subpart M (pertaining to ACM); CCR, Title 23, Chapter 16 (pertaining to UST); CFR, Title 29 - Hazardous Waste Control Act; CFR, Title 49, Chapter I; and Hazardous Materials Transportation Act requirements as imposed by the U.S. Department of Transportation (USDOT), California Division of Occupational Safety and Health (CalOSHA), California Environmental Protection Agency (CalEPA) and Department of Toxic Substances Control (DTSC). Additionally, construction activities would require a Stormwater Pollution Prevention Plan (SWPPP), which is mandated by the National Pollution Discharge Elimination System (NPDES) General Construction Permit (included as PPP WQ-1 herein) and enforced by the Santa Ana Regional Water Quality Control Board (SARWQCB). The SWPPP will include strict onsite handling rules and Best Management Practices (BMPs) to minimize potential adverse effects to workers, the public, and the environment during construction, including, but not limited to:

- Establishing a dedicated area for fuel storage and refueling activities that includes secondary containment protection measures and spill control supplies;
- Following manufacturers' recommendations on the use, storage, and disposal of chemical products used in construction;
- Avoiding overtopping construction equipment fuel tanks;
- Properly containing and removing grease and oils during routine maintenance of equipment; and
- Properly disposing of discarded containers of fuels and other chemicals.

Mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment. Impacts would be less than significant.

Operation

The Project site would be developed with five new speculative business park/commercial service buildings. Operation of the proposed Project would involve the routine use of small quantities of potentially hazardous materials typical of those used for commercial uses, including cleaning products, paints, and those used for maintenance of landscaping. These hazardous materials would be used, stored, and disposed of in accordance with applicable regulations and standards (such as CFR, Title 49, Chapter I; CCR, Title 8; CFR, Title 40, Part 263) that are enforced by the USEPA, USDOT, CalEPA, CalOSHA, DTSC, and County of San Bernardino Environmental Health Services.

Under California Health and Safety Code Section 25531 et seq., CalEPA requires businesses operating with a regulated substance that exceeds a specified threshold quantity to register with a managing local agency, known as the Certified Unified Program Agency (CUPA). Additionally, businesses are required to provide

workers with training on the safe use, handling, and storage of hazardous materials. Businesses are also required to maintain equipment and supplies for containing and cleaning up spills of hazardous materials that can be safely contained and cleaned by onsite workers and to immediately notify emergency response agencies in the event of a hazardous materials release that cannot be safely contained and cleaned up by onsite personnel. Compliance with existing laws and regulations governing hazard and hazardous materials results in less than significant impacts related to the routine transport, use, and disposal of the hazardous materials.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less Than Significant Impact with Mitigation. In March 2023, Marc Boogay, Consulting Engineer completed a Phase I Environmental Assessment (Phase I ESA) of Assessor's Parcel Numbers 028-130-117, 028-131-108, 028-131-107, 028-131-106, 028-131-111, 028-131-112, 028-130-120, 028-130-121, 028-131-119 and 028-131-118 within the Project site (Appendix F). The 2023 Phase I ESA did not identify any environmental concerns rising to the level of Recognized Environmental Conditions (RECs) related to the Project site.

The Phase I ESA revealed an onsite environmental concern regarding abandoned debris from illegal dumping including dump piles, illegal dumping of domestic items, and small burn piles. Additionally, the assessment identified regional groundwater well testing near the subject site that could indicate an adverse regional condition as it limits groundwater usage. The Project site vicinity was interpreted as vacant, commercial, and industrial usage. An adjacent commercial usage was identified as involving a chemical shipping company and industrial shipping stations. Onsite and surrounding historical agricultural usages revealed environmental concerns as residual chemicals could remain in the soil, such as DDT. These threats were considered environmental concerns not rising to the level of a recognized environmental condition as the risk of future release to the environment is low and no further action was deemed warranted. However, due to the existing condition of the Project site, any illegally dumped materials are to be properly disposed of before any construction activities begin and it is recommended that signs or fences be installed onsite to assist in preventing future onsite dumping of potentially hazardous materials (MM HAZ-1). Therefore, impacts would be less than significant with implementation of MM HAZ-1.

Construction

Accidental Releases. While the routine use, storage, transport, and disposal of hazardous materials in accordance with applicable regulations during construction activities would not pose health risks or result in significant impacts; improper use, storage, transportation and disposal of hazardous materials and wastes could result in accidental spills or releases, posing health risks to workers, the public, and the environment. To avoid an impact related to an accidental release, the use of BMPs during construction are implemented as part of a SWPPP as required by the NPDES General Construction Permit. Implementation of an SWPPP would minimize potential adverse effects to workers, the public, and the environment. Construction contract specifications would include strict on-site handling rules and BMPs that include, but are not limited to:

- Establishing a dedicated area for fuel storage and refueling and construction dewatering activities that includes secondary containment protection measures and spill control supplies;
- Following manufacturers' recommendations on the use, storage, and disposal of chemical products used in construction;
- Avoiding overtopping construction equipment fuel tanks;
- Properly containing and removing grease and oils during routine maintenance of equipment; and
- Properly disposing of discarded containers of fuels and other chemicals.

Therefore, with the implementation of MM HAZ-1, Project construction would result in less than significant impacts related to hazards to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Operation

Operation of the proposed speculative business park/commercial service buildings and associated areas could involve the routine use of small quantities of potentially hazardous materials typical of those used for commercial uses, including cleaning products, paints, and those used for maintenance of landscaping. Normal routine use of these typical commercially used products pursuant to existing regulations would not result in a significant hazard to the environment or workers in the vicinity of the Project. Should future uses of the speculative business park/commercial service buildings utilize or store substantial amounts or acute types of hazardous materials, both federal and state governments require all businesses that handle more than specified amounts of hazardous materials to submit a business plan to regulating agencies. With adherence to existing regulations, impacts would be less than significant.

c) Emit hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact. Summit College is located 0.16 miles west of the Project site thus it is within a one-quarter mile radius of the Project site. Additionally, Victoria Elementary School is located approximately 0.8-miles from the Project site. However, as noted in Sections 5.9(a) and 5.9(b), the proposed Project is not anticipated to release hazardous emissions or handle hazardous or acutely hazardous materials, substances, or wastes in significant quantities. Therefore, the proposed Project would not substantially impact schools in the nearby vicinity. As such, impacts related to hazardous emissions or the handling of hazardous materials, substances, or waste would be less than significant.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less than Significant Impact. Government Code Section 65962.5 specifies lists of the following types of hazardous materials sites: hazardous waste facilities; hazardous waste discharges for which the State Water Quality Control Board has issued certain types of orders; public drinking water wells containing detectable levels of organic contaminants; underground storage tanks with reported unauthorized releases; and solid waste disposal facilities from which hazardous waste has migrated.

The Phase I ESA conducted for the Project site included a review of federal, state, and local regulatory databases to evaluate the Project site and known or suspected sites of environmental contamination pursuant to CERCLIS and Superfund/SARA subject locations. The Project site was not listed on any databases searched for hazardous materials sites and therefore is not included on a list of hazardous materials sites pursuant to Government Code Section 65962.5. The hazardous materials sites database search identified 148 potential environmental threats listed within the search radii. Fifty-two were identified to be within 1/8-mile. Environmental concerns and threats to the Project site were primarily discounted on the basis of distance and none were identified on the Project site. Environmental concerns within 1/8-mile of the Project site were deemed to represent the greatest potential risk for contaminant migration to the subject site, whereas environmental concerns over a quarter mile were not of concern. Given that there is a lack of violations or evidence of a release on the subject site and listings outside of the site are not considered a REC to the Project site, impacts creating a significant hazard to the public and the environment would be less than significant.

e) For a project within an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

No Impact. The proposed Project site is located approximately 1.5 miles southwest of San Bernardino International Airport and is within the boundaries of the Airport Influence Area according to the City of San Bernardino General Plan. Chapter 19.12 of the City of San Bernardino Development Code establishes Airport Overlay Districts. The purpose of the Airport Overlay Districts is to protect public health and safety in the areas surrounding the airport by minimizing exposure to crash hazards and high noise levels that may be generated by the operations of the airport. Additionally, the Airport Overlay Districts encourage future compatible development for the continued operation of the airport. However, the proposed Project is not within a designated Airport Overlay District as defined by the City of San Bernardino Development Code and would be consistent with the development standards of the CR-3 zoning. Additionally, the proposed Project would be consistent with the Comprehensive Land Use Plan for the San Bernardino International Airport. Therefore, the proposed Project would not result in a safety hazard for people residing or working in the project area and impacts would be less than significant.

f) Impair implementation of an adopted emergency response plan or emergency evacuation plan?

Less Than Significant Impact. The proposed Project would not physically interfere with an adopted emergency response plan or emergency evacuation plan, such as the City of San Bernardino Emergency Plan or San Bernardino County Multi-Jurisdictional Hazard Mitigation Plan.

Construction
The proposed construction activities, including equipment and supply staging and storage, would occur within the Project site, and would not restrict access of emergency vehicles to the Project site or adjacent areas. The installation of new driveways and connections to existing infrastructure systems that would be implemented during construction of the proposed Project would not require the entire closure of Hardt Street or Brier Drive. Any temporary lane closures needed for utility connections or driveway construction would be required through the City's permitting process to implement appropriate measures to facilitate vehicle circulation, as included within construction permits. Thus, implementation of the Project through the City's permitting process would ensure existing regulations are adhered to and potential construction-related emergency access or evacuation impacts would be less than significant.

Operation
The City of San Bernardino participates in the San Bernardino County Multi-Jurisdictional Hazard Mitigation Plan which outlines requirements for emergency access and standards for emergency responses.

Direct access to the Project site and the five proposed new speculative business park/commercial service buildings would be provided via several driveways. Buildings A and B would be accessible via two separate east and west proposed 26-foot-wide driveways on Hardt Street. Buildings A and B would also share one central access driveway off Hardt Street. Building C would be accessible via two proposed 30-foot-wide driveways along Hardt Street. Buildings D1 and D2 would be accessible via two proposed 26-foot-wide driveways along East Brier Drive. Buildings A, B, D1, and D2 would consist of 27-foot-wide drive aisles for adequate fire access whereas Building C would include a 27 foot to 30-foot-wide drive aisle. Project driveways and internal access would be consistent with the City's permitting procedures to meet the City's design standards to ensure adequate emergency access and evacuation. The proposed Project would also be required to provide fire suppression facilities (e.g., hydrants and sprinklers). The Fire Department and/or Public Works Department would review the development plans as part of the permitting procedures to ensure adequate emergency access pursuant to the requirements in Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9), included as Municipal Code Chapter 15.16. As such, the proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, and impacts would be less than significant.

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

Less Than Significant Impact. The Project site is within an urbanized industrial and commercial area of the City of San Bernardino that is predominantly developed. The Project site is bounded by Hardt Street and Brier Drive to the north and south, government office central, light industrial and commercial uses to the east, public institutions and utility infrastructure to the east, and a drainage channel and railroad to the north. The Project site is not in close proximity to a wildland area. According to the CAL FIRE Hazard Severity Zone map and the City's GP Safety Element, the Project site is not within or near an area identified as a Very High Fire Hazard Severity Zone (VFHSZ) or a State Responsibility Area (SRA) (CALFIRE 2023). Thus, the Project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires and impacts would be less than significant.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

Mitigation Measure HAZ-1: Disposal of Illegally Dumped Materials. The Project applicant is responsible for ensuring the proper disposal of any and all illegally dumped materials currently on the Project site, in compliance with the City of San Bernardino Municipal Code Chapter 8.24. Proper disposal of all illegally dumped materials onsite must be completed before any construction activities begin. Signs or fences shall be installed onsite to assist in preventing future onsite dumping of potentially hazardous materials prior to construction.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.10 HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
i) result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
iv) impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

This section was prepared using the Preliminary Water Quality Management Plan and Hydraulics Study prepared by Ware Malcomb on May 11 and May 19 2022, and included as Appendix G and Appendix H, respectively.

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Less Than Significant Impact.

Construction

Construction of the proposed Project would require grading and excavation of soils, approximately 4,800 cubic yards (CY). Grading would loosen sediment and have the potential to mix with surface water runoff and degrade water quality. Pollutants of concern during construction of the proposed Project include sediments, trash, petroleum products, concrete waste (dry and wet), sanitary waste, and chemicals. During construction activities, excavated soil would be exposed, and there would be an increased potential for soil erosion and transport of sediment downstream compared to existing conditions. During a storm event, soil erosion could occur at an accelerated rate. In addition, construction-related pollutants, such as chemicals, liquid and petroleum products (e.g., paints, solvents, and fuels), and concrete-related waste, could be spilled, leaked, or transported via stormwater runoff into adjacent drainages and into downstream receiving waters.

These types of water quality impacts during construction of the proposed Project would be prevented through implementation of a SWPPP that is required to identify all potential sources of pollution that are reasonably expected to affect the quality of stormwater discharges from the construction site. The SWPPP would include construction BMPs such as:

- Prompt revegetation of proposed landscaped/grassed swale areas;
- Perimeter gravel bags or silt fences to prevent off-site transport of sediment;
- Storm drain inlet protection (filter fabric gravel bags and straw wattles), with gravel bag check dams within paved roadways;
- Regular sprinkling of exposed soils to control dust during construction and soil binders for forecasted wind storms;
- Specifications for construction waste handling and disposal;
- Contained equipment wash-out and vehicle maintenance areas;
- Erosion control measures including soil binders, hydro mulch, geotextiles, and hydro seeding of disturbed areas ahead of forecasted storms;
- Construction of stabilized construction entry/exits to prevent trucks from tracking sediment on City roadways;
- Construction timing to minimize soil exposure to storm events; and
- Training of subcontractors on general site housekeeping.

Adherence to the existing requirements and implementation of the appropriate BMPs as ensured through the City's construction permitting process would ensure that the proposed Project would not violate any water quality standards or waste discharge requirements, potential water quality degradation associated with construction activities would be minimized, and impacts would be less than significant.

Operation

The proposed Project would operate five speculative business park/service commercial buildings, which would introduce the potential for pollutants such as chemicals from cleaners, pesticides and sediment from landscaping, trash and debris, and oil and grease from vehicles. These pollutants could potentially discharge into surface waters and result in degradation of water quality. However, the proposed Project would be required to incorporate a WQMP with post-construction (or permanent) Low Impact Development (LID) site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.

The source control BMPs would minimize the introduction of pollutants that may result in water quality impacts; and treatment control BMPs that would treat stormwater runoff. For the purposes of stormwater quality, the proposed Project would collect drainage via multiple inlets which would convey stormwater to onsite water quality bioretention basins and underground detention systems for treatment and discharge. The underground detention systems would convey runoff into a modular wetlands system for water quality and

ultimately be discharged via pump onto Hardt Street for Buildings A, B, and C and would be discharged to Brier Drive for Buildings D1 and D2. Proposed stormwater facilities would mitigate the 85th percentile storm event to pre-Project conditions by providing 33,702 cubic feet of underground retention, as shown in Table WQ-1. This system would also remove coarse sediment, trash, and pollutants (i.e., sediments, nutrients, heavy metals, oxygen demanding substances, oil and grease, bacteria, and pesticides).

Table WQ-1: Design Capture Volume and Control BMP's Capture Volume

Drainage Area (DA)	Required Design Capture Volume (DCV) (CF)	Proposed LID and BMP Capture Volume (CF)
DA 1	6,690	13,294
DA 2	2,924	7,020
DA 3	5,906	13,288
Total	15,520	33,702

Source: Preliminary Water Quality Management Plan (Appendix G)

With implementation of the operational source and treatment control BMPs that are outlined in the preliminary WQMP (Appendix G), that would be reviewed and approved by the City during the permitting and approval process, potential pollutants would be reduced to the maximum extent feasible, and implementation of the proposed Project would not substantially degrade water quality. Therefore, impacts would be less than significant.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less Than Significant Impact. As described in section 5.19, *Utilities and Service Systems*, water service would be provided to the Project site by the City of San Bernardino Municipal Water Department (SBMWD). The 2020 Upper Santa Ana River Watershed Integrated Regional Urban Water Management Plan (UWMP), adopted in June 2021, was prepared for the SBMWD and therefore accounts for the water usage that would be attributed to development of the Project site, consistent with its existing CR-3 land use designation. The proposed Project is also located within the Upper Santa Ana Valley Groundwater Basin, specifically the Bunker Hill subbasin. According to the UWMP, the SBMWD currently uses one source of water to provide to its service area: Bunker Hill Groundwater Basin (UWMP 2021). Since the groundwater basin is managed through this plan, which limits the allowable withdrawal of water from the basin by water purveyors, and the proposed Project would not pump water from the Project area (as water supplies would be provided by SBMWD), the proposed Project would not result in a substantial depletion of groundwater supplies. Further discussion of impacts to water supply is included in Section 5.19, *Utilities and Service Systems*

Development of the proposed Project would introduce approximately 183,594 SF of impervious surfaces, covering approximately 72 percent of the Project site. The proposed Project would collect runoff via grate inlets and catch basins which would convey stormwater via a series of storm drains to four onsite water quality bioretention basins located within the property boundaries of Building A (2) and Building C (2). The proposed Project also includes 63,147 SF of landscaping that would infiltrate stormwater onsite. As a result, the proposed Project would not decrease groundwater supplies or interfere substantially with groundwater recharge; and the Project would not impede sustainable groundwater management of the basin. Thus, the proposed Project would have a less than significant impact.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would:

i. Result in substantial erosion or siltation on- or off-site?

Less Than Significant Impact.

Construction
Construction of the proposed Project would require grading and excavation of soils, which would loosen sediment and could result in erosion or siltation. Approximately 4,800 cubic yards (CY) would be disturbed as part of Project construction. However, as described previously, construction of the proposed Project requires City approval of a SWPPP prepared by a Qualified SWPPP Developer, as included in PPP WQ-1. The SWPPP is required during the City's plan check and permitting process and would include construction BMPs to reduce erosion or siltation. Typical BMPs for erosion or siltation, include use of silt fencing, fiber rolls, gravel bags, stabilized construction driveway, and stockpile management (as described in the previous response above). Adherence to the existing requirements and implementation of the required BMPs per the plan check and permitting process would ensure that erosion and siltation associated with construction activities would be minimized, and impacts would be less than significant.

Operation
The proposed Project site consists of vacant and undeveloped land that does not contain any riparian or riverine features. Development of the proposed Project would introduce new impervious surfaces to the majority of the site, approximately 183,594 SF of impervious surfaces, covering 72 percent of the Project site. The pervious surfaces remaining on the site would be landscaped. There would be no substantial areas of bare or disturbed soil onsite subject to erosion. In addition, the proposed Project is required to implement a WQMP, as included in PPP WQ-2, which would provide operational BMPs to ensure that operation of the proposed Project would not result in erosion or siltation. With implementation of these regulations, impacts related to erosion or siltation onsite or off-site would be less than significant.

ii. **Substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?**

Less Than Significant Impact. As discussed in Section 5.10(a) above, during construction, a SWPPP would be implemented to control drainage and maintain drainage patterns across the proposed Project site. The Hydrology Report (Appendix H) describes that the existing drainage patterns would remain relatively unchanged and would result in a decrease in the time of concentration due to an increase in imperviousness on site. To offset this increase, a retention and infiltration system would collect runoff prior to discharge offsite. The proposed Project is anticipated to result in an increase of 7,688 cubic feet of runoff (Appendix G). Proposed LID infiltration and biotreatment BMPs would provide 33,702 cubic feet of volume to capture and treat runoff which would surpass the required design capture volume (DCV), as shown in Table WQ-1.

Also, as discussed in the Hydrology Report prepared for the proposed Project, drainage runoff from the Project site would be adequately handled by the proposed Project's drainage system. Onsite drainage would be collected via multiple inlets which would convey stormwater to proposed onsite water quality bioretention basins and underground detention systems for treatment and discharge that would capture, filter, and infiltrate runoff. Proposed storm drain facilities would be able to capture runoff and mitigate the 85th percentile storm event to pre-project conditions. Therefore, the Project would not result in flooding on- or off-site, and impacts would be less than significant.

iii. **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?**

Less Than Significant Impact. As described in the previous responses, the proposed Project would be required to implement a SWPPP during construction that would implement BMPs, such as the use of silt fencing, fiber rolls, and gravel bags, that would ensure that runoff would not substantially increase during construction, and that pollutants would not discharge from the Project site, which would reduce potential impacts to drainage systems and water quality to a less than significant level.

See discussion under Section 5.10 a), above. The proposed Project would introduce approximately 183,594 SF of impervious surfaces to the Project site, covering 72 percent of the area. There are three drainage areas within the Project site. Proposed stormwater facilities would mitigate the 85th percentile peak flow

event to pre-project conditions for each drainage area through implementation of BMP's such as biofiltration basins, a modular wetlands system, multiple pumps, an underground detention system, and a storm drain system. Runoff will not exceed the existing condition. This system would remove coarse sediment, trash, and pollutants (i.e., sediments, nutrients, heavy metals, oxygen demanding substances, oil and grease, bacteria, and pesticides). Development of the proposed Project would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems and impacts would be less than significant.

iv. **Impede or redirect flood flows?**

Less Than Significant Impact. The project site is covered by Map Number 06071C8684J of the FEMA Flood Insurance rate Map (FIRM) for the City of San Bernardino. The project is within Zone X, which is not a Special Flood Hazard Area. Zone X are areas determined to be outside the 0.2% annual chance floodplain. The City would review the Project permit applications to ensure the proposed development would not be subject to significant flood hazard and structures would be floodproofed. Additionally, as previously stated, existing drainage patterns would remain relatively unchanged with implementation of the Project. Thus, the proposed Project would not impede or redirect flood flows, and impacts would not occur.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less Than Significant Impact. The project site is covered by Map Number 06071C8684J of the FEMA Flood Insurance rate Map (FIRM) for the City of San Bernardino. The project is within Zone X, which is not a Special Flood Hazard Area. Zone X are areas determined to be outside the 0.2% annual chance floodplain. However, a SWPPP and WQMP would be prepared and implemented as part of the Project to ensure pollutants are contained and would not be released from the Project site during construction. Post construction stormwater infrastructure would ensure capture and treatment of storm flows up to the 2-year 1-hour storm. Therefore, implementation of the Project would not risk the release of pollutants due to Project inundation in a flood hazard zone.

A tsunami is a great sea wave produced by undersea disturbances such as tectonic displacement or large earthquakes. The Project site is located approximately 50 miles northeast of the Pacific Ocean. Therefore, the Project site would not have the potential to expose people or structures to a tsunami, and no impacts related to risk release of pollutants due to a tsunami would occur.

Similarly, a seiche is the sloshing of a closed body of water from earthquake shaking. Seiches are of concern relative to water storage facilities because inundation from a seiche can occur if the wave overflows a containment wall, such as the wall of a reservoir, water storage tank, dam, or other artificial body of water. The nearest body of water is Secombe Lake, approximately 4 miles to the northwest. The Project site is not within vicinity of any impounded bodies of water; therefore, the Project is not at risk of a seiche. However, according to the City of San Bernardino GP Safety Element the proposed Project is within the flood zone area due to Seven Oaks Dam failure. With compliance to the City's emergency procedures for the evacuation and control of populated areas below the dam in its Emergency Plan and Hazard Mitigation Plan, risks related to release of pollutants due to inundation for the Project would be less than significant.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact. As described previously, the proposed Project would be required to have an approved SWPPP, which would include construction BMPs to minimize the potential for construction related sources of pollution. For operations, the proposed Project would be required to implement source control BMPs to minimize the introduction of pollutants; and treatment control BMPs to treat runoff. With implementation of the operational source and treatment control BMPs that would be required by the City during the permitting and approval process, potential pollutants would be reduced to the maximum extent feasible, and implementation of the proposed Project would not obstruct implementation of a water quality control plan.

Also as described previously, the Project site is within the Upper Santa Ana Valley Groundwater Basin, San Bernardino Subbasin (Bunker Hill Subbasin). Each year, the San Bernardino Valley Water Conservation District (Conservation District) completes an Engineering Investigation of the Bunker Hill Basin. Due to the imbalance between groundwater recharge and production since 1993, the Bunker Hill Basin's storage is 486,185 acre-feet below the level, which is considered full, according to the most recent Engineering Investigation. This value is more than the 2020 report due to the decreased availability of native and State Water Project water for recharge. San Bernardino Municipal Water District (SBMWD) receives 100 percent of its water supply from the Bunker Hill Basin. However, the SBMWD identified capability to conduct recharge operations, which include construction of new, or maintenance and repair of existing diversion facilities, canals, dikes, basins, roads, and other water recharge facilities. These improvements are required to ensure that the increasing demands on the Basin, especially during drought periods, can be met. With proposed recharge operations, the Basin would have adequate capacity to meet projected demands. As further discussed in Section 5.19, *Utilities & Service Systems,* the Project would be within projected demand for the SBMWD. Therefore, the Project would result in a less than significant impact and would not obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Plans, Programs, or Policies (PPPs)

PPP WQ-1: SWPPP. Prior to grading permit issuance, the project developer shall have a Stormwater Pollution Prevention Plan (SWPPP) prepared by a QSD (Qualified SWPPP Developer) pursuant to the Municipal Code Chapter 13.54. The SWPPP shall incorporate all necessary Best Management Practices (BMPs) and other City requirements to comply with the National Pollutant Discharge Elimination System (NPDES) requirements to limit the potential of polluted runoff during construction activities. Project contractors shall be required to ensure compliance with the SWPPP and permit periodic inspection of the construction site by City of San Bernardino staff or its designee to confirm compliance.

PPP WQ-2: WQMP. Prior to grading permit issuance, the project developer shall have a Water Quality Management Plan (WQMP) approved by the City for implementation. The project shall comply with the City's Municipal Code Section 13.54 and the Municipal Separate Storm Sewer System (MS4) permit requirements in effect for the Regional Water Quality Control Board (RWQCB) at the time of grading permit to control discharges of sediments and other pollutants during operations of the Project.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.11 LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

a) Physically divide an established community?

No Impact. As described previously, the Project site is vacant and undeveloped. The site is surrounded by existing roadways as well as existing commercial and industrial uses. The proposed Project is consistent with the CR-3 and TD overlay district designation for the site, which does not allow for future residential developments. In addition, the Project does not involve development of roadways or other infrastructure that could divide a community. Therefore, the proposed Project would not disrupt or divide the physical arrangement of an established community, and no impact would occur.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Less Than Significant Impact. The documents regulating land use for the Project site and immediate vicinity are the City's GP, TD Overlay, and the City's Municipal Code. The proposed Project's relationship to these planning documents is described below.

TD Overlay District. The Project site is currently designated as CR-3 zoning and is also within the TD overlay district. Per the TD, the purpose is intended to allow and encourage an appropriate mix and intensity of land uses in a compact pattern around transit stations that will foster transit usage, create new opportunities for economic growth, encourage infill and redevelopment, reduce dependency on the automobile, improve air quality, and promote high quality, interactive neighborhoods. Within the TD zone, the Project is within the Hospitality Lane and Tippecanoe Avenue Transit Station Area which serves as a concentrated employment area within the city. The TD establishes standards and regulations beyond those required by site's underlying CR-3 zone per City of San Bernardino Municipal Code Title 19.19A. As the proposed Project would develop five speculative business park/commercial buildings, it would be consistent with the TD overlay district, and no impact related to the CR-3 land use designation would occur.

General Plan. The Project would be required to comply with the goals and policies of the City of San Bernardino GP. As shown in Table LU-1, the proposed Project would be consistent with the goals and policies of the San Bernardino GP. As such, no impact related to GP inconsistency would occur.

Table LU-1: San Bernardino General Plan Consistency

Policy	Consistency
2.1.1: Actively enforce development standards, design guidelines, and policies to preserve and enhance the character of San Bernardino's neighborhoods.	**Consistent.** As shown on Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 designation.

2.1.2: Require that new development with potentially adverse impacts on existing neighborhoods or residents such as noise, traffic, emissions, and storm water runoff, be located and designed so that quality of life and safety in existing neighborhoods are preserved.	**Consistent.** The Project would mitigate impacts determined to be significant on the environment, including biological resources, cultural resources, geology and soils, and tribal cultural resources as identified in each environmental topic section of this document. Measures would be reviewed by the City.
2.2.7: Control the development of industrial and similar uses that use, store, produce or transport toxics, air emissions, and other pollutants.	**Consistent.** The Project would construct five new speculative business park/commercial service buildings. Project would be consistent with the development standards for the CR-3 designation, as currently zoned.
2.2.9 Require Police Department review of uses that may be characterized by high levels of noise, nighttime patronage, and/or rates of crime; providing for the conditioning or control of use to prevent adverse impacts on adjacent residences, schools, religious facilities, and similar "sensitive" uses.	**Consistent.** The Project is anticipated to operate for 24 hours a day, 7 days a week and would include crime deterrents, including security lights, cameras, and tree setbacks from the proposed buildings. Screening walls approximately 6-feet tall are also proposed throughout the Project site to conceal the trash enclosures within each property boundary. The City's Police will review the Project and include additional conditions as necessary to ensure crime deterrents are sufficient for proposed uses.
2.2.10 The protection of the quality of life shall take precedence during the review of new projects. Accordingly, the City shall utilize its discretion to deny or require mitigation of projects that result in impacts that outweigh benefits to the public.	**Consistent.** The Project would mitigate impacts determined to be significant on the environment, including biological resources, cultural resources, geology and soils, and tribal cultural resources as identified in each environmental topic section of this document. Measures would be reviewed by the City.
2.3.2 Promote development that is compact, pedestrian-friendly, and served by a variety of transportation options along major corridors and in key activity areas.	**Consistent.** The Project would be consistent with the development standards for CR-3 designation, as currently zoned. Additionally, the Project would be located approximately half a mile from the sbX Green Line, which is located on east Hospitality Lane west of Tippecanoe Avenue. The Project is also located a few hundred feet from bus route 8 on Tippecanoe Avenue and Brier Drive.
2.5.4 Require that all new structures achieve a high level of architectural design and provide a careful attention to detail.	**Consistent.** As shown on Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 designation. The proposed Project would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme.
2.5.6 Require that new developments be designed to complement and not devalue the physical characteristics of the surrounding environment, including consideration of: a. The site's natural topography and vegetation; b. Surrounding exemplary architectural design styles; c. Linkages to pedestrian, bicycle, and equestrian paths; d. The use of consistent fencing and signage; e. The provision of interconnecting greenbelts and community amenities, such as clubhouses, health clubs, tennis courts, and swimming pools; f. The use of building materials, colors, and forms that contribute to a "neighborhood" character; g. The use of extensive site landscaping; h. The use of consistent and well designed street signage, building signage, and entry monumentation; i. A variation in the setbacks of structures; j. The inclusion of extensive landscape throughout the site and along street frontages;	**Consistent.** The Project would include construction of five new speculative business park/commercial service buildings. The Project would be sensitive to surrounding topography, as discussed under Section 5.7, Geology and Soils. As shown on Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 designation. As shown in Figures 3-2a-d, *Elevations,* the proposed Project would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme. The proposed concrete tilt-up buildings would be beige and white with dark gray accents. Cutouts and decorative window facades would be installed to create variety in scale and texture, which would be consistent with surrounding commercial and other use buildings. Additionally, the proposed buildings would include enhanced entrances and would be setback from Industrial Parkway, as further discussed in Section 5.1.

k. The articulation of building facades to provide interest and variation by the use of offset planes and cubic volumes, building details, balconies, arcades, or recessed or projecting windows, and other techniques which avoid "box"-like structures; l. The integration of exterior stairways into the architectural design; m. The screening of rooftop mechanical equipment; n. The use of a consistent design through the use of unifying architectural design elements, signage, lighting, and pedestrian areas; o. The provision of art and other visual amenities; p. The inclusion of awnings, overhangs, arcades, and other architectural elements to provide protection from sun, rain, and wind; and q. The location of parking at the rear, above, or below the ground floor of non-residential buildings to enhance pedestrian connectivity. (LU-1)	As discussed in Section 5.1, the proposed Project would install approximately 63,147 SF of ornamental landscaping that would cover approximately 24 percent of the overall Project site and extend along boundaries with adjacent streets. Areas adjacent to the building would be landscaped with trees and a variety of shrubs and ground covers. Additionally, the layering of landscaping between the proposed buildings and the surrounding roadways would provide visual depth and distance between the roadways and proposed structure. Landscaping would be complimentary to the surrounding community character.
2.6.2 Balance the preservation of plant and wildlife habitats with the need for new development through site plan review and enforcement of the California Environmental Quality Act (CEQA)	**Consistent.** As discussed in Section 5.4, Biological Resources, the Project would not result in significant impacts on plant and wildlife habitats.
2.7.1 Enhance and expand drainage, sewer, and water supply/storage facilities to serve new development and intensification of existing lands.	**Consistent.** As discussed in Section 5.19, Utilities and Service Systems, the Project proposes connection to existing utilities, which would have capacity to serve the proposed Project.
2.7.5 Require that development be contingent upon the ability of public infrastructure to provide sufficient capacity to accommodate its demands and mitigate its impacts.	**Consistent.** As discussed in Section 5.19, Utilities and Service Systems, the Project proposes connection to existing utilities, which would have capacity to serve the proposed Project.
2.8.1 Ensure that all structures comply with seismic safety provisions and building codes.	**Consistent.** As discussed in Section 5.7, Geology and Soils, the Project would comply with seismic safety provisions and building codes.
2.8.2 Ensure that design and development standards appropriately address the hazards posed by wildfires and wind, with particular focus on the varying degrees of these threats in the foothills, valleys, ridges, and the southern and western flanks of the San Bernardino Mountains.	**Consistent.** As discussed in Section 5.20, Wildfires, the Project would not significantly exacerbate wildfire risk or expose employees and surrounding areas to threats associated with wildfire.
2.8.3 Encourage projects to incorporate the Crime Prevention Through Environmental Design (CPTED) and defensible space techniques to help improve safety.	**Consistent.** The Project would incorporate multiple Crime Prevention Through Environmental Design (CPTED) strategies. As shown on Figure 3-1, *Conceptual Site Plan*, the Project would provide security lighting throughout the site and along the Hardt Street and Brier Drive frontage. Furthermore, Project plans will be reviewed by the San Bernardino Police Department to ensure that proper CPTED measures are incorporated into the Project design.
2.8.4 Control the development of industrial and other uses that use, store, produce, or transport toxics, air emissions, and other pollutants.	**Consistent.** The Project would construct five new tilt up speculative business park/commercial service buildings. Project would be consistent with the development standards for the CR-3 designation, as currently zoned.
2.10.1 Ensure that all decisions related to the physical development and growth of the City of San Bernardino complies with the General Plan. Specifically, the provisions of this plan shall be applied to the following: a. Proposed private development projects; b. Proposed public works projects in support of land development or preservation (Government Code Section 65401); c.	**Consistent.** As presented in this Section, the Project would be consistent with the City's GP.

Proposed acquisition or disposal of public land (Government Code Section 65401); and d. Adoption of ordinances and standards for implementing General Plan land use designations, especially through the Development Code.	
4.5.1 Focus on developing the export-oriented economic capacity of the City, which includes 'production businesses' (i.e., manufacturing and service firms).	**Consistent.** The Project proposes to construct five new tilt up speculative business park/commercial service buildings. The Project would provide a commercial service to the City.
5.3.2 Distinct neighborhood identities should be achieved by applying streetscape and landscape design, entry treatments, and architectural detailing standards, which are tailored to each particular area and also incorporate citywide design features.	**Consistent.** As discussed in Section 5.1, the proposed Project would install approximately 63,147 SF of ornamental landscaping that would cover approximately 24 percent of the overall Project site. Areas adjacent to the building entrance would be landscaped with trees and a variety of shrubs and ground covers. Additionally, the layering of landscaping within the landscape setbacks and along the surrounding roadways would provide visual depth and distance between the roadways and proposed structure and surface parking lots. Landscaping would be complimentary to the surrounding community character.
5.3.4 Enhance and encourage neighborhood or street identity with theme landscaping or trees, entry statements, enhanced school or community facility identification, and a unified range of architectural detailing.	**Consistent.** As discussed in Section 5.1, the proposed Project would install approximately 63,147 SF of ornamental landscaping that would cover approximately 24 percent of the overall Project site. Areas adjacent to the building entrance would be landscaped with trees and a variety of shrubs and ground covers. Additionally, the layering of landscaping within the landscape setbacks and along the surrounding roadways would provide visual depth and distance between the roadways and proposed structure and surface parking lots. Landscaping would be complimentary to the surrounding community character.
5.7.2 Orient buildings toward major thoroughfares, sidewalks, and public spaces so that parking is convenient but not visually dominating.	**Consistent.** The proposed Project would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme. The proposed concrete tilt-up buildings would be beige and white with dark gray accents. Cutouts and decorative window facades would be installed to create variety in scale and texture. The Project site would be landscaped with trees and a variety of shrubs and ground covers to provide depth and visual interest, including along Hardt Street and Brier Drive, such that the parking areas are not visually dominating.
5.7.3 Maintain architectural interest and variety through varied rooflines, building setbacks, and detailed façade treatments and maintain a strong sense of project identity through similarities in façade organization, signage, landscaping, material use, colors, and roof shapes.	**Consistent.** As shown in Figures 3-2a-d, *Elevations*, the proposed Project would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme. The proposed concrete tilt-up buildings would be beige and white with dark gray accents. Cutouts and decorative window facades would be installed to create variety in scale and texture.
5.7.6 Encourage architectural detailing, which includes richly articulated surfaces and varied facade treatment, rather than plain or blank walls.	**Consistent.** As shown on Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 designation. would establish a quality architectural presence through emphasis on building finish materials and consistent material usage and color scheme. The proposed concrete tilt-up

	buildings would be beige and white with dark gray accents. Cutouts and decorative window facades would be installed to create variety in scale and texture in order to provide architectural interest. The use of landscaping, building layout, finish materials, and accenting on the Project site would create a quality architectural presence along bot Hardt Street and Brier Drive.
5.7.7 Minimize the visual impact of surface parking lots by locating them behind buildings, away from the street or through perimeter and interior landscaping, berming, and small-scale fencing.	**Consistent.** The use of landscaping, building layout, finish materials, and accenting on the Project site would create a quality architectural presence along both Hardt Street and Brier. The majority of parking is proposed along the back, west, and east sides of the buildings away from roadways.
5.7.9 Ensure that the scale and massing of office, commercial, and industrial uses are sensitive to the context of surrounding residential development.	**Consistent.** As shown on Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 designation. Design would be reviewed and approved for consistency with design standards, including setbacks, fencing, signage, open space, architectural treatments, etc. by the City prior to Project approval.
5.7.10 Lighting should provide for safety and to highlight features of center but not shine directly onto neighboring properties or into the eyes of motorists.	**Consistent.** Security lighting is proposed around the building. Lighting would be directed downwards and shielded from surrounding properties. Lighting would comply with City lighting standards.
5.7.11 Loading bays should be screened by walls and landscaping and oriented away from major streets and entries.	**Consistent.** The proposed Project includes approximately 63,147 SF of ornamental landscaping that would cover approximately 24 percent of the site, as shown in Figure 3-3, *Proposed Landscape Plan*. Proposed landscaping would include 24-inch box trees, 15-gallon trees, various shrubs, and succulents to screen the proposed building, infiltration/detention basin, and parking and loading areas from off-site viewpoints. Additionally, truck loading areas would be located away from Hardt Street and East Brier Drive
6.2.1 Maintain a peak hour level of service D or better at street intersections.	**Consistent.** As discussed in Section 5.17, Transportation, the Project would not result in impacts on transportation.
6.2.3 Keep traffic in balance with roadway capacity by requiring traffic studies to identify local roadway and intersection improvements necessary to mitigate the traffic impacts of new developments and land use changes.	**Consistent.** As discussed in Section 5.17, Transportation, the Project prepared a Traffic Impact Analysis which demonstrates the Project would screen out of a Vehicle Miles Traveled (VMT) analysis as it would be located within a Transit Priority Area (TPA). Additionally, the Project would pay Development Impact Fees as conditioned by the City. The fees shall be collected and utilized as needed by the City to construct the improvements necessary to maintain, build or improve roads to their build-out level.
6.3.6 Locate new development and their access points in such a way that traffic is not encouraged to utilize local residential streets and alleys.	**Consistent.** The Project would provide access along Hardt Street and Brier Drive to the five proposed buildings. Residential streets and alleys would not be utilized for access.
6.3.7 Require that adequate access be provided to all developments in the City including secondary access to facilitate emergency access and egress	**Consistent.** Buildings A and B would be accessible via three proposed 26-foot-wide driveways on Hardt Street. Building C would be accessible via two proposed 30-foot-wide driveways along Hardt Street. Buildings D1 and D2 would be accessible via two proposed 26-foot-wide driveways along East Brier Drive. Thus, providing secondary access for emergency access to all

	buildings. The construction permitting process would provide adequate and safe circulation to, from, and through the Project site, and would provide routes for emergency responders to access different portions of the Project site. The Project would provide at minimum 26-foot or wider fire access lanes around the proposed speculative business park/commercial service buildings. Because the Project is required to comply with all applicable City codes, as verified by the City potential impacts related to inadequate emergency access would be less than significant.
6.4.1 Work with Caltrans to ensure that construction of new facilities includes appropriate sound walls or other mitigating noise barriers to reduce noise impacts on adjacent land uses.	**Consistent.** The Noise Impact Analysis prepared for the Project evaluated potential impacts to ambient noise levels at the nearest sensitive receptors resulting from the proposed onsite noise sources (LSA 2023). As shown in Table N-6 in Section 5.13, Noise, construction noise at the nearby receiver locations would range from 64 to 78 dBA Leq, which would not exceed the 80 dBA, 85 dBA, and 90 dBA 1-hour construction noise level criteria for daytime construction noise level criteria as established by the FTA for residential, commercial, and industrial land uses, respectively. Therefore, noise generated from operation of the proposed Project would not exceed noise standards and impacts would be less than significant.
6.4.8 Develop appropriate protection measures along routes frequently used by trucks to minimize noise impacts to sensitive land uses including but not limited to residences, hospitals, schools, parks, daycare facilities, libraries, and similar uses.	**Consistent.** The Noise Impact Analysis prepared for the Project evaluated potential impacts to ambient noise levels at the nearest sensitive receptors resulting from the proposed onsite noise sources (LSA 2023). As shown in Table N-6 in Section 5.13, Noise, noise generated from operation of the proposed Project would not exceed noise standards and would be less than significant.
6.5.4 Require that on-site loading areas minimize interference of truck loading activities with efficient traffic circulation on adjacent roadways.	**Consistent.** Vehicular access to the Project site would be provided via ingress and egress driveways connecting to Hardt Street and Brier Drive. Vehicular traffic to and from the Project site would utilize the existing network of regional and local roadways that currently serve the Project site. The construction permitting process would provide adequate and safe circulation to, from, and through the Project site. Loading areas would be located along the opposite side of the building away from roadways and would not interfere with traffic along East Brier Drive and Hardt Street.
6.9.1 Ensure that developments provide an adequate supply of parking to meet its needs either on-site or within close proximity.	**Consistent.** The proposed Project would provide 213 parking spaces and is located within a Transit Overlay District. The Project site is located within half a mile of a transit stop (Tippecanoe Metrolink Station); therefore, the project is eligible to utilize AB 2097. The reduction in parking would be in line with the State's initiative to reduce dependency on automobiles as well as the intent of the City of San Bernardino's Transit Overlay District which allows the city to refine the parking requirements, applying techniques such as parking maximums (e.g., no minimum parking requirements) as the transit system matures, as defined above.
7.1.5 Ensure that landscaping (i.e., trees and shrubbery) around buildings does not obstruct views required to provide security surveillance.	**Consistent.** Areas adjacent to the building would be landscaped with trees and a variety of shrubs and ground covers. Landscaping would be placed so as not to interfere with security surveillance.

7.1.6 Require adequate lighting around residential, commercial, and industrial buildings in order to facilitate security surveillance.	**Consistent.** The Project would include security lighting around the building. Lighting plans would be reviewed by applicable City departments prior to Project approval to ensure adequate light is provided for security purposes.
7.1.7 Require the provision of security measures and devices that are designed to increase visibility and security in the design of building siting, interior and exterior design, and hardware.	**Consistent.** Operation of the five new speculative business park/commercial service buildings may generate a typical range of police service calls, such as burglaries, thefts, and employee disturbances. The Project would include security lighting and other security measures, such as security gates, and appropriate landscaping setback from the building.
7.2.2 Assess the effects of increases in development density and related traffic congestion on the provision of adequate facilities and services ensuring that new development will maintain fire protection services of acceptable levels.	**Consistent.** The Project would be required to comply with the provisions of Municipal Code Section 3.27.040, which requires payment of the Development Impact Fee to assist the City in providing fire protection services. Payment of the Development Impact Fee would ensure that the Project provides fair share funds for the provision of additional public services, including fire protection services, which may be applied to fire facilities and/or equipment, to offset the incremental increase in the demand for fire protection services that would be created by the Project.
7.2.3 Establish a program whereby new development projects are assessed a pro rata fee to pay for additional fire service protection to that development.	**Consistent.** The Project would be required to comply with the provisions of Municipal Code Section 3.27.040, which requires payment of the Development Impact Fee to assist the City in providing for fire protection services.
7.2.6 Require that all buildings subject to City jurisdiction adhere to fire safety codes.	**Consistent.** The Project would be required to comply with the California Building Code, pursuant to Section 15.04.020, Adoption of Codes, of the City's Municipal Code.
9.1.3 Require new development to connect to a master planned sanitary sewer system in accordance with the Department of Public Works' "Sewer Policy and Procedures". Where construction of master planned facilities is not feasible, the Mayor and Common Council may permit the construction of interim facilities sufficient to serve the present and short-term future needs.	**Consistent.** The Project applicant would install new onsite sewer lines for Buildings A, B and C which would connect to the existing 8-inch sewer line in Hardt Street and onsite sewer lines for Buildings D1and D2 which would connect to the existing 8-inch sewer line in East Brier Drive. Additionally, the Project applicant would install new onsite water lines for Buildings A, B and C which would connect to the existing 12-inch water line in Hardt Street. The Project would also install new onsite water lines for Buildings D1and D2 which would connect to the existing 12-inch water line in East Brier Drive. The Project would not require the construction of new facilities.
9.3.4 Monitor the demands on the water system and, as necessary, manage development to mitigate impacts and/or facilitate improvements.	**Consistent.** As discussed in Section 5.19, Utilities and Service Systems, the City of San Bernardino Municipal Water Department has sufficient capacity to serve the proposed Project.
9.3.5 Impose limits on new water hook-ups, if necessary, to comply with available domestic water supply.	The Project applicant would develop the Project site, which is currently served by City of San Bernardino Municipal Water Department's water infrastructure and would install new water infrastructure at the Project site that would connect to existing water infrastructure within Hardt Street and Brier Drive.
9.4.4 Require that adequate storm drain and flood control facilities be in place prior to the issuance of certificates of occupancy. Where construction of master planned facilities is not feasible, the Mayor and Common	**Consistent.** The Project would include implementation of on-site storm drain facilities. As discussed in Section 5.10, Hydrology and Water Quality, the Project would collect drainage via multiple inlets which would convey storm water to proposed onsite water quality bioretention

Council may permit the construction of interim facilities sufficient to protect present and short-term future needs.	basins and underground detention systems for treatment and discharge. Drainage for Buildings A and B would be accommodated via two biofiltration basins and an underground detention system. The two biofiltration basins would be located southwest and south of Building A and would discharge treated runoff onto Hardt Street. Drainage for Building C would be accommodated via two biofiltration basins located northeast and northwest of the building. Treated runoff would discharge onto Hardt Street. Drainage for Buildings D1 and D2 would be accommodated via a modular wetlands system and an underground detention system located beneath the central drive aisle. Proposed storm drain facilities would be able to capture runoff and mitigate the 2-year 1-hour storm event to pre- Project conditions. Runoff would not exceed existing conditions.
9.4.8 Minimize the amount of impervious surfaces in conjunction with new development.	**Consistent.** The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
9.4.10 Ensure compliance with the Federal Clean Water Act requirements for National Pollutant Discharge Elimination System (NPDES) permits, including requiring the development of Water Quality Management Plans, Erosion and Sediment Control Plans, and Storm Water Pollution Prevention Plans for all qualifying public and private development and significant redevelopment in the City.	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP. The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
9.4.11 Implement an urban runoff reduction program consistent with regional and federal requirements, which includes requiring and encouraging the following examples of Best Management Practices (BMPs) in all developments: • Increase permeable areas, utilize pervious materials, install filtration controls (including grass lined swales and gravel beds), and divert flow to these permeable areas to allow more percolation of runoff into the ground; • Replanting and hydroseeding of native vegetation to reduce slope erosion, filter runoff, and provide habitat; • Use of porous pavement systems with an underlying stone reservoir in parking areas; • Use natural drainage, detention ponds, or infiltration pits to collect and filter runoff; • Prevent rainfall from entering material and waste storage areas and pollution-laden surfaces; and • Require new development and significant redevelopment to utilize site preparation, grading, and other BMPs that provide erosion and sediment control to prevent construction-related contaminants from leaving the site and polluting waterways.	As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP, to ensure Project construction would not result in impacts related to stormwater runoff. The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
9.5.3 Continue to reduce the amount of solid waste that must be disposed of in area landfills, to conserve energy resources, and be consistent with the County Solid Waste Management Plan and State law.	**Consistent.** The CalEEMod solid waste generation rate for the proposed project assumed that the Project would generate approximately 101 tons of solid waste per year, or 0.28 tons per day (Appendix A). However, at least 75 percent of the solid waste is required by AB 341 to be recycled, which would reduce the volume of

	landfilled solid waste to approximately 25.25 tons per year or 0.48 ton per week.
9.6.1 Require that approval of new development be contingent upon the ability to be served with adequate electrical facilities.	**Consistent.** The Project would connect to the existing Southern California Edison electrical distribution facilities that are adjacent to the Project site and would not require the construction of new electrical facilities. Confirmation that Southern California Edison would be able to serve the Project would be obtained prior to Project construction.
9.6.2 Underground utilities, including on-site electrical utilities and connections to distribution facilities, unless such undergrounding is proven infeasible.	**Consistent.** The Project would include installation of onsite water and sewer lines that would connect to existing underground utilities. New above ground utilities would not be constructed as part of the Project.
9.6.4 Require improvements to the existing street light system and/or new street light systems necessitated by a new development proposal be funded by that development.	**Consistent.** The Project would include security lighting around the building. Lighting plans would be reviewed by applicable City departments prior to Project approval to ensure adequate light is provided for operational and security purposes.
9.6.5 Encourage and promote the use of energy-efficient (U.S. Department of Energy "Energy Star" or equivalent) lighting fixtures, light bulbs, and compact fluorescent bulbs in residences, commercial, and public buildings, as well as in traffic signals and signs where feasible.	**Consistent.** As required by Municipal Code, Chapter 15.04 Building Codes, prior to issuance of a building permit, the Project Applicant shall submit plans showing that the Project would be in compliance with 2019 Title 24 requirements. The Project would include energy efficient design and fixtures where feasible.
9.7.2 Require that all new development served by natural gas install on-site pipeline connections to distribution facilities underground, unless such undergrounding is infeasible due to significant environmental or other constraints	**Consistent.** The Project would include connection to existing underground utilities. New above ground utilities would not be constructed as part of the Project.
9.8.2 Require that all new developments underground telecommunication facilities, unless such undergrounding is infeasible due to significant environmental or other constraints.	**Consistent.** The Project would include connection to existing underground utilities. New above ground utilities would not be constructed as part of the Project.
9.10.1 Require that new development proposals bear the cost to improve wastewater collection and treatment facilities, water supply transmission, distribution, storage, and treatment facilities, and storm drain and flood control facilities as necessitated by the proposed project. This shall be accomplished either through the payment of fees, or by the actual construction of the improvements.	**Consistent.** As discussed in Section 5.19, Utilities and Service Systems, the Project would include connection to existing facilities. The applicant would pay all applicable development fees prior to Project construction.
10.1.2 Ensure the protection of surface and groundwater quality, land resources, air quality, and environmentally sensitive areas through safe transportation of waste through the City and comprehensive planning of hazardous materials, wastes, and sites.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction and operational activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment.
10.2.1 Require the proper handling, treatment, movement, and disposal of hazardous materials and hazardous waste.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction and operational activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment.
10.2.2 Encourage businesses to utilize practices and technologies that will reduce the generation of hazardous wastes at the source.	**Consistent.** The Project would include development of five speculative business park/commercial service buildings, which would not include generation of hazardous materials.

10.2.3 Implement federal, state, and local regulations for the disposal, handling, and storage of hazardous materials.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction and operational activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment.
10.4.2 Protect surface water and groundwater from contamination.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, with implementation of the operational source and treatment control BMPs that are outlined in the preliminary WQMP (Appendix G) that would be reviewed and approved by the City during the permitting and approval process, potential pollutants would be reduced to the maximum extent feasible, and implementation of the proposed Project would not substantially degrade water quality.
10.5.1 Ensure compliance with the Federal Clean Water Act requirements for National Pollutant Discharge Elimination System (NPDES) permits, including developing and requiring the development of Water Quality Management Plans for all new development and significant redevelopment in the City.	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP, to ensure Project construction would not result in impacts related to stormwater runoff. The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
10.5.2 Continue to implement an urban runoff reduction program consistent with regional and federal requirements, which includes requiring and encouraging the following: • Increase permeable areas to allow more percolation of runoff into the ground; • Use natural drainage, detention ponds or infiltration pits to collect runoff; • Divert and catch runoff using swales, berms, green strip filters, gravel beds and French drains; • Install rain gutters and orient them towards permeable surfaces; • Construct property grades to divert flow to permeable areas; • Use subsurface areas for storm runoff either for reuse or to enable release of runoff at predetermined times or rates to minimize peak discharge into storm drains; • Use porous materials, wherever possible, for construction of driveways, walkways and parking lots; and • Divert runoff away from material and waste storage areas and pollution-laden surfaces such as parking lots	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP, to ensure Project construction would not result in impacts related to stormwater runoff. The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
10.5.4 Require new development and significant redevelopment to utilize site preparation, grading and foundation designs that provide erosion control to prevent sedimentation and contamination of waterways.	**Consistent.** Development of the proposed Project would introduce approximately 183,049 SF of impervious surfaces to the site. The pervious surfaces remaining on the site would be landscaped. There would be no substantial areas of bare or disturbed soil onsite subject to erosion.
10.6.1 Maintain flood control systems and restrict development to minimize hazards due to flooding.	**Consistent.** The Project would include implementation of on-site storm drain facilities. As discussed in Section 5.10, Hydrology and Water Quality, the Project would collect drainage via multiple inlets which would convey storm

	water to proposed onsite water quality bioretention basins and underground detention systems for treatment and discharge. Overflow from the underground storm chambers would be discharged out onto Hardt Street and Brier Drive via a pump. Proposed storm drain facilities would be able to capture runoff and mitigate the 2-year 1-hour storm event to pre- Project conditions. Runoff would not exceed existing conditions.
10.6.4 Evaluate all development proposals located in areas that are subject to flooding to minimize the exposure of life and property to potential flood risks.	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would include stormwater infrastructure to manage on-site flows and would not result in impacts related to flooding.
10.6.5 Prohibit land use development and/or the construction of any structure intended for human occupancy within the 100-year flood plain as mapped by the Federal Emergency Management Agency (FEMA) unless adequate mitigation is provided against flood hazards.	**Consistent.** According to the Federal Emergency Management Agency (FEMA) FIRM map #06071C8684J and the City's GP Safety Element, the Project site is located in Zone X, which is identified as an "area determined to be outside the 0.2% chance flood plain." The northern portion of the site is adjacent to an earthen drainage channel, which is located in Zone A, identified as an "area with no base flood elevations determined".
10.6.7 Utilize flood control methods that are consistent with Regional Water Quality Control Board Policies and Best Management Practices (BMPs).	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP, to ensure Project construction would not result in impacts related to stormwater runoff. The Project would be required to incorporate a WQMP with post-construction (or permanent) LID site design, source control, and treatment control BMPs. The LID site design would minimize impervious surfaces and provide infiltration of runoff into landscaped areas.
10.6.9 Ensure major drains in developed areas have a pipeline capacity to comply with the Flood Control District's Comprehensive Storm Drain Plans for development of the City's storm drain system.	**Consistent.** The Project would include construction of five new speculative business park/commercial service buildings. The Project would connect to existing stormwater facilities adjacent to Hardt Street and Brier Drive. The Project would be reviewed by Public Works and other applicable department prior to Project approval in order to ensure the provision of adequate utility infrastructure and capacity.
10.7.1 Minimize the risk to life and property through the identification of potentially hazardous areas, establishment of proper construction design criteria, and provision of public information.	**Consistent.** As discussed in Section 5.7, Geology and Soils, with CBC compliance, the proposed Project would not expose people or structures to potentially substantial adverse effects due to proximity to hazardous areas.
10.7.2 Require geologic and geotechnical investigations for new development in areas adjacent to known fault locations and approximate fault locations (Figure S-3) as part of the environmental and/or development review process and enforce structural setbacks from faults identified through those investigations.	**Consistent.** A Geotechnical Investigation was prepared by Construction Testing and Engineering, South, Inc., on June 14, 2021 (Appendix D). Recommendations of the report would be implemented as part of the Project.
10.7.3 Enforce the requirements of the California Seismic Hazards Mapping and Alquist-Priolo Earthquake Fault Zoning Acts when siting, evaluating, and constructing new projects within the City.	**Consistent.** As discussed in Section 5.7, Geology and Soils, the Project site is not within an Alquist-Priolo Earthquake Fault Zone.
10.7.4 Determine the liquefaction potential at a site prior to development, and require that specific measures be taken, as necessary, to prevent or reduce damage in an earthquake.	**Consistent.** The Geotechnical investigation performed a seismic settlement analysis using the program LiquefyPro and based on the Geotechnical Investigation (included as Appendix D) and the depth of groundwater recorded, the potential for liquefaction of site soils is considered

	very low. Furthermore, according to the City of San Bernardino GP Safety Element Figure 10-25: *Liquefaction Susceptibility*, the Project site is not located in an area mapped for high susceptibility to liquefaction
10.8.1 Enforce the requirements of the California Seismic Hazards Mapping and Alquist-Priolo Earthquake Fault Zoning Acts 10-28 City of San Bernardino when siting, evaluating, and constructing new projects within the City.	**Consistent.** As discussed in Section 5.7, Geology and Soils, the Project site is not within an Alquist-Priolo Earthquake Fault Zone.
10.9.1 Minimize risk to life and property by properly identifying hazardous areas, establishing proper construction design criteria, and distribution of public information.	**Consistent.** As discussed in Section 5.7, Geology and Soils, with CBC compliance, the proposed Project would not expose people or structures to potentially substantial adverse effects.
10.9.2 Require geologic and geotechnical investigations in areas of potential geologic hazards as part of environmental and/or development review process for all new structures.	**Consistent.** A Geotechnical Investigation was prepared by Construction Testing and Engineering, South, Inc., on June 14, 2021 (Appendix D). Specific recommendations of the report regarding site preparation, remedial grading and excavation, fill placement and compaction, foundation design and more are included under Section 6.0 *Conclusions and Recommendations* of Appendix D, and would be implemented as part of the proposed Project.
10.9.3 Require that new construction and significant alterations to structures located within potential landslide areas (Figure S-7) be evaluated for site stability, including potential impact to other properties during project design and review.	**Consistent.** As discussed in Section 5.7, Geology and Soils, the Project site and the adjacent parcels are flat and do not contain any hills or steep slopes, and no landslides on or adjacent to the Project site would occur.
10.10.4 Require that structures be sited to prevent adverse funneling of wind on-site and on adjacent properties.	**Consistent.** According to the City's GP, the Project is not located within a designated "High Wind Area".
10.11.3 Require that development in the High Fire Hazard Area, as designated on the Fire Hazards Areas Map (Figure S-9) be subject to the provisions of the Hillside Management Overlay District (HMOD) and the Foothill Fire Zones Overlay	**Consistent.** The proposed Project would be located within a Local Responsibility Area (LRA) and is not within a Very High Fire Hazard Severity Zone (VHFHSZ) (CAL FIRE 2022).
10.11.5 Continue to require that all new construction and the replacement of 50% and greater of the roofs of existing structures use fire retardant materials.	**Consistent.** As discussed in Section 5.20, Wildfire, the proposed Project would be located within a Local Responsibility Area (LRA) and is not within a Very High Fire Hazard Severity Zone (VHFHSZ) (CAL FIRE 2020).
10.12.5 Prevent serious damage and injuries through effective hazard mitigation.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction and operational activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment.
11.1.3 Consider, within the environmental review process, properties that may have become historically significant since completion of the survey in 1991.	**Consistent.** As described in the Project Description, the Project site is vacant and undeveloped. As such, the proposed Project would not cause an impact to a building of historic age.
11.5.2 Develop mitigation measures for projects located in archaeologically sensitive areas to protect such locations, remove artifacts, and retain them for educational display. Native American tribes should be consulted to determine the disposition of any Native American artifacts discovered.	**Consistent.** The Phase I Cultural Resources Assessment prepared for the Project included an archaeological records search that was completed at the SCCIC (Appendix C). The Phase I Cultural Resources Assessment stated that the Project would not result in direct impacts to any of the previously known historic resources within the Project vicinity, due to previous ground-disturbing activities and the absence of identified cultural resources within the Project boundaries. Therefore, there is little

	potential for cultural resources to be present or disturbed by the proposed development the event a resource is inadvertently discovered. Impacts related to unknown historical or resources onsite would be less than significant.
12.1.2 Site and develop land uses in a manner that is sensitive to the unique characteristics of and that minimizes the impacts upon sensitive biological resources.	**Consistent.** As discussed in Section 5.4 Biological Resources, the Habitat Assessment determined that the Project site does not provide suitable habitat for any special status plant species or special status plant communities due to the undeveloped and disturbed nature of the site. Therefore, no direct or indirect impact through habitat modifications, on any species identified as a candidate, sensitive, or special status would occur due to implementation of the proposed Project.
12.2.1 Prohibit development and grading within fifty (50) feet of riparian corridors, as identified by a qualified biologist, unless no feasible alternative exists.	**Consistent.** As discussed in Section 5.4 Biological Resource, the Project site does not contain riparian habitat or corridors.
12.4.7 Restrict incompatible land uses within the impact area of existing or potential surface mining areas.	**Consistent.** As discussed in Section 5.12, Mineral Resources, the Project site is located within an area of San Bernardino that is classified as Mineral Resource Zone 2 (MRZ-2). MRZ-2 areas indicate the existence of a construction aggregate deposit that meets certain State criteria for value and marketability based solely on geologic factors. However, the Project site is currently vacant and undeveloped and has not recently been used for mineral extractions. Thus, there are no available mineral resources that would be affected by the Project, and impacts would be less than significant.
12.5.1 Reduce the emission of pollutants including carbon monoxide, oxides of nitrogen, photochemical smog, and sulfate in accordance with South Coast Air Quality Management District (SCAQMD) standards.	**Consistent.** Emissions generated by the construction and operation of the proposed Project would not exceed SCAQMD thresholds, and the Project would not result in an increase in the frequency or severity of existing air quality violations or cause a new violation.
12.5.2 Prohibit the development of land uses (e.g., heavy manufacturing) that will contribute significantly to air quality degradation, unless sufficient mitigation measures are undertaken according SCAQMD standards.	**Consistent.** Emissions generated by the construction and operation of the proposed Project would not exceed SCAQMD thresholds, and the Project would not result in an increase in the frequency or severity of existing air quality violations or cause a new violation.
12.5.3 Require dust abatement measures during grading and construction operations.	**Consistent.** As discussed in Section 5.3, Air Quality, construction contractors would be required to implement measures to reduce or eliminate emissions by following SCAQMD's standard construction practices Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. Rule 403 requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source.
12.5.4 Evaluate the air emissions of industrial land uses to ensure that they will not impact adjacent uses.	**Consistent.** As discussed in Section 5.3, Air Quality, the Project would not result in impacts to adjacent land uses.
12.6.7 Promote the use of public transit and alternative travel modes to reduce air emissions.	**Consistent.** The Project would be located approximately half a mile from the sbX Green Line, which is located on east Hospitality Lane west of Tippecanoe Avenue. The Project is also located a few hundred feet from bus route 8 on Tippecanoe Avenue and Brier Drive.
12.8.3 Review grading, access, and site plans for new projects to ensure that they are sensitively designed to minimize impacts to the City's natural features.	**Consistent.** The Project site does not contain natural features. The City would review grading, access, and site plans prior to Project approval.

13.1.2 Ensure the incorporation of energy conservation features in the design of all new construction and site development in accordance with State Law.	**Consistent.** As required by Municipal Code, Chapter 15.04 Building Codes, prior to issuance of a building permit, the Project Applicant shall submit plans showing that the Project would be in compliance with 2019 Title 24 requirements. The Project would include energy efficient design and fixtures where feasible.
13.2.2 Require that development not degrade surface or groundwater, especially in watersheds, or areas with high groundwater tables or highly permeable soils.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, With implementation of the operational source and treatment control BMPs that are outlined in the preliminary WQMP (Appendix G) that would be reviewed and approved by the City during the permitting and approval process, potential pollutants would be reduced to the maximum extent feasible, and implementation of the proposed Project would not substantially degrade water quality.
13.2.4 Require the use of reclaimed water for landscape irrigation and other non-contact uses for industrial projects, golf courses, and freeways.	**Consistent.** The Project site does not currently include recycled water lines within the Project site vicinity. Therefore, the Project would not use reclaimed water for landscape irrigation.
13.2.5 Mitigate degradation of the groundwater basins that may have already occurred by existing commercial, industrial, and other uses.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, there were no recognized environmental concerns identified by the Phase I ESA. Therefore, the Bunker Hill subbasin has not been degraded by existing uses near the site.
13.2.7 Require that new development incorporate improvements to channel storm runoff to public storm drainage systems and prevent discharge of pollutants into the groundwater basins and waterways.	**Consistent.** As discussed in Section 5.9, Hazards and Hazardous Materials, implementation of the operational source and treatment control BMPs that are outlined in the preliminary WQMP (Appendix G) that would be reviewed and approved by the City during the permitting and approval process, potential pollutants would be reduced to the maximum extent feasible, and implementation of the proposed Project would not substantially degrade water quality.
13.2.8 Require that Best Management Practices (BMPs) are implemented for each project to control the discharge of point source and non-point source pollutants both during construction and for the life of the projects to protect the City's water quality.	**Consistent.** As discussed in Section 5.10, Hydrology and Water Quality, the Project would comply with applicable NPDES permit requirements, including compliance with conditions of the CGP and development of a SWPPP, to ensure Project construction would not result in impacts related to stormwater runoff.
13.2.10 Require that development in the City's watersheds incorporate adequate landscape and groundcover to prevent slope erosion and significant sedimentation of canyon drainages.	**Consistent.** Development of the proposed Project would introduce approximately 183,049 SF of impervious surfaces to the site. The pervious surfaces remaining on the site would be landscaped. There would be no substantial areas of bare or disturbed soil onsite subject to erosion.
14.1.4 Prohibit the development of new or expansion of existing industrial, commercial, or other uses that generate noise impacts on housing, schools, health care facilities or other sensitive uses above a Ldn of 65 dB(A).	**Consistent.** As discussed in Section 5.13, Noise, Project-related operational noise level impacts would range from 38.7 dBA Leq to 47.8 dBA Leq at the surrounding receptors. These levels would be below the City's exterior noise standard of 65 dBA Leq. Because Project noise levels would not generate a noise level that exceeds existing ambient noise levels by 3 dBA or more or exceed the City's thresholds, impacts would be less than significant.
14.2.3 Require that development that increases the ambient noise level adjacent to noise-sensitive land uses provide appropriate mitigation measures.	**Consistent.** As discussed in Section 5.13, Noise, Project-related operational noise level impacts would range from 38.7 dBA Leq to 47.8 dBA Leq at the surrounding receptors. These levels would be below the City's exterior noise standard of 65 dBA Leq. Because Project

	noise levels would not generate a noise level that exceeds existing ambient noise levels by 3 dBA or more or exceed the City's thresholds, impacts would be less than significant and no mitigation measures are required.
14.2.5 Require sound walls, berms, and landscaping along existing and future highways and railroad right-of-ways to beautify the landscape and reduce noise.	**Consistent.** As discussed in Section 5.13, Noise, Project-related operational noise level impacts would range from 38.7 dBA Leq to 47.8 dBA Leq at the surrounding receptors. These levels would be below the City's exterior noise standard of 65 dBA Leq. Because Project noise levels would not generate a noise level that exceeds existing ambient noise levels by 3 dBA or more or exceed the City's thresholds, impacts would be less than significant. No sound walls would be required, but screening walls and landscaping would be implemented along the Project frontage.
14.2.10 Provide for the development of alternate transportation modes such as bicycle paths and pedestrian walkways to minimize the number of automobile trips.	**Consistent.** The Project would be located approximately half a mile from the sbX Green Line, which is located on east Hospitality Lane west of Tippecanoe Avenue. The Project is also located a few hundred feet from bus route 8 on Tippecanoe Avenue and Brier Drive.
14.2.12 Require that commercial and industrial uses implement transportation demand management programs consistent with the Air Quality Management Plan that provide incentives for carpooling, van pools, and the use of public transit to reduce traffic and associated noise levels in the City.	**Consistent.** The Project would be located approximately half a mile from the sbX Green Line, which is located on east Hospitality Lane west of Tippecanoe Avenue. The Project is also located a few hundred feet from bus route 8 on Tippecanoe Avenue and Brier Drive.
14.2.17 Ensure that new development is compatible with the noise compatibility criteria and noise contours as defined in the Comprehensive Land Use Plan for the SBIA and depicted in Figure LU-4.	**Consistent.** As discussed in Section 5.13, Aircraft flyovers may be audible on the project site due to aircraft activity in the vicinity. The nearest airport to the project is San Bernardino International Airport (SBD), 1.4 miles to the northeast. Noise impacts related to aircraft operations may contribute to the aircraft noise in the project area; however, the project site is well outside the SBD Airport Influence Area according to the *2017 Existing CNEL Contours and Generalized Land Uses – San Bernardino International Airport* (San Bernardino County, 2018). Therefore, the project would not be adversely affected by airport/airfield noise, nor would the project contribute to or result in adverse airport/airfield noise impacts.
14.2.18 Limit the development of sensitive land uses located within the 65 decibel (dB) Community Noise Equivalent Level (CNEL) contour, as defined in the Comprehensive Land Use Plan for the SBIA and depicted in Figure LU-4.	**Consistent.** As discussed in Section 5.13, Aircraft flyovers may be audible on the project site due to aircraft activity in the vicinity. The nearest airport to the project is San Bernardino International Airport (SBD), 1.4 miles to the northeast. Noise impacts related to aircraft operations may contribute to the aircraft noise in the project area; however, the project site is well outside the SBD Airport Influence Area according to the *2017 Existing CNEL Contours and Generalized Land Uses – San Bernardino International Airport* (San Bernardino County, 2018). Therefore, the project would not be adversely affected by airport/airfield noise, nor would the project contribute to or result in adverse airport/airfield noise impacts.
14.2.19 As may be necessary, require acoustical analysis and ensure the provision of effective noise mitigation measures for sensitive land uses, especially residential uses, in areas significantly impacted by noise.	**Consistent.** As discussed in Section 5.13, Noise, a Noise Impact Analysis (Appendix I) was prepared for the Project, to identify the existing and future ambient noise level environment.

Regional Transportation Plan/Sustainable Communities Strategy

The Project would be required to comply with the goals and policies of SCAG's Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). As shown in Table LU-2, the proposed Project would be consistent with the goals and policies of the plan. As such, no impact related to regional plan inconsistency would occur.

Table LU-2: RTP/SCS Consistency

RTP/SCS Policy	Proposed Project Consistency with Policy
RTP/SCS G1: Encourage regional economic prosperity and global competitiveness.	**Consistent.** The Project would include development of five speculative business park/commercial service buildings on an undeveloped site that would benefit regional economics by providing increased employment and additional goods and services. As an individual development, the Project is limited in its ability to directly contribute to regional economic prosperity and global competitiveness.
RTP/SCS G2: Improve mobility, accessibility, reliability, and travel safety for people ang goods.	**Consistent.** As an individual development, the Project is limited in its ability to maximize mobility and access for people and goods in the SCAG region. However, the Project would not create substantial traffic impediments that would affect the accessibility of goods in the region, and it would provide added mobility in the immediate vicinity of the Project.
RTP/SCS G3: Ensure the preservation, security, and resilience of the regional transportation system.	**Not Applicable.** As an individual development, the Project is limited in its ability to ensure security and resilience of the regional transportation system. There are no components of the Project that would result in the deterioration of the transportation system.
RTP/SCS G4: Increase person and goods movement and travel choices within the transportation system.	**Not Applicable.** As an individual development, the Project is limited in its ability to maximize the goods movement and travel choices within the SCAG region. The Project would not create substantial traffic impediments and would not affect the accessibility of goods to the surrounding area. The Project includes dd would support the overall distribution and movements of goods in the region.
RTP/SCS G5. Reduce greenhouse gas emissions and improve air quality.	**Consistent.** While the Project would not improve air quality or reduce greenhouse gas emissions, it would not prevent SCAG from implementing actions that would improve air quality within the region and the Project would incorporate various measures related to building design, landscaping, and energy systems to promote the efficient use of energy, pursuant to Title 24 CALGreen Code and Building Energy Efficiency Standards and Consistent with Policy NR-1.9.
RTP/SCS G6: Support healthy and equitable communities.	**Consistent.** The Project would comply with Citywide goal and policies to support healthy and equitable communities. Additionally, the Project would construct frontage improvements, including sidewalks which would encourage walking in the Project site.
RTP/SCS G7: Adapt to a changing climate and support an integrated regional development pattern and transportation network.	**Consistent.** This policy would be implemented by cities and the counties within the SCAG region as part of their overall planning efforts; the Project however is consistent with industrial use planned for the area.

RTP/SCS G8: Leverage new transportation technologies and data-driven solutions that result in more efficient travel.	**Not Applicable.** This policy would be implemented by cities and the counties within the SCAG region as part of the overall planning and maintenance of the regional transportation system. The Project would not conflict with this goal.
RTP/SCS G9: Encourage development of diverse housing types in areas that are supported by multiple transportation options.	**Not Applicable.** The proposed Project would develop five new speculative business park/commercial service buildings in an area that is designated and zoned for commercial development.
RTP/SCS G10: Promote conservation of natural and agricultural lands and restoration of habitats.	**Consistent.** The proposed Project would be consistent with goals and policies of the City's GP and would not cause significant environmental impacts to agricultural lands or biological resources.

Municipal Code. According to Title 19.06 of the Municipal Code, the Project site is zoned for CR-3 use with a TD overlay. As detailed previously in Table AES-1, the proposed Project would be consistent with the development standards for the CR-3 zoning and the TD overlay. Thus, the proposed Project would not conflict with any applicable zoning regulations adopted for the purpose of avoiding or mitigating an environmental effect.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.12 MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

Less Than Significant Impact. The Surface Mining and Reclamation Act of 1975 (SMARA) has developed mineral land classification maps and reports to assist in the protection and development of mineral resources. According to the SMARA, the following four mineral land use classifications are identified:

- Mineral Resource Zone 1 (MRZ-1): This land use classification refers to areas where adequate information indicates that no significant mineral deposits are present, or where it is judged that little likelihood exists for their presence.
- Mineral Resource Zone 2 (MRZ-2): This land use classification refers to areas where adequate information indicates that significant mineral deposits are present, or where it is judged that a high likelihood for their presence exists.
- Mineral Resource Zone 3 (MRZ-3): This land use classification refers to areas where the significance of mineral deposits cannot be evaluated from the available data. Hilly or mountainous areas underlain by sedimentary, metamorphic, or igneous rock types and lowland areas underlain by alluvial wash or fan material are often included in this category. Additional information about the quality of material in these areas could either upgrade the classification to MRZ-2 or downgraded it to MRZ-1.
- Mineral Resource Zone 4 (MRZ-4): This land use classification refers to areas where available information is inadequate for assignment to any other mineral resource zone.

The City of San Bernardino protects mineral resources with GP Policies and Programs. According to the City of San Bernardino GP Natural Resources and Conservation Element and California Department of Conservation Mineral Land Classification map, several areas within the San Bernardino region have been classified as Mineral Resource Zone 2 (MRZ-2) with a few areas designated MRZ-1. The Project site is not identified as being within either MRZ-1 or MRZ-2 nor is it planned for future extraction of mineral resources, as it is currently zoned for CR-3. An area with no known mineral significance would not be valuable to the region or residents of the state until the presence of significant mineral resources is confirmed. A review of California Division of Mine Reclamation mines finder also indicates that there are no mines located in the vicinity of the Project site. Furthermore, the Project site is vacant and has not recently been used for mineral extractions. Thus, there are no available mineral resources that would be affected by the Project, and impacts would be less than significant.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on the general plan, specific plan or other land use plan?

Less Than Significant Impact. As stated above, the proposed Project site is not identified as being within either MRZ-1 or MRZ-2 nor is it planned for future extraction of mineral resources, as it is currently zoned for CR-3. The Project site is not delineated on the City of San Bernardino GP Figure NRC-3 Mineral Resource Zones map nor is it listed as a locally important mineral resource recovery site, as can be seen by the lack of a MRZ designation and the GP land use designation. An area with no known mineral significance would not be valuable to the region or residents of the state until the presence of significant mineral resources is confirmed. Furthermore, the Project site is vacant and has not recently been used for mineral extractions. Therefore, implementation of the proposed Project would not result in the loss of availability of a locally important mineral resource recovery site as delineated in a local plan. Thus, development of the proposed Project would not have a significant impact on mineral resources.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.13 NOISE. Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐

This section was prepared using the Noise and Vibration Impact Analysis prepared by LSA, in June 2023 (Appendix I).

Existing Ambient Noise Levels

As detailed in the Noise and Vibration Impact Analysis (Appendix I), to identify the existing ambient noise level environment, long term noise level measurements were taken at two locations in the Project study area (see Figure 5-1). The Noise Impact Analysis describes that the background ambient noise levels in the Project area are dominated by traffic noise on Brier Drive, Hardt Street, and Tippecanoe Avenue, and parking lot activities. The existing noise levels are provided in Table N-1.

Table N-1: Short Term Noise Measurement Summary

Site No.	Location	Daytime Noise Levels[1] (dBA L_{eq})	Evening Noise Levels[2] (dBA L_{eq})	Nighttime Noise Levels[3] (dBA L_{eq})	Daily Noise Levels (dBA CNEL)
LT-1	1194 East Brier Drive, on a tree near southwest corner of the property, approximately 50 feet north of East Brier Drive centerline.	63.0–69.2	58.5-63.0	54.5-61.9	67.6
LT-2	1194 East Brier Drive, on a tree west of Tippecanoe Avenue, approximately 50 feet west of Tippecanoe centerline Avenue and 100 feet south of Hardt Street centerline.	73.6-75.7	72.8-73.6	69.7-73.5	79.0

Source: Noise and Vibration Impact Analysis (Appendix I)

Note: Noise measurements were conducted from November 10 to November 11, 2022, starting at 4:00 p.m.

[1] Daytime Noise Levels = noise levels during the hours from 7:00 a.m. to 7:00 p.m.

[2] Evening Noise Levels = noise levels during the hours from 7:00 p.m. to 10:00 p.m.

[3] Nighttime Noise Levels = noise levels during the hours from 10:00 p.m. to 7:00 a.m.

Leq = equivalent continuous sound level

LSA

LEGEND

Project Location

LT-1 Long-term Noise Monitoring Location

FIGURE NOI-1

0 240 480

FEET

SOURCE: Google Earth 2022

Hardt and Brier Business Park Project

Noise Monitoring Locations

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City of San Bernardino General Plan

The Noise Element of the GP (Chapter 14) provides the City's goals and policies related to noise, including the land use compatibility guidelines for community exterior noise environments. Additionally, Figure N-1 of the GP, *Land Use Compatibility for Community Noise Exposure*, provides noise criteria to evaluate the land use compatibility of transportation-related noise. The criteria indicate that residential uses are considered "normally acceptable" with noise levels below 60 dBA Ldn or CNEL and conditionally acceptable with noise levels of less than 70 dBA Ldn or CNEL.

City of San Bernardino Municipal Code

The City of San Bernardino Municipal Code (SBMC) Noise Control Ordinance (Chapter 8.54) includes regulations to control the negative effects of nuisance noise, but it does not identify specific exterior noise level limits. In addition, SBMC Chapter 19.20 contains exterior and interior noise level standards for residential land uses. Section 8.54.060 states when: "such noises are an accompaniment and effect of a lawful business, commercial or industrial enterprise carried on in an area zoned for that purpose…" these activities shall be exempt (Section 8.54.060(B)). However, due to the Project's proximity to residential land uses, Section 19.20.030.15(A) limits the operational stationary-source noise from the proposed Project to an exterior noise level of 65 dBA for residential land uses.

Construction Noise Standards. The City has set restrictions to control noise impacts associated with the construction of projects within the city. Section 8.54.070, Disturbances from Construction Activity, limits construction activities to within the hours of 7:00 a.m. and 8:00 p.m.

Federal Transit Administration (FTA) Manual

Because the City does not have construction noise level limits, construction noise for the Project was assessed using criteria from the Federal Transit Administration's (FTA) Transit Noise and Vibration Impact Assessment Manual (FTA 2018). Table N-2 presents the FTA's general assessment daytime construction noise criteria.

Table N-2: Federal Transit Administration Daytime Construction Noise Criteria

Land Use	Daytime 1-hour L_{eq} (dBA)	Nighttime 1-hour L_{eq} (dBA)
Residential	80	70
Commercial	85	85
Industrial	90	90

Source: Transit Noise and Vibration Impact Assessment Manual (FTA 2018)

FTA Vibration Standards

Vibration standards included in the FTA Manual are used in this analysis for ground-borne vibration impacts on human annoyance. The criteria for environmental impact from ground-borne vibration and noise are based on the maximum levels for a single event. Table N-3 provides the criteria for assessing the potential for interference or annoyance from vibration levels in a building.

Table N-3: Vibration Annoyance Criteria

Land Use	Max L_v (VdB)[1]	Description of Use
Workshop	90	Vibration that is distinctly felt. Appropriate for workshops and similar areas not as sensitive to vibration.
Office	84	Vibration that can be felt. Appropriate for offices and similar areas not as sensitive to vibration
Residential Day	78	Vibration that is barely felt. Adequate for computer equipment and low-power optical microscopes (up to 20×).
Residential Night and Operating Rooms	72	Vibration is not felt, but ground-borne noise may be audible inside quiet rooms. Suitable for medium-power microscopes (100×) and other equipment of low sensitivity.

Source: Transit Noise and Vibration Impact Assessment Manual (FTA 2018)

Table N-4 lists the potential vibration building damage criteria associated with construction activities, as suggested in the FTA Manual. FTA guidelines show that a vibration level of up to 0.5 in/sec in peak particle velocity (PPV) is considered safe for buildings consisting of reinforced concrete, steel, or timber (no plaster), and would not result in any construction vibration damage. For non-engineered timber and masonry buildings, the construction building vibration damage criterion is 0.2 in/sec in PPV.

Table N-4: Vibration Damage Criteria

Building Category	PPV (in/sec)
Reinforced concrete, steel or timber (no plaster)	0.50
Engineered concrete and masonry (no plaster)	0.30
Non-engineered timber and masonry buildings	0.20
Buildings extremely susceptible to vibration damage	0.12

Source: Transit Noise and Vibration Impact Assessment Manual (FTA 2018)

a) Generation of substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less Than Significant Impact.

Construction

Noise generated by construction equipment would include a combination of trucks, power tools, concrete mixers, and portable generators that when combined can reach high levels. Construction is expected to occur in the following stages: site preparation, grading, building construction, architectural coating, paving. The Project would not include pile driving, which typically results in the highest construction noise volumes.

The Project construction noise would be temporary in nature as the operation of each piece of construction equipment would not be constant throughout the construction day, and equipment would be turned off when not in use. The typical operating cycle for a piece of construction equipment involves one or two minutes of full power operation followed by three or four minutes at lower power settings.

Table N-5 below lists typical construction equipment noise levels based on a distance of 50 feet between equipment and a noise receptor. As shown, noise levels generated by heavy construction equipment can range from approximately 55 dBA to 95 dBA when measured at 50 feet.

Table N-5: Typical Construction Equipment Noise Levels

Equipment Description	Acoustical Use Factor[1] (percent)	Maximum Noise Level (L_{max}) at 50 feet[2]
Auger Drill Rig	20	84
Backhoes	40	80
Compactor (ground)	20	80
Compressor	40	80
Cranes	16	85
Dozers	40	85
Dump Trucks	40	84
Excavators	40	85
Flat Bed Trucks	40	84
Forklift	20	85
Front-end Loaders	40	80
Graders	40	85
Impact Pile Drivers	20	95
Jackhammers	20	85

Paver	50	77
Pickup Truck	40	55
Pneumatic Tools	50	85
Pumps	50	77
Rock Drills	20	85
Rollers	20	85
Scrapers	40	85
Tractors	40	84
Trencher	50	80
Welder	40	73

Note: Noise levels reported in this table are rounded to the nearest whole number
[1] Usage factor is the percentage of time during a construction noise operation that a piece of construction equipment is operating at full power.
[2] Maximum noise levels were developed based on Specification 721.560 from the Central Artery/Tunnel program to be consistent with the City of Boston's Noise Code for the "Big Dig" project.
Lmax = maximum instantaneous sound level
Source: Noise and Vibration Impact Analysis (Appendix I)

For the purposes of the Noise Impact Analysis, the closest off-site sensitive receptors to the Project site are the Premier Outpatient Center, approximately 355 feet south from the Project boundary and the single family residential uses, approximately 585 feet east from the Project boundary. Table N-6 below shows the nearest sensitive uses to the Project site, their distance from the center of construction activities, and composite noise levels expected during construction. As shown, construction noise at the nearby receiver locations would range from 64 to 78 dBA Leq, which would not exceed the 80 dBA, 85 dBA, and 90 dBA 1-hour construction noise level criteria for daytime construction noise level criteria as established by the FTA for residential, commercial, and industrial land uses, respectively.

Table N-6: Construction Noise Levels at Sensitive Receivers

Receptor (Location)	Composite Noise Level (dBA Leq) at 50 feet[1]	Distance (feet)	Construction Noise Threshold (dBA Leq)	Composite Noise Level (dBA Leq)
Government Office (Central)	88	160	85	78
Industrial Uses (North)		350	90	70
Industrial Uses (East)		380	90	68
Commercial Uses (South)		510	85	68
Public Institutions (West)		700	85	65
Residences (East)		800	80	64

Source: Noise and Vibration Impact Analysis (Appendix I)
[1] The composite construction noise level represents the site preparation phase which is expected to result in the greatest noise level as compared to other phases.

Additionally, as described above, Municipal Code Section 8.54.070 exempts construction noise between the hours of 7:00 a.m. and 8:00 p.m. The Project would comply with the City's construction hours regulations. Therefore, Project construction would result in less than significant impacts on substantial temporary or permanent increase in ambient noise levels.

Operation

Onsite Operational Noise. Long term off-site stationary noise impacts from the Project could include on-site heating, ventilation, and air conditioning (HVAC) equipment, trash enclosure activity, truck deliveries, and loading and unloading activities. Table N-7 shows the combined hourly noise levels generated by HVAC equipment, trash enclosures, and truck delivery activities at the closest off-site land uses.

Table N-7: Exterior Noise Level Impacts

Receptor	Direction	Existing Quietest Noise Level (dBA Leq)	Project Generated Noise Levels (dBA L_{eq})	Project Future Noise Level (dBA Leq)[1]	Potential Operational Noise Impact?[2]
Daytime					
Premier Outpatient Surgery Center	South	63.0	47.8	63.1	No
Residential (1575 Tippecanoe Avenue)	East	73.6	40.3	73.6	No
Nighttime					
Premier Outpatient Surgery Center	South	54.5	47.3	55.3	No
Residential (1575 Tippecanoe Avenue)	East	69.7	38.7	69.7	No

[1] The projected future noise level is a combination of the existing ambient noise level and the project noise contribution. If the project contribution is 10 dBA or more below the existing ambient noise level, there would be no expected noise increase.
[2] A potential operational noise impact would occur if (1) the quietest daytime ambient hour is less than the applicable hourly standard and project noise impacts would cause an exceedance of said standard, OR (2) the quietest daytime ambient hour is greater than the applicable hourly standard and project noise impacts are 3 dBA greater than the quietest daytime ambient hour.
Source: Noise and Vibration Impact Analysis (Appendix I)

As shown in Table N-7, Project related noise level impacts would range from 38.7 dBA Leq to 47.8 dBA Leq at the surrounding receptors. These levels would be below the City's exterior noise standard of 65 dBA Leq. Because Project noise levels would not generate a noise level that exceeds existing ambient noise levels by 3 dBA or more, or exceed the City's thresholds, impacts would be less than significant.

Off-Site Traffic Noise. The proposed Project would generate traffic-related noise from operation. The proposed Project provides access from Hardt Street, Tippecanoe Avenue, and Brier Drive. The guidelines included in the FHWA Highway Traffic Noise Prediction Model (FHWA-RD-77-108) were used to evaluate highway traffic-related noise conditions along roadway segments in the Project vicinity (Appendix I). Table N-8 provides the traffic noise levels for the existing with and without Project and opening year with and without Project scenarios. These noise levels represent the worst-case scenario, which assumes no shielding is provided between the traffic and the location where the noise contours are drawn.

As shown in Table N-8, the increase in Project-related traffic noise would be no greater than 2 dBA. Noise level increases less than 3 dBA are not perceptible to the human ear. Therefore, traffic noise impacts from Project related traffic on off-site sensitive receptors would be less than significant.

Table N-8: Traffic Noise Levels Without and With Proposed Project

Roadway Segment	Existing		Existing with Project			Buildout (2040)		Buildout (2040) with Project		
	ADT	CNEL (dBA) 50 feet from Centerline of Nearest Lane	ADT	CNEL (dBA) 50 feet from Centerline of Nearest Lane	Increase from Existing Conditions	ADT	CNEL (dBA) 50 feet from Centerline of Nearest Lane	ADT	CNEL (dBA) 50 feet from Centerline of Nearest Lane	Increase from Existing Conditions
Hardt Street West of Tippecanoe Avenue	980	49.4	1,550	51.4	2.0	1,130	50.0	1,700	51.8	1.8
Brier Drive West of Tippecanoe Avenue	3,890	56.1	4,470	56.7	0.6	5,620	57.6	6,200	58.1	0.5
Tippecanoe Avenue North of Hardt Street	14,930	64.7	15,190	64.8	0.1	21,340	66.2	21,600	66.3	0.1
Tippecanoe Avenue between Hardt Street and Brier Drive	15,510	64.8	16,100	65.0	0.2	22,570	66.5	23,160	66.6	0.1
Tippecanoe Avenue South of Brier Drive	14,800	64.6	15,690	64.9	0.3	21,700	66.3	22,590	66.5	0.2

Source: Compiled by LSA (2023).
Note: Shaded cells indicate roadway segments adjacent to the project site.
ADT = average daily traffic
CNEL= Community Noise Equivalent Level
dBA = A-weighted decibels
ft = foot/feet

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less Than Significant Impact.

Construction

Construction activity can cause varying degrees of ground vibration, depending on the equipment and methods used, the distance to receptors, and soil type. Construction vibrations are intermittent, localized intrusions. The use of heavy construction equipment, particularly large bulldozers, and large loaded trucks hauling materials to or from the site generate construction-period vibration impacts.

The Noise and Vibration Impact Analysis (Appendix I) uses vibration standards in the FTA Manual to analyze ground-borne vibration impacts on human annoyance. The Analysis discusses the level of human annoyance using vibration levels in VdB and assesses the potential for building damages using vibration levels in PPV (in/sec). Vibration levels calculated in VdB are best for characterizing human response to building vibration, while vibration level in PPV is best for characterizing potential for damage. The FTA guidelines also indicated that for a non-engineered timber and masonry building, the construction vibration damage criterion is 0.2 in/sec in PPV. The threshold at which vibration levels would result in annoyance would be 78 VdB for daytime residential uses and 84 VdB for office type uses. Table N-9 shows the PPV and VdB values at 25 feet from the construction vibration source.

Table N-9: Vibration Source Amplitudes for Construction Equipment

Equipment	Reference PPV/L_v at 25 ft	
	PPV (in/sec)	L_v (VdB)[1]
Pile Driver (Impact), Typical	0.644	104
Pile Driver (Sonic), Typical	0.170	93
Vibratory Roller	0.210	94
Hoe Ram	0.089	87
Large Bulldozer[2]	**0.089**	**87**
Caisson Drilling	0.089	87
Loading Trucks[2]	**0.076**	**86**
Jackhammer	0.035	79
Small Bulldozer	0.003	58

[1] RMS vibration velocity in decibels (VdB) is 1 µin/sec.
[2] Equipment shown in **bold** is expected to be used on site.
µin/sec = microinches per second; ft = foot/feet; in/sec = inch/inches per second; L_v = velocity in decibels; PPV = peak particle velocity; VdB = vibration velocity decibels
Source: Noise and Vibration Impact Analysis (Appendix I)

Table N-10 shows the summary of vibration annoyance levels due to construction equipment at each of the closest receptors. As shown in Table N-10, vibration levels are expected to approach 63 VdB at the closest office uses located central to the Project site and 42 VdB at the closest residential use to the east, which is below the 84 VdB and 78 VdB annoyance threshold for office type uses and for daytime residential uses, respectively. Other building structures surrounding the project site are farther away and would experience further reduced vibration.

Table N-10: Potential Construction Vibration Annoyance Impacts at Nearest Receptor

Receptor (Location)	Reference Vibration Level (VdB) at 25 feet[1]	Distance (feet)[2]	Vibration Level (VdB)
Government Office (Central)	87	160	63
Industrial Uses (North)		350	53
Industrial Uses (East)		380	52
Commercial Uses (South)		510	48
Public Institutions (West)		700	44
Residences (East)		800	42

[1] The reference vibration level is associated with a large bulldozer which is expected to be representative of the heavy equipment used during construction.
[2] The reference distance is associated with the average condition, identified by the distance from the center of construction activities to surrounding uses
VdB = vibration velocity decibels
Source: Noise and Vibration Impact Analysis (Appendix I)

Table N-11 shows the summary of potential construction damage due to construction equipment at each of the closest receptors. Based on the information provided in Table N-11, vibration levels are expected to approach 0.016 PPV in/sec at the surrounding structures and would be below the 0.2 PPV in/sec damage threshold.

Table N-11: Potential Construction Vibration Damage Impacts at Nearest Receptor

Receptor (Location)	Reference Vibration Level (PPV) at 25 feet[1]	Distance (feet)[2]	Vibration Level (PPV)
Government Office (Central)	0.089	80	0.016
Industrial Uses (North)		200	0.004
Industrial Uses (East)		150	0.006
Commercial Uses (South)		355	0.002
Public Institutions (West)		350	0.002
Residences (East)		585	0.001

[1] The reference vibration level is associated with a large bulldozer which is expected to be representative of the heavy equipment used during construction.
[2] The reference distance is associated with the peak condition, identified by the distance from the perimeter of construction activities to surrounding structures
PPV = peak particle velocity
Source: Noise and Vibration Impact Analysis (Appendix I)

Additionally, as discussed above, construction activities are regulated by the City's Municipal Code, which states that temporary construction, maintenance, or demolition activities are not allowed between 8:00 p.m. and 7:00 a.m. and vibration impacts would not occur during the more sensitive nighttime hours. Therefore, no construction vibration impacts would occur.

Operation
Once operational, the Project would not be a significant source of groundborne vibration. Groundborne vibration levels generated from project-related traffic on the adjacent roadways are unusual for on road vehicles because the rubber tires and suspension systems of on-road vehicles provide vibration isolation. Based on a reference vibration level of 0.076 in/sec PPV, structures greater than 20 ft from the roadways that contain project trips would experience vibration levels below the most conservative standard of 0.12 in/sec PPV. Therefore, the Project would result in no new impacts related to ground born vibration.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Less Than Significant Impact. Aircraft flyovers may be audible on the project site due to aircraft activity in the vicinity. The nearest airport to the project is San Bernardino International Airport (SBD), 1.4 miles to the northeast. Noise impacts related to aircraft operations may contribute to the aircraft noise in the Project area; however, the Project site is well outside the SBD Airport Influence Area according to the *2017 Existing CNEL Contours and Generalized Land Uses – San Bernardino International Airport* (San Bernardino County, 2018). Noise contours are a series of lines superimposed on a map of the airport's area. These lines represent various DNL (Day-Night Sound Level) levels at 65, 70, and 75 decibels (dBA). The proposed Project is outside of all three airport noise contours and is exposed to incur noise levels below the 65 dBA. Therefore, the proposed Project would expose people to excessive noise levels and would result in a less than significant impact due to airport/airfield noise. No mitigation is required.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.14 POPULATION AND HOUSING. Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

a) Induce substantial unplanned population growth in an area, either directly or indirectly?

Less Than Significant Impact. Implementation of the proposed Project would develop five new speculative concrete tilt-up business park/commercial service buildings with a total building area of 81,210 SF. The Project would include associated parking, sidewalks, utility infrastructure including bioretention basins, and landscape improvements corresponding with each building. The Project site has a GP land use designation of CR-3 and a zoning designation of CR-3, and the proposed Project would be consistent with both designations for the site.

According to The City of San Bernardino GP Land Use Element Table LU-3, the zoning designation of CR-3 assumes a buildout of 10,376,672 SF and 20,753 employees. Therefore, the City of San Bernardino assumed a generation rate of 1 employee for every 500 SF of the CR-3 zoning. As the proposed Project would build and operate 81,120 SF of building area zoned CR-3, operation of the proposed Project would require 163 employees. The employees that would fill these roles are anticipated to come from the region, as the unemployment rate in the City of San Bernardino in January 2023 was 5.6 percent, the City of Rialto was 4.9 percent, and the City of Fontana was at 4.1 percent (California Employment Development Department 2023). Due to these levels of unemployment, it is anticipated that new employees for the Proposed Project would already reside within commuting distance and would not generate needs for any housing.

In addition, should the Project require employees to relocate to the area for work, there is sufficient vacant housing available within the region. The City of San Bernardino has a vacancy rate of 3.9 percent. San Bernardino has a total of 66,179 housing units; 63,576 of which are occupied (California Department of Finance 2022). Therefore, impacts related to unplanned population growth from implementation of the proposed Project would be less than significant.

b) Displace substantial numbers of existing people housing, necessitating the construction of replacement housing elsewhere?

No Impact. The Project site is vacant and undeveloped and does not contain any housing, nor has it historically been used for housing. The Project site has a GP land use designation of CR-3 and a zoning designation of CR-3, which does not provide or allow residential development. Therefore, the proposed Project would not displace any housing and would not necessitate the construction of replacement housing. As a result, no impact would occur.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.15 PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☒	☐
Police protection?	☐	☐	☒	☐
Schools?	☐	☐	☒	☐
Parks?	☐	☐	☒	☐
Other public facilities?	☐	☐	☒	☐

a) Fire Protection and Emergency Services

Less Than Significant Impact. The Project site is currently served by the San Bernardino County Fire Department which has a staffing of 1,064 fire personnel. San Bernardino County Fire Station Number 231, located at 450 E Vanderbilt Way, San Bernardino, CA 92408, is the closest fire station to the Project site approximately 0.9 mile southwest of the site. In addition, the San Bernardino County Fire Department has two Fire Camps, 6 and 15, located approximately 16 miles from the proposed Project site at 18697 Verdemont Ranch Road, San Bernardino, CA 92407. The five new speculative business park/commercial service buildings and the approximately 163-employee increase that would occur from implementation of the proposed Project would result in an incremental increase in demand for fire protection and emergency medical services. However, there is a fire station within one mile of the Project site that currently serves the Project vicinity adequately. As part of the permitting process, the Project plans would be reviewed by the City's Fire Department and the Building Department to ensure that the Project plans meet the fire protection requirements. Additionally, the proposed facility would be required to comply with City fire suppression standards including current CBC and would provide adequate fire access. The increase in fire service demands from the proposed Project would not require construction of a new or physically altered fire station that could cause environmental impacts. Therefore, impacts related to fire protection services would be less than significant.

Additionally, the Project would be required to comply with the provisions of Municipal Code Section 3.27.040, which requires payment of the Development Impact Fee to assist the City in providing fire protection services and facilities. Payment of the Development Impact Fee would ensure that the Project provides fair share funds for the provision of additional public services, including fire protection services,

which may be applied to fire facilities and/or equipment, to offset the incremental increase in the demand for fire protection services that would be created by the Project.

b) Police Protection

Less Than Significant Impact. The City of San Bernardino is served by the San Bernardino Police Department. The station, which would serve the Project site, is located approximately 4.9 miles away from the Project site at 710 North D Street, San Bernardino, CA 92401. The Project would result in additional onsite employees from five business park/commercial service buildings that could create the need for police services. Crime and safety issues during Project construction may include theft of building materials and construction equipment, malicious mischief, graffiti, and vandalism. The operation of the speculative business park/commercial service buildings may generate a typical range of police service calls such as burglaries, thefts, and employee disturbances. The Project would include security lighting and other security measures. The San Bernardino Police Department maintains a ratio of approximately one sworn officer for every 820 residents. Currently, 297 sworn officers make up the sworn component of the department and the City of San Bernardino had a population of approximately 220,328 as of July 1,2022 (US Census Bureau). Therefore, the San Bernardino Police Department currently maintains one sworn officer per 742 residents and is adequately staffed. The additional need for law enforcement services from the proposed Project would not result in the need for new or physically altered police facilities since existing police personnel would be adequate to maintain existing response times. Thus, impacts related to police services would be less than significant.

Additionally, the proposed Project would be required to comply with the provisions of Municipal Code Section 3.27.030 which requires payment of Development Impact Fees to assist the City in providing public services, including police protection services and facilities. Payment of Development Impact Fees would ensure that the Project would be required to offset the any impact induced by the Project.

c) School Services

Less Than Significant Impact. The Project site is currently undeveloped and vacant. Development of the proposed Project would consist of five new speculative business park/commercial service buildings that would not result in a direct demand for new or expanded school services within the area. As described previously, the Project is not anticipated to generate a new population, as the employees needed to operate the Project are anticipated to come from within the Project region and substantial in-migration of employees that could generate new students is not anticipated to occur. Thus, the proposed Project would not generate the need for new or physically altered school facilities and impacts would be less than significant.

Additionally, pursuant to Government Code Section 65995 et seq., the need for additional school facilities is addressed through compliance with school impact fee assessment. SB 50 (Chapter 407 of Statutes of 1998) sets forth a state school facilities construction program that includes restrictions on a local jurisdiction's ability to condition a project on mitigation of a project's impacts on school facilities in excess of fees set forth in the Government Code. The Project would be required to contribute fees to the San Bernardino City Unified School District in accordance with the Leroy F. Greene School Facilities Act of 1998 (Senate Bill 50). The funding program established by SB 50 allows school districts to collect fees from new developments to offset the costs associated with increasing school capacity needs and has been found by the legislature to constitute "full and complete mitigation of the impacts of any legislative or adjudicative act…on the provision of adequate school facilities" (Government Code Section 65995[h]). The current school fees rate for SBCUSD is $0.66 per square foot for new covered and enclosed space in commercial or industrial construction.

d) Parks

Less Than Significant Impact. The Project site is currently undeveloped and vacant. Development of the proposed Project would consist of five new speculative business park/commercial service buildings totaling 81,210 SF. Typically, residential developments increase the need for new parks and increase the use of

existing citywide park facilities. Implementation of the Project would not result in any residential facilities, nor create an additional need for housing since the employees needed to operate the Project are anticipated to come from the unemployed labor force in the region. The proposed Project would therefore not generate a significant increase in the use of the existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. The Project does not include or require the construction or expansion of recreational facilities which could negatively impact the environment. Thus, impacts would be less than significant.

e) Other Public Facilities

Less Than Significant Impact. As previously discussed, development of the Project would not result in a direct increase in the population of the Project site and would not increase the demand for public services, including public health services and library services which would require the construction of new or expanded public facilities. As described previously, the employees needed to operate the proposed Project are anticipated to come from the Project region and commute to the Project site and substantial in-migration of employees that could generate substantial usage of other public facilities is not anticipated to occur. Therefore, impacts related to other public services would be less than significant.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measure

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.16 RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that physical deterioration of the facility would be accelerated?

Less Than Significant Impact. The proposed Project would build five new speculative business park/commercial service buildings on a site that is currently vacant and undeveloped. As previously discussed, the proposed Project would not result in the addition of any residential facilities, and would not directly increase housing or population, which typically cause an increase in the demand for, and use of, existing neighborhood parks and other citywide recreational facilities. Additionally, the employees needed to operate the proposed Project are anticipated to come from the unemployed labor force in the region. The closest parks to the Project site are Victoria Park and Ted and Lila Park, both located approximately one mile west and north of the Project site. Although new employees may occasionally increase the use of existing local, neighborhood, and regional parks, employees' limited use would not result in accelerated deterioration to facilities such that the construction or expansion of recreational facilities would be necessary. Thus, there would be no increase in residents which would cause any increase in demand for existing parks or other recreational facilities, and the proposed Project would not cause nor accelerate physical deterioration of these facilities. Impacts would be less than significant.

b) Require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No Impact. Implementation of the proposed Project would develop five new speculative business park/commercial service buildings on a site that is currently vacant and undeveloped, and would not construct any residential facilities, nor create an additional need for housing. The proposed Project would not directly increase the residential population of the city or generate additional need for parkland. The Project does not include or require the construction or expansion of recreational facilities which could negatively impact the environment, and no offsite parks or recreational improvements are proposed or required as part of the Project. Thus, no impacts would occur.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.17 TRANSPORTATION. Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

This section was prepared using the Traffic Impact Analysis (TIA) report, which included a Vehicle Miles Traveled (VMT) Analysis, prepared by Linscott Law and Greenspan Engineers, on April 7, 2022, and revised on May 12, 2023 (Appendix J). As a note, the TIA was prepared to analyze a previous version of the site plan which included an additional building totaling 27,000 SF, which brought the total building area to 108,500 SF. Thus, the TIA contains a more conservative analysis of the proposed Project.

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Less Than Significant Impact.

Construction. Construction activities associated with the proposed Project would generate vehicular trips from construction workers traveling to and from the Project site, delivery of construction supplies and import materials to, and export of debris from, the Project site. However, these construction activities would be temporary in nature and only occur during the anticipated 8-month construction period. The increase of trips during construction activities would be limited and is not anticipated to exceed the number of operational trips described below. The short-term vehicle trips from construction of the Project would generate less than significant traffic related impacts.

Operation. The proposed Project was analyzed as a business park totaling a maximum of 108,500 SF amongst six proposed buildings, associated parking, landscaping, and utility improvements to serve the site. Operation of the proposed Project would introduce new vehicular and truck traffic from workers and commercial operations. Vehicular traffic to and from the Project site would utilize the existing network of regional and local roadways that currently serve the Project site.

Table T-1 shows that during operation, the analyzed proposed Project would generate a total of 1,350 daily trips, with 146 (142 inbound and 22 outbound) trips produced in the weekday AM peak hour and 132 (35 inbound and 97 outbound) trips produced in the weekday PM peak hour. The trip generation analysis for the Project was prepared using trip rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th Edition (2021) based on the "770: Business Park" land use. Building E is no longer a part

of the proposed Project; therefore, the proposed Project would generate a total of 1,014 daily trips in the weekday AM peak hour and 132 trips in the weekday PM peak hour.

Table T-1: Project Trip Generation

ITE Land Use Code / Project Description	Daily 2-way	AM Peak Hour			PM Peak Hour		
		Enter	Exit	Total	Enter	Exit	Total
Generation Rates:							
▪ 770: Business Park (TE/TSF)	12.44	85%	15%	1.35	26%	74%	1.22
Proposed Project Generation Forecast:							
▪ Business Park –Buildings A & B (35.500 TSF)	442	41	7	48	11	32	43
▪ Business Park –Building C (18.400 TSF)	229	21	4	25	6	16	22
▪ Business Park –Buildings D1 and D2 (27.600 TSF)	343	31	6	37	9	25	34
▪ Business Park –Building E (27.000 TSF)	336	31	5	36	9	24	33
Total Proposed Project Trip Generation Forecast	**1,350**	**124**	**22**	**146**	**35**	**97**	**132**

Source: Transportation Impact Analysis (Appendix J)

The Project has been designed to construct onsite roadway improvements consistent with the City guidelines. Buildings A, B, D1, and D2 would include 26-foot drive aisles adequate for fire access. Building C would include a 27-foot to 30-foot drive aisle adequate for fire access. Each building would also be accessible via driveways consistent with City Guidelines. Additionally, as described under Table LU-1, Land Use Consistency, the Project would be consistent with applicable goals and policies from the City's GP Circulation Element. Additionally, the Project would pay Development Impact Fees as conditioned by the City pursuant to Municipal Code Chapter 3.27. The fees shall be collected and utilized as needed by the City.

Alternative Transportation

The proposed Project would include 6-foot-wide sidewalks along the Projects frontages on Hardt Street and East Brier Drive. Additionally, bicycle parking would be provided on-site. The proposed Project would be located approximately half a mile from the sbX Green Line, which is located on east Hospitality Lane west of Tippecanoe Avenue. The Project is also located a few hundred feet from bus route 8 on Tippecanoe Avenue and Brier Drive. Additionally, the proposed Project is located 0.2 miles from the San Bernardino - Tippecanoe Metrolink station. The Project would not disrupt service of the Green Line or Metrolink station. Therefore, the Project would not conflict with alternative transportation and Project impacts to transit, bicycle, and pedestrian facilities would be less than significant.

b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less Than Significant Impact. Senate Bill (SB) 743 was signed by Governor Brown in 2013 and required the Governor's Office of Planning and Research (OPR) to amend the State CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts. SB743 specified that the new criteria should promote the reduction of GHGs, the development of multimodal transportation networks and a diversity of land uses. In response, Section 15064.3 was added to the CEQA Guidelines beginning January 1, 2019. Section 15064.3(c) states that the provisions of the section shall apply statewide beginning on July 1, 2020. State CEQA Guidelines Section 15064.3 - Determining the Significance of Transportation Impacts states that VMT is the most appropriate measure of transportation impacts and provides lead agencies with the discretion to choose the most appropriate methodology and thresholds for evaluating VMT.

The City of San Bernardino TIA Guidelines were consulted to determine whether a VMT analysis would be required for the Project. The TIA Guidelines include three screening steps for screening projects from project-level VMT assessments, and only one of the three have to be satisfied. Projects that screen from VMT analysis are considered to not result in any VMT impacts and further the city's overall transportation goals. Based on the scoping criteria from the City of San Bernardino TIA Guidelines and evaluation using the San Bernardino County Transportation Authority (SBCTA) VMT Screening Tool, the Project would screen out of a VMT analysis as it would be located within a Transit Priority Area (TPA). According to the City's guidelines, projects located in a TPA may be presumed to have a less than significant impact. The Project site would be fully located within a TPA as it is considered a large development Project with many employees, would be consistent with TPA parking standards, is consistent with the Sustainable Community Strategy (SCS), and does not include affordable housing. As a result, the proposed project satisfies all four TPA criteria and screens out of VMT analysis (Appendix J). Therefore, impacts related to VMT would be less than significant; and the Project would not conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less Than Significant Impact. Vehicular access to the Project site would be provided via ingress and egress driveways connecting to Hardt Street and Brier Drive. Vehicular traffic to and from the Project site would utilize the existing network of regional and local roadways that currently serve the Project site. The proposed Project would not introduce any new roadways or introduce a land use that would conflict with existing urban land uses in the surrounding area. The proposed Project includes internal driveways that would provide vehicular and truck access to the proposed buildings and truck loading spaces. Design of the proposed Project, including the internal private roadway, ingress, egress, and other streetscape changes are subject to the City's MC and HI zoning development standards. For example, the design of the Projects streets would be reviewed to ensure fire engine accessibility and turnaround area is provided to the fire code standards. As a result, impacts related to vehicular circulation design features would be less than significant.

d) Result in inadequate emergency access?

Less Than Significant Impact.

Construction
The proposed construction activities, including equipment and supply staging and storage, would occur within the Project site, and would not restrict access of emergency vehicles to the Project site or adjacent areas. The installation of driveways and connections to existing infrastructure systems that would be implemented during construction of the proposed Project could require the temporary closure of one side or portions of Industrial Parkway for a short period of time (i.e., hours or a few days). However, the construction activities would be required to ensure emergency access in accordance with Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9), which would be ensured through the City's permitting process. Thus, implementation of the Project through the City's permitting process would ensure existing regulations are adhered to and would reduce potential construction related emergency access impacts to a less than significant level.

Operation
The proposed Project would provide adequate emergency access to the site and associated building via driveways along Hardt Street and East Brier Drive and would connect to several internal access ways that would ensure access for emergency vehicles within the interior of the site. Buildings A and B would be accessible via three proposed driveways. Building C would be accessible via two driveways. Buildings D1 and D2 would be accessible via two driveways. The construction permitting process would provide adequate and safe circulation to, from, and through the Project site, and would provide routes for emergency responders to access different portions of the Project site. The proposed Project would provide Buildings A, B, D1, and D2 with 27-foot-wide drive aisles for adequate fire access and Building C would include a 27

foot to 30-foot-wide drive aisle. Since the Project is required to comply with all applicable City codes, as verified by the City potential impacts related to inadequate emergency access would be less than significant.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.18 TRIBAL CULTURAL RESOURCES.				
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	☐	☒	☐	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	☐	☒	☐	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

Less than Significant Impact with Mitigation Incorporated. The proposed Project is required to comply with AB 52 regarding tribal consultation. Chapter 532, Statutes of 2014 (i.e., AB 52), requires that Lead Agencies evaluate a project's potential to impact "tribal cultural resources." Such resources include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are eligible for inclusion in the California Register or included in a local register of historical resources (PRC Section 21074). AB 52 also gives Lead Agencies the discretion to determine, supported by substantial evidence, whether a resource falling outside the definition stated above nonetheless qualifies as a "tribal cultural resource." Also, per AB 52 (specifically PRC 21080.3.1), Native American consultation is required upon request by a California Native American tribe that has previously requested that the City provide it with notice of such projects.

As described in section 3, *Cultural Resources,* an archaeological records search was completed in order to identify any previously recorded archaeological sites within the Project boundary or in the immediate vicinity. According to the records search 37 resources were identified within a one-mile radius, none of which are

located on the Project site. In addition to the records search, a Sacred Lands File (SLF) search was requested from the Native American Heritage Commission (NAHC) on December 27, 2021 (Appendix C). The NAHC responded on March 1, 2022, stating the SLF search was positive for previously known tribal cultural resources or sacred lands within one mile of the Project site. Pursuant to the requirements of AB 52, the City sent informational letters about the proposed Project and requests for consultation to the following three tribes on May 19th, 2023.

- Gabrieleño Band of Mission Indians - Kizh Nation responded on May 31st, 2023, requesting consultation. Kizh Nation sent mitigation measures on August 7th, 2023.
- Yuhaaviatam of San Manuel Nation (YSMN) (formerly known as the San Manuel Band of Mission Indians) did not respond to the City's request for consultation.
- Soboba Band of Luiseno Indians did not respond to the City's request for consultation.

Mitigation Measure TCR-1 has been included to require a Native American Monitor, approved by Kizh Nation, to be retained prior to commencement of ground disturbing activities for the proposed Project. Mitigation Measure TCR-2 has been included to require all construction activities in the immediate vicinity of the discovery to cease in the event of unanticipated discovery of tribal cultural resource objects (Non-Funerary/Non-Ceremonial). Mitigation Measure TCR-3 has been included to provide requirement in the event of unanticipated discovery of human remains and associated funerary or ceremonial objects and includes further requirements apart from PPP CUL-1. Coordination with Gabrieleño Band of Mission Indians – Kizh Nation on potential cultural resource discoveries and archaeological/cultural documents would ensure proper precaution and handling of such resources, and further, minimize potential impacts to resources. Therefore, with implementation of Mitigation Measures TCR-1, TCR-2, and TCR-3 impacts to tribal cultural resources would be less than significant.

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less Than Significant Impact with Mitigation Incorporated. As discussed above, to avoid potential adverse effects to tribal cultural resources, mitigation measures TCR-1, TCR-2, TCR 3 have been included to require coordination with Gabrieleño Band of Mission Indians – Kizh Nation to avoid potential impacts to tribal cultural resources that may be unearthed by Project construction activities. No information has been provided to the Lead Agency indicating any likelihood of uncovering tribal cultural resources on the Project site, there are no known tribal cultural resources on or adjacent to the Project site, and no potentially significant impacts are anticipated.

Additionally, as described previously California Health and Safety Code, Section 7050.5, included as PPP CUL-1, requires that if human remains are discovered in the Project site, disturbance of the site shall halt and remain halted until the coroner has conducted an investigation. If the coroner determines that the remains are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. Therefore, with implementation of Mitigation Measures TCR-, TCR-2, TCR-3, and PPP CUL-1, impacts to TCRs would be less than significant.

Plans, Programs, or Policies (PPPs)

PPP CUL-1, as described in Section *5.5, Cultural Resources.*

Mitigation Measures

Mitigation Measure TCR-1: Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities.

A. The project applicant/lead agency shall retain a Native American Monitor from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation. The monitor shall be retained prior to the commencement of any "ground-disturbing activity" for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.

B. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.

C. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request to the Tribe.

D. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant/lead agency that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.

Mitigation Measure TCR-2: Unanticipated Discovery of Tribal Cultural Resource Objects (Non-Funerary/Non-Ceremonial). Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor and/or Kizh archaeologist. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe's sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.

Mitigation Measure TCR-3: Unanticipated Discovery of Human Remains and Associated Funerary or Ceremonial Objects

A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.

B. If Native American human remains and/or grave goods are discovered or recognized on the project site, then Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5 shall be followed.

C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2).

D. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods.

E. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.19 UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Require or result in the relocation or construction of new or expanded water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of State or local standards or in excess of the capacity of local infrastructure or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

a) Require or result in the construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less Than Significant Impact.

Water Infrastructure

The Project applicant would develop the Project site and would install new water infrastructure. The site is currently served by City of San Bernardino Municipal Water Department's water infrastructure. New water infrastructure on the site would connect to existing water infrastructure within Hardt Street and East Brier Drive. The new onsite water system would convey water supplies to the five proposed speculative business park/commercial service buildings and landscaping through plumbing/landscaping fixtures that are compliant with the CalGreen Plumbing Code for efficient use of water.

The proposed Project would continue to receive water supplies through the existing 12-inch water lines located within the Hardt Street and East Brier Drive right-of-way that have the capacity to provide the increased water supplies needed to serve the proposed Project, and no expansions of the water pipelines that convey water to the Project site would be required. Installation of the new water distribution lines would only serve the proposed Project and would not provide new water supplies to any off-site areas.

The construction activities related to the onsite water infrastructure that would be needed to serve the proposed Project are included as part of the Project and would not result in any physical environmental effects beyond those identified throughout this IS/MND. For example, analysis of construction emissions from excavation and installation of the water infrastructure is included in Sections 3, *Air Quality* and 8, *Greenhouse Gas Emissions*. Therefore, the proposed Project would not result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

Wastewater
The Project site is currently served by the existing 8-inch sewer line in Hardt Street and the existing 8-inch sewer line in East Brier Drive. The proposed Project includes installation of three new onsite sewer lines, one per building, that would connect to the existing sewer line within Hardt Street and three new onsite sewer lines that would connect to the existing sewer line within east Brier Street. In addition, the existing sewer lines would accommodate development of the Project site and would not require expansion offsite to serve the proposed Project (Appendix H). The necessary onsite installation of wastewater infrastructure is included as part of the proposed Project and would not result in any physical environmental effects beyond those identified in other sections of this IS/MND.

Storm Drainage
As discussed previously, the Project site is relatively flat, and a drainage channel borders the site to the north and traverses east-west. The proposed Project would collect drainage via multiple inlets which would convey stormwater to proposed onsite water quality bioretention basins and underground detention systems for treatment and discharge. The bioretention basins would be located within the property boundaries of Building A (2) and Building C (2). Additionally, an underground detention system would be located underground to the east of Building A. The underground detention system would convey runoff into a modular wetlands system for water quality and ultimately be discharged via pump onto Hardt Street.

Due to the appropriate sizing of the onsite drainage features and the implementation of a WQMP (PPP WQ-1), as ensured through the proposed Project permitting process, operation of the proposed Project would not substantially increase stormwater runoff, and the Project would not require or result in the construction of new offsite stormwater drainage facilities or expansion of existing offsite facilities, the construction of which could cause significant environmental effects. The required installation of the proposed drainage features is included as part of the proposed Project and would not result in any physical environmental effects beyond those identified in other sections of this IS/MND. Overall, impacts related to stormwater drainage facilities would be less than significant.

Electric Power
The proposed Project would connect to the existing Southern California Edison electrical distribution facilities that are adjacent to the Project site and would not require the construction of new electrical facilities.

Natural Gas
The proposed Project would connect to the existing Southern California Gas natural gas distribution facilities that are adjacent to the Project site.The installation of the utilities at the locations as described above are evaluated throughout this IS/MND and found to be less than significant.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less Than Significant Impact. Water service would be provided to the Project site by the City of San Bernardino Municipal Water Department (SBMWD). The 2020 Upper Santa Ana River Watershed Integrated Regional Urban Water Management Plan (UWMP), adopted in June 2021, was prepared for the SBMWD and therefore accounts for the water usage that would be attributed to development of the Project site, consistent with its existing CR-3 land use designation. According to the UWMP, the SBMWD

currently uses one source of water to provide to its service area: Bunker Hill Groundwater Basin (UWMP 2021).

The Water Supply Reliability Assessment within the UWMP concluded that the district has adequate supplies to meet projected demands under multiple dry year scenarios, taking into account the recent prolonged drought (UWMP 2021). The City of San Bernardino Water facilities Master Plan 2015 developed water duty factors for land use types in the planning area based on SCAG data, previous planning studies, SBMWD's Water Billing data, and State of CA Department of Finance data. The water duty factor for the CR-3 land use category is 2,338 gallons per day per acre. As described previously, the proposed Project includes development of commercial service/business park buildings on a 5.81-acre site and is consistent with the CR-3 land use designation and zoning. Thus, the proposed Project would generate an increased water demand of 13,584 gallons per day or 15.22 acre-feet per year, which is within the anticipated increased demand and supply for water for the foreseeable future, as shown on Table UT-1.

Table UT-1: SBMWD's Projected Water Supply and Demand (AF)

Water Source	2025	2030	2035	2040	2045
Normal Year					
Supply Totals	48,585	49,976	51,368	52,485	53,603
Demand Totals	42,248	43,458	44,667	45,639	46,661
Difference	6,337	6,519	6,700	6,846	46,661
Single Dry Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691
Multiple Dry Years					
First Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691
Second Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691
Third Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691
Fourth Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691
Fifth Year					
Supply Totals	53,444	54,974	56,504	57,734	58,963
Demand Totals	46,473	47,803	49,134	50,203	51,272
Difference	6,971	7,171	7,370	7,530	7,691

Source: UWMP 2021.

Therefore, water demand from the proposed Project would be within SBMWD's current and projected water supplies available to serve the Project within the reasonably foreseeable future during normal, dry, and multiple dry years. Additionally, all new development that connects to the SBMWD's water system is required to pay its applicable fair-share Development Impact Fee(s). Thus, impacts related to water supplies would be less than significant.

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less Than Significant Impact. The Project site receives wastewater services from the City of San Bernardino with connections to sewer lines in Hardt Street and Brier Drive. Wastewater from the proposed Project would be treated at the San Bernardino Water Reclamation Plant Facility. The Facility has capacity for 33 million gallons per day (mgd) and as of 2020, the facility receives an average of 21.5 mgd (UWMP 2020). As such, the facility has an excess capacity of 11.5 mgd.

According to San Bernardino Countywide Plan Draft EIR 2019, commercial uses generate approximately 1,500 gallons per day (gpd) per acre of wastewater. Thus, the 5.81-acre Project site would generate approximately 8,715 gpd of wastewater. As such, 8,715 gpd of wastewater is a conservative estimate of the increase of wastewater demand associated with implementation of the Project. Therefore, the proposed Project's wastewater generation would be within the current capacity for the San Bernardino Water Reclamation Facility.

Additionally, all new developments that connect to the system are required to pay their applicable fair-share Development Impact Fee(s). As such, the Water Reclamation Plant Facility would have adequate capacity to serve the proposed Project. The proposed Project would connect to and operate under the capacity of the current water treatment facility, allowing for sufficient service to the Project site. The proposed Project would not result in any of the wastewater treatment plants discussed above exceeding wastewater treatment requirements. Therefore, impacts related to wastewater generation would be less than significant.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less Than Significant Impact. In 2019, over 82 percent of the solid waste from the City, which was disposed of in landfills, went to the Mid Valley Sanitary Landfill. The Mid Valley Sanitary Landfill is permitted to accept 7,500 tons per day of solid waste and is permitted to operate through 2045. The Mid Valley Sanitary Landfill has a remaining capacity of 61,219,377 tons. As of January 2023, the peak daily tonnage received was 4,819 tons. Thus, on average, the facility had additional capacity of 2,681 tons per day (CalRecycle 2023).

Pre-construction
As described in Section 5.9 g), the proposed Project currently has illegally dumped materials onsite consisting of very small burn piles and random debris that are required to be properly disposed of before the start of construction activities, as explained in mitigation measure HAZ-1. The amount of illegally dumped materials onsite cannot be quantified; however, the amount of illegally dumped material to be disposed of during pre-construction would be negligible and would not exceed the daily capacity of the Mid Valley Landfill.

Construction
The proposed Project does not involve demolition of existing structures; however, Project construction would generate solid waste for landfill disposal from construction packaging and discarded materials. Utilizing a construction waste factor of 3.89 pounds per square foot (EPA 1998), construction of the Project would generate approximately 158 tons of waste during construction from packaging and discarded materials. However, Section 5.408.1 of the 2016 California Green Building Standards Code requires demolition and construction activities to recycle or reuse a minimum of 65 percent of the nonhazardous construction and demolition waste. Thus, the construction solid waste that would be disposed of at the landfill would be approximately 35 percent of the waste generated. Therefore, construction activities, which would generate the most solid waste would generate approximately 55.3 tons of solid waste. As described in the Air Quality

Analysis, included in Appendix A to this IS/MND, construction is expected to take 240 days, or 8 months. As such this would equate to approximately 0.23 tons of solid waste per day.

As described above, the Mid Valley Sanitary Landfill has an additional capacity of approximately 2,681 tons per day. Therefore, the facility would be able to accommodate the addition of 0.23 tons of waste per day during construction of the proposed Project. Therefore, the Mid Valley Sanitary Landfill would be able to accommodate solid waste generated from construction of the proposed Project.

Operation

The CalEEMod solid waste generation rate for the proposed project using the Industrial Park land use subtype is 1.24 tons per 1,000 SF every year. Thus, the Project would generate approximately 101 tons of solid waste per year, or 0.28 tons per day (Appendix A). However, at least 75 percent of the solid waste is required by AB 341 to be recycled, which would reduce the volume of landfilled solid waste to approximately 25.25 tons per year or 0.48 ton per week.

As the Mid Valley Sanitary Landfill has additional capacity of approximately 2,681 tons per day, the facility would be able to accommodate the addition of 0.28 tons of waste per week from the Project. Therefore, the Mid Valley Sanitary Landfill would be able to accommodate solid waste from operation of the proposed Project, and impacts related to landfill capacity would be less than significant.

e) Comply with federal, state, and local statutes and regulations related to solid waste?

Less Than Significant Impact. The proposed Project would result in a new development that would generate an increased amount of solid waste. All solid waste-generating activities within the City are subject to the requirements set forth in Section 5.408.1 of the 2019 California Green Building Standards Code that requires demolition and construction activities to recycle or reuse a minimum of 65 percent of the nonhazardous construction and demolition waste, and AB 341 that requires diversion of a minimum of 75 percent of operational solid waste.

In addition, as stated in Response 5.19(d) above, the proposed Project would be required to comply with the City's Municipal Code Section 8.24.100, *Construction and Demolition Debris Recycling Program*, which requires that developments must meet the minimum diversion requirement. In addition, the proposed Project would be required to comply with all federal, State, and local regulations related to solid waste. Furthermore, the proposed Project would comply with all standards related to solid waste diversion, reduction, and recycling during Project construction and operation. Therefore, the proposed Project is anticipated to result in less than significant impacts related to potential conflicts with federal, State, and local management and reduction statutes and regulations pertaining to solid waste.

Plans, Programs, or Policies (PPPs)

PPP WQ-1: WQMP. Prior to grading permit issuance, the project developer shall have a Water Quality Management Plan (WQMP) approved by the City for implementation. The project shall comply with the City's Municipal Code Section 13.54 and the Municipal Separate Storm Sewer System (MS4) permit requirements in effect for the Regional Water Quality Control Board (RWQCB) at the time of grading permit to control discharges of sediments and other pollutants during operations of the Project.

Mitigation Measures

None.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5.20 WILDFIRES. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☒	☐

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

Less Than Significant Impact. According to the CAL FIRE Hazard Severity Zone map and the City's GP Safety Element, the Project site is not within or near an area identified as a Very High Fire Hazard Severity Zone (VFHSZ) or a State Responsibility Area (SRA) (CALFIRE 2023). The proposed Project would be located within a Local Responsibility Area (LRA). Additionally, as stated in Section 5.9 *Hazards and Hazardous Materials* of this IS/MND, the proposed Project would not physically interfere with an adopted emergency response plan or emergency evacuation plan. The proposed Project does not include any characteristics (e.g., permanent road closures or long-term blocking of road access) that would substantially impair or otherwise conflict with an emergency response plan or emergency evacuation plan. Further, the proposed Project would not obstruct or alter any transportation routes that could be used as evacuation routes during emergency events.

The proposed Project would provide adequate emergency access to the site and associated building via driveways along Hardt Street and East Brier Drive and would connect to several internal access ways that would ensure access for emergency vehicles within the interior of the site. Additionally, access to and from the Project site for emergency vehicles would be reviewed and approved by the San Bernardino County Fire Department and the City as part of the Project approval process to ensure the proposed Project is compliant with all applicable codes and ordinances for emergency vehicle access. Since the Project is required to comply with all applicable City codes, as verified by the city, any potential impacts related to an emergency response or evacuation (if any) would be less than significant.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollution concentrations from a wildfire or the uncontrolled spread of a wildfire?

Less Than Significant Impact. As stated previously, the Project site is not located within or near VHFHSZ. Additionally, the Project site and surrounding area are currently developed or are being developed, and therefore, lack extensive combustible materials and vegetation necessary for the uncontrolled spread of a wildfire.

The Project site is relatively flat with elevations ranging from 1,046 feet above mean sea level (AMSL) to 1,053 feet AMSL and there are limited elevation changes in the Project vicinity. Implementation of the proposed Project would develop five new speculative business park/commercial service buildings in an area characterized by predominantly commercial uses as described in table 3-1 *Surrounding Existing land Use and Zoning Designation*. As such, the Project itself would not exacerbate wildfire risks as compared to existing conditions because it is representative of existing development in the area. Thus, impacts related to other factors that would expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire would be less than significant.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No Impact. As described in the previous responses, the Project site is not within a SRA or a VHFHSZ. The proposed Project does not require the installation or maintenance of associated infrastructure (including roads, fuel breaks, emergency water sources, power lines, or other utilities) that would exacerbate fire risk or that would result in impacts to the environment. Although the Project includes new driveways for access to all five buildings within the Project site, the proposed Project does not include any changes to public or private roadways that would exacerbate fire risk or that would result in impacts to the environment. Although utility improvements, including domestic water, sanitary sewer, and bioretention basins proposed as part of the proposed Project would be extended throughout the Project site, these utility improvements would be largely underground and would not exacerbate fire risk. Project design and implementation of utility improvements would be reviewed and approved by the City as part of the Project approval process to ensure the proposed Project is compliant with all applicable design standards and regulations. Therefore, the proposed Project would not include infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities), that would exacerbate fire risk or that would result in impacts to the environment and no impacts would occur.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less Than Significant Impact. According to the Federal Emergency Management Agency (FEMA) FIRM map #06071C8684J and the City's GP Safety Element, the Project site is located in Zone X, which is identified as an "area determined to be outside the 0.2% chance flood plain." The northern portion of the site is adjacent to an earthen drainage channel, which is located in Zone A, identified as an "area with no base flood elevations determined". Additionally, as previously stated, the Project site is not within an SRA or VHFHSZ.

As established in Section 5.10 *Hydrology and Water Quality* of this IS/MND, during Project construction soil would be compacted and drainage patterns would be temporarily altered due to grading, and there would be an increased potential for flooding compared to existing conditions. However, construction BMPs would be identified and implemented as part of the proposed Project. Implementation of construction BMPs would control and direct surface runoff to prevent flooding, and as such, Project construction would not expose people or structures to significant risks related to downslope and downstream flooding. Therefore, impacts would be less than significant.

During operation, the proposed Project would not substantially alter the existing onsite drainage patterns. Compliance with the proposed operational BMPs would ensure onsite storm drain facilities would be sized to accommodate stormwater runoff from the Project site so that onsite flooding would not occur. Therefore, impacts would be less than significant.

As established in the City of San Bernardino GP, there are no landslide zones close to or within the boundaries of the Project site. The Project site is relatively flat; therefore, the risk of slope failure represents a limited level of concern on the Project site. Additionally, during the Geotechnical Investigation conducted by Construction Testing and Engineering, South, Inc., no features typically associated with land sliding was noted and no evidence of land sliding was found to have occurred within the area of the site. Further, projects in the City of San Bernardino are required to comply with the CBC, which would include the incorporation of 1) seismic safety features to minimize the potential for significant effects as a result of earthquakes; 2) proper building footings and foundations; and 3) construction of the building structures so that it would withstand the effects of strong ground shaking. These features would reduce potential impacts related to landslides to a less than significant level. Therefore, with implementation of the CBC, the Project would not expose people or structures to significant risks, including downslope or downstream landslides, and impacts (if any) would be less than significant.

Plans, Programs, or Policies (PPPs)

None.

Mitigation Measures

None.

5.21 MANDATORY FINDINGS OF SIGNIFICANCE.	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant Impact with Mitigation Incorporated. Based on the discussion in Section 5.4, *Biological Resources*, the Project site does not provide suitable habitat for any special status plant species or special status plant communities due to the disturbed nature of the site. However, the Project site does contain areas with shrubs that can be used by nesting songbirds during the nesting bird season of February 1 to September 15. Therefore, if vegetation is required to be removed during the nesting bird season, Mitigation Measure BIO-1 has been included to require a nesting bird survey to be conducted three days prior to initiating vegetation clearing. Additionally, if nesting birds are encountered during vegetation removal Mitigation Measure BIO-2 has been included to establish avoidance buffer zones near discovered nests to avoid activities that would adversely affect the nests. With the implementation of Mitigation Measure BIO-1 and BIO-2, impacts related to nesting birds would be reduced to a less than significant level.

As described in Section 5.5, C*ultural Resources*, the Project site does not contain any buildings or structures that meet any of the California Register of Historical Resources (California Register) criteria or qualify as "historical resources" as defined by CEQA. Therefore, the proposed Project would not cause a substantial adverse change in the significance of a historical resource. The records search conducted as part of the Cultural Resources Assessment did not identify any historic, archaeological, or cultural resources on the Project site. While the records search found previously identified resources within the Project vicinity, due to previous ground-disturbing activities and the absence of identified cultural resources within the Project boundaries, there is low potential for cultural resources to be present or disturbed by the proposed development (BFSA 2023). Therefore, impacts related to unknown historical resources onsite would be less than significant.

As described in section 5.18 *Tribal Cultural Resources*, Mitigation Measure TCR-1 has been included to require a Native American Monitor, approved by Kizh Nation, to be retained prior to commencement of ground disturbing activities for the proposed Project. Mitigation Measure TCR-2 has been included to require all construction activities in the immediate vicinity of the discovery to cease in the event of unanticipated discovery of tribal cultural resource objects (Non-Funerary/Non-Ceremonial). Mitigation Measure TCR-3 has been included to provide requirement in the event of unanticipated discovery of human remains and associated funerary or ceremonial objects and includes further requirements apart from PPP CUL-1. Coordination with Gabrieleño Band of Mission Indians – Kizh Nation on potential cultural resource discoveries and archaeological/cultural documents would ensure proper precaution and handling of such resources, and further, minimize potential impacts to resources. Therefore, with implementation of PPP CUL-1, and Mitigation Measures TCR-1, TCR-2, and TCR-3, impacts to tribal cultural resources would be less than significant.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less Than Significant Impact with Mitigation Incorporated. As presented in this document, potential Project-related impacts are either less than significant or would be less than significant with mitigation incorporated. Based on the analysis contained in this document, Project-related impacts would be reduced to less than significant levels with the incorporation of mitigation measures. Given that the potential Project-related impacts would be mitigated to a less than significant level, implementation of the proposed Project would not result in impacts that are cumulatively considerable when evaluated with the impacts of other current projects, or the effects of probable future projects. Therefore, the proposed Project's contribution to any significant cumulative impacts would be less than cumulatively considerable. As discussed in Sections 5.1 through 5.20 of this document, mitigation would be required and incorporated as necessary. Therefore, would result in a less than significant impacts with implementation of mitigation measures.

c) **Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

Less Than Significant Impact with Mitigation Incorporated. Based on the Project Description and the preceding responses in Sections 5.1 through 5.20 of this document, implementation of the proposed Project would not cause substantial adverse effects to human beings because all potentially significant impacts of the proposed Project would be mitigated to a less than significant level. Therefore, since all potentially significant impacts of the proposed Project are expected to be mitigated to a less than significant level, implementation of the proposed Project would not cause substantial adverse effects on human beings.

Plans, Programs, or Policies (PPPs)

PPP AES-1, as listed in Section 5.1.

PPP AQ-1, as listed in Section 5.3.

PPP AQ-2, as listed in Section 5.3.

PPP AQ-3, as listed in Section 5.3.

PPP CUL-1, as listed in Section 5.5.

PPP WQ-1, as listed in Section 5.10.

PPP WQ-2, as listed in Section 5.10.

Mitigation Measures (MM)

MM BIO-1, as listed in Section 5.4.

MM BIO-2, as listed in Section 5.4.

MM HAZ-1, as listed in Section 5.9.

MM TCR-1, as listed in Section 5.18.

MM TCR-2, as listed in Section 5.18.

MM TCR-3, as listed in Section 5.18

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Chapter 2. Response to Comments on the Public Review Draft MND

This memo contains responses to the comments that the City of San Bernardino (Lead Agency) received on the Mitigated Negative Declaration (MND) for the Hardt and Brier Business Park Project during the public review period, which began November 1, 2023, and closed November 20, 2023 (SCH No. 2023100916). This document has been prepared in accordance with California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) and represents the independent judgment of the Lead Agency. This document and the circulated MND together comprise the Final MND.

The following public comment was submitted to the City of San Bernardino during the public review period:

1. Marven E. Norman, Community Member, Received November 20, 2023
2. Supporters Alliance for Environmental Responsibility (SAFER), Received December 13, 2023
3. Shawn Smallwood, Received December 13, 2023

The public comments and responses to comments are included in the public record and are available to the Lead Agency decision-makers for their review and consideration prior to making their decision. Pursuant to CEQA Statute Section 21155.2(b)(5), none of the comments provide substantial evidence that the Project will have significant environmental effects which would require preparation of an Environmental Impact Report. None of this new material indicates that the Project will result in a significant environmental impact or an increase in a less than significant impact previously disclosed in the Hardt and brier Business Park Project MND.

Although CEQA Statute Section 21155 does not require a Lead Agency to prepare written responses to comments received, the City of San Bernardino has elected to prepare the following written responses with the intent of conducting a comprehensive and meaningful evaluation of the proposed Project. The number designations in the responses are correlated to the bracketed and identified portions of each comment letter.

Comment Letter 1: Marven E. Norman, Community Member, dated November 20, 2023

From: Marven Norman <inlandurbanist@gmail.com>
Sent: Monday, November 20, 2023 3:23 PM
To: Mike Rosales <Rosales_Mi@sbcity.org>
Subject: Hardt & Brier Business Park project comments

Caution - This email originated from outside the City - Verify that the Email display name and Email address are consistent. - Use caution when opening attachments.

Hi Mike,

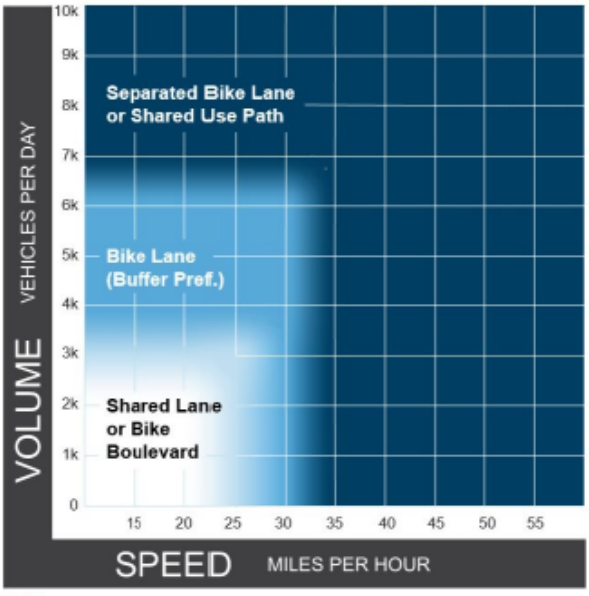
I have two comments about this project. The first is a concern about the compatibility with this development to the area given the zoning and presence of both BRT and rail service. It appears that potential conflict with existing City plans was not even studied in the MND which is concerning as this obviously is a massive step in the wrong direction based on what type of development we should be pursuing for that location. 1.1

The second concerns is to ensure that the appropriate bike facilities per the Caltrans guidelines (or similar from FHWA or NACTO) are built.

Thank you.

Marven E. Norman

Figure 9: Preferred Bikeway Type for Urban, Urban Core, Suburban and Rural Town Contexts



Notes

1 Chart assumes operating speeds are similar to posted speeds. If they differ, use operating speed rather than posted speed.

2 Advisory bike lanes may be an option where traffic volume is <3K ADT. 1.2

Contextual Guidance for Selecting All Ages & Abilities Bikeways

Roadway Context				All Ages & Abilities Bicycle Facility
Target Motor Vehicle Speed[1]	Target Max. Motor Vehicle Volume (ADT)	Motor Vehicle Lanes	Key Operational Considerations	
Any		Any	*Any of the following:* high curbside activity, frequent buses, motor vehicle congestion, or turning conflicts[1]	**Protected Bicycle Lane**
< 10 mph	Less relevant	No centerline, or single lane one-way	Pedestrians share the roadway	**Shared Street**
≤ 20 mph	≤ 1,000 – 2,000		< 50 motor vehicles per hour in the peak direction at peak hour	**Bicycle Boulevard**
≤ 25 mph	≤ 500 – 1,500			
	≤ 1,500 – 3,000	Single lane each direction, or single lane one-way	Low curbside activity, or low congestion pressure	**Conventional or Buffered Bicycle Lane, or Protected Bicycle Lane**
	≤ 3,000 – 6,000			**Buffered or Protected Bicycle Lane**
	Greater than 6,000			**Protected Bicycle Lane**
	Any	Multiple lanes per direction		
Greater than 25 mph[1]	≤ 6,000	Single lane each direction	Low curbside activity, or low congestion pressure	**Protected Bicycle Lane, or Reduce Speed**
		Multiple lanes per direction		**Protected Bicycle Lane, or Reduce to Single Lane & Reduce Speed**
	Greater than 6,000	Any	Any	**Protected Bicycle Lane, or Bicycle Path**
High-speed limited access roadways, natural corridors, or geographic edge conditions with limited conflicts		Any	High pedestrian volume	**Bike Path with Separate Walkway or Protected Bicycle Lane**
			Low pedestrian volume	**Shared-Use Path or Protected Bicycle Lane**

1.2 Cont.

Attachment A

Caltrans Contextual Guidance for Preferred Bicycle Facilities[**]

Place Type and Surrounding Land-Use[1]	Design Year ADT	Posted Speed 15-20	25-30	35-45	> 45
Urban Areas & Suburban Main Streets	<2,500	Standard Shoulder or Shared Lane	Standard Shoulder or Shared Lane	Class II or Class IV	Class IV
	2,500-5,000				
	5,000-10,000	Class II or Class IV	Class II or Class IV	Class IV	
	>10,000	Class IV	Class IV		
Rural Areas (Developing Corridors)		15-20	25-30	35-45	> 45
	<2,500	Standard Shoulder (may be designated as a Class III facility)[2]			
	2,500-5,000				
	5,000-10,000				
	>10,000				
		15-20	25-30	35-45	> 45
Rural Main Streets	<2,500	Standard Shoulder or Shared Lane	Class II	Class II	Class I or IV
	2,500-5,000				
	5,000-10,000	Class II			
	>10,000			Class I, II, or IV	

1 Highway Design Manual (HDM) Index 81.3

2 HDM, Tables 302.1 and 307.2

** Chart is not a replacement for engineering judgement. Intended for planning purposes, to identify minimum preferred bikeway facility under different place type, volume and speed conditions.

Response to Comment Letter 1: Marven E. Norman, Community Member, dated November 20, 2023

Response to Comment 1.1: This comment states that the commentor has concerns over the compatibility of the proposed Project with the surrounding land uses and BRT and rail service. The comment states that the proposed Project has the potential to conflict with existing City plans that were not analyzed within the MND. The comment ends by stating that this type of development is not the type of development that the City of San Bernardino should be pursuing.

The comment does not raise a specific issue with the adequacy of the MND or raise any CEQA issue, as it does not identify or call out any specific City plan the Project is in conflict with. The proposed Project is consistent with the site's existing land use designation of Commercial (CR-3) and zoning designations of Tri-City/Club (CR-3) and Transit Overlay District (TD). As shown in Table AES-1, page 46 of the MND, the Project is consistent with the CR-3 and TD development standards for the site.. As shown in Table 2-1, page 4 of the MND, surrounding land uses have the same General Plan designation and zoning designation as the existing site. Therefore, the proposed Project is compatible with surrounding land uses.

The commenter notes that the MND did not analyze Project consistency with City plans. However, the comment does not provide a list of City plans that the MND should have included. The MND included an analysis of Project consistency with the General Plan and policies, Regional Transportation Plan/Sustainable Communities Strategy, and the Municipal Code in Section 5.11, *Land Use and Planning*. The MND found that the Project is consistent with the aforementioned plans. Therefore, no further response is required or provided.

Response to Comment 1.2: This comment states that the commentor has concerns over ensuring that appropriate bike facilities, per Caltrans guidelines, are built.

This comment does not raise a specific issue with the adequacy of the MND or raise any other CEQA issue. The MND discusses alternative transportation in Section 5.17, *Transportation*, page 133 of the MND and states that the proposed Project would provide on-site bicycle parking and would not conflict with alternative transportation such as transit, bicycle, and pedestrian facilities. According to the Final San Bernardino Active Transportation Plan *Bicycle Network* map, Tippecanoe Avenue, east of the Project site, is a proposed Class II bike lane and East Brier Drive is a proposed neighborhood street. No existing bicycle network is located near the Project site. The commentor also refers to Caltrans, NACTO, and FHWA guidelines for bike facilities; however, the provided guidelines are guidance tools and are not required of the proposed Project. According to the Caltrans Contextual Guidance for Bike Facilities Memorandum, attached to the comment letter, the contextual guidance chart does not replace engineering judgement or design standards and it should be used as a decision support tool for scoping active transportation facilities during the project planning phase and identifying corridor-level bicycle needs. The proposed Project is consistent with the required bicycle infrastructure from the City of San Bernardino and has incorporated the appropriate facilities into project plans. Therefore, no further response is required or provided.

Comment Letter 2: Supporters Alliance for Environmental Responsibility (SAFER), dated December 13, 2023

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December 13, 2023

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Re: Comment on the Mitigated Negative Declaration (MND) for the Hardt and Brier Business Park Project (SCH No. 2023100916); Development and Environmental Review Committee December 13, 2023 Meeting Agenda Item No. 2

Dear Chairperson Lanier, Honorable Development and Environmental Review Committee Members, Ms. Meamber, and Mr. Rosales: 2.1

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Initial Study and Mitigated Negative Declaration ("IS/MND") prepared for the Hardt and Brier Business Park Project (SCH No. 2023100916), including all actions related or referring to the proposed development of five new concrete tilt-up buildings with a combined total of 81,210 sq. ft at Hardt Street and East Brier Drive (APNs 0281-301-17, 0281-311-06, -07, -08, -11, -12, -18, and -19) in the City of San Bernardino("Project"), to be heard as Agenda Item No. 2 at the December 13, 2023 Development Environmental Review Committee meeting.

After reviewing the IS/MND, we conclude that there is a fair argument that the Project may have adverse environmental impacts that have not been analyzed and mitigated. Therefore,

we request that the City of San Bernardino prepare an environmental impact report ("EIR") for the Project pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code ("PRC") section 21000, et seq.

2.1 Cont.

This comment has been prepared with the assistance of expert wildlife biologist Dr. Shawn Smallwood, Ph.D. Dr. Smallwood's comment and curriculum vitae are attached as Exhibit A hereto and is incorporated herein by reference in its entirety.

PROJECT DESCRIPTION

The Project proposes the development and establishment of five new speculative business park/service commercial buildings with a total combined footprint of 81,210 square feet (SF) on eight parcels encompassing approximately 5.81 acres adjacent to Hardt Street and East Brier Drive. The site is identified by Assessor's Parcel Numbers (APNs) 0281-301-17, 0281-311-06, -07, -08, -11, -12, -18, and -19. Four parcels (APNs 0281-301-17, 0281-311-08, -07, -06) are located north of Hardt Street. The remaining four parcels are located south of Hardt Street. APN's 0281-311-11 and 0281-311-12 are to the east and directly south of Hardt Street and APN's 0281-311-18 and 0281-311-19 are further to the south, directly north of East Brier Drive. The IS/MND asserts that the Project site is undeveloped and vacant with exposed soil and sparse vegetation.

2.2

LEGAL STANDARD

As the California Supreme Court has held, "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319–20 ("*CBE v. SCAQMD*") (citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–05).) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (PRC § 21068; *see also* 14 CCR § 15382.) An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial." (*No Oil, Inc.*, 13 Cal.3d at 83.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Env't v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109 ("*CBE v. CRA*").)

2.3

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 ("*Bakersfield Citizens*"); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a "document of accountability," intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered

the ecological implications of its action." (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process "protects not only the environment but also informed self-government." (*Pocket Protectors*, 124 Cal.App.4th at 927.)

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment." (PRC § 21080(d); *see also Pocket Protectors*, 124 Cal.App.4th at 927.) In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 CCR § 15371), only if there is not even a "fair argument" that the project will have a significant environmental effect. (PRC §§ 21100, 21064.) Since "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process," by allowing the agency "to dispense with the duty [to prepare an EIR]," negative declarations are allowed only in cases where "the proposed project will not affect the environment at all." (*Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440.)

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

2.3
Cont.

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

The "fair argument" standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in their decision making. Ordinarily, public agencies weigh the evidence in the record and reach a decision based on a preponderance of the evidence. [Citation]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better

> argument concerning the likelihood or extent of a potential environmental impact.

(Kostka & Zischke, *Practice Under the CEQA*, §6.37 (2d ed. Cal. CEB 2021).) The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with *a preference for resolving doubts in favor of environmental review*." (*Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).)

CEQA requires that an environmental document include a description of the project's environmental setting or "baseline." (CEQA Guidelines § 15063(d)(2).) The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. (*CBE v. SCAQMD*, 48 Cal.4th at 321.) CEQA Guidelines section 15125(a) states, in pertinent part, that a lead agency's environmental review under CEQA: 2.3 Cont.

> …must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

(*See Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124–25 ("*Save Our Peninsula*").) As the court of appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Id*. at 121–23.)

DISCUSSION

I. THERE IS SUBSTANTIAL EVIDENCE OF A FAIR ARGUMENT THAT THE PROJECT MAY HAVE SIGNIFICANT BIOLOGICAL RESOURCES IMPACTS REQUIRING AN EIR.

After review of the IS/MND, wildlife biologist Dr. Shawn Smallwood, Ph.D., concludes that the Project may have significant impacts on several special status species. An EIR is required to mitigate these impacts. 2.4

Dr. Smallwood's conclusions were informed by the site visit of his associate, wildlife biologist Noriko Smallwood in November 2023. Noriko Smallwood visited the site for 3.18 hours from 06:43 to 09:54 hours on November 23, 2023. (Ex. A, p. 1.) During the site visits, Noriko saw and photographed "California horned lark (Photo 4), California gull (Photo 5), red-tailed hawk (Photos 6-9), lesser goldfinch and house finch (Photos 10 and 11), Nuttall's woodpecker and northern flicker (Photos 12 and 13), western meadowlark (Photos 14-16), black phoebe and white-crowned sparrow (Photos 17 and 18), northern mockingbird and Cassin's kingbird (Photos 19 and 20), Anna's hummingbird and California towhee (Photos 21 and 22), Eurasian collared-dove and Canada goose (Photos 23 and 24), common raven (Photos 25-27), among the other species listed in Table 1. The site also supports pollinating insects (Photos 28

and 29) and many other types of biological organisms." (*Id.*, pp. 2-11 & Table 1.) She "detected 27 species of vertebrate wildlife at or adjacent to the project site, including 5 species with special status (Table 1)." (*Id.*, p. 2.) 2.4 Cont.

Additionally, based on database reviews and site visits, Dr. Smallwood found that 134 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Ex. A, p. 17; *see also id.*, pp. 19-23 (Table 2).) Of these 134 species, 5 (4%) were recorded on or adjacent to the project site through Noriko Smallwood's survey, "and another 34 (25%) species have been documented within 1.5 miles of the site ('Very close'), another 24 (18%) within 1.5 and 4 miles ('Nearby'), and another 61 (46%) within 4 to 30 miles ('In region'). Nearly half (47%) of the species in Table 2 have been reportedly seen within 4 miles of the project site." (*Id.*) 2.5

Dr. Smallwood concludes that the project site "supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences." (*Id.*, p. 17.) As a result, "[t]he site is far richer in special-status species than is characterized in the IS/MND." (*Id.*)

A. The IS/MND Fails to Adequately Document Baseline Conditions.

Dr. Smallwood reviewed the IS/MND and the General Biological Assessment it relies on ("GBA") and found the following issues related to the wildlife baseline that the IS/MND and GBA relied upon:

- The GBA relies on the reconnaissance survey performed by Hernandez Environmental Services on November 5, 2021. According to Dr. Smallwood, the survey provides "no methodological details," other than the fact that "[t]wo biologists from Hernandez Environmental Services walked transects separated by 50 feet" Dr. Smallwood notes that "[t]here is no report of what time the survey began, nor how long the survey lasted. No checklist is shared of habitat elements that the biologists might have used during their survey. No explanation is provided of whether or how animal behavior data or other evidence contributed to the biologist's assessment of the site for its importance to animal movement. It is therefore difficult to assess survey outcomes relative to survey effort and methods." (Ex. A, p. 15.) 2.6

- Hernandez Environmental Services reported detecting only two species of vertebrate wildlife on the project site, including rock pigeon and song sparrow. Dr. Smallwood explains that while "Noriko did not detect the song sparrows on site, … she did detect 26 species that Hernandez Environmental Services did not. Noriko detected 13.5 times the number of vertebrate wildlife species detected by Hernandez Environmental Services, and she did it at the same time of year and over only 3.18 hours of survey. In fact, within only the first minute of her survey, Noriko detected twice the number of species reportedly detected by Hernandez Environmental Services. Furthermore, 2.7

Noriko reported that the site was very active with wildlife throughout her survey. She observed large flocks of house finch, western meadowlark, California horned lark, and American pipit, as well as four red-tailed hawks on site, one of which was on site for the entirety of her survey. There were also numerous common ravens on site throughout her survey. Based on Noriko's survey, the existing environmental setting of the project site is entirely different from the setting characterized by Hernandez Environmental Services." (Ex. A, pp. 15-16.) 2.7 Cont.

- Dr. Smallwood states that "[t]he IS/MND … reports, 'no special-status wildlife species were observed onsite during the field investigation conducted on November 5, 2021.' However, whereas this report could be factual, it is misleading to the readers of the IS/MND. Reconnaissance surveys for wildlife are not designed to detect special-status species. Special-status species can be detected during such surveys, as Noriko demonstrated at the project site, but these surveys are not formulated to detect[] them, nor are there minimum standards to be met in these surveys to support absence determinations. For the latter purpose, protocol-level detection surveys have been formulated by species experts. Hernandez Environmental Services … did not perform any detection surveys. Based on Hernandez Environmental Services…, the IS/MND's characterization of the existing environmental setting is therefore incomplete and inaccurate." (Ex. A, p. 16 (citing IS/MND, p. 61).) 2.8

- Dr. Smallwood explains that "[o]nly 43 (32%) of the species in Table 2 are analyzed for occurrence potential in the IS/MND. Of these, the IS/MND concludes that all are 'not present,' which is another way of saying they are absent. Except for species whose habitat is compellingly absent from the site, absence determinations are inappropriate based on the evidence gathered by Hernandez Environmental Services []. Absence determinations are supportable only after species-specific protocol-level detection surveys have been completed to the standards of the protocols, and the species were nevertheless not detected. No such surveys have been completed. It is inappropriate to conclude that a species is absent simply by looking at a site, and it is especially inappropriate to do so for 43 species of wildlife. The findings of Hernandez Environmental Services are not supportable." (Ex. A, p. 17.) 2.9

- Additionally, Dr. Smallwood notes that "[o]f the special-status species that Hernandez Environmental Services … claim to be absent from the project site, two – Cooper's hawk and California horned lark – were found by Noriko either on site or immediately adjacent to the site. Occurrence records of another 11 supposedly absent special-status species have been reported within only 1.5 miles of the site, and another 9 have been reported within 1.5 and 4 miles of the project site, and another 17 have been reported within 4 and 30 2.10

miles of the project site. The findings of Hernandez Environmental Services are not credible." (Ex. A, p. 17.)

2.10 Cont.

- Dr. Smallwood also points out that "Hernandez Environmental Services … concludes all special-status plant species are absent, except for smooth tarplant, which is reportedly present. However, the IS/MND reports that Hernandez Environmental Services … found no special-status plant species during its reconnaissance survey in 2021. The discovery of a CNDDB occurrence record of smooth tarplant on the project site from 2003 prompted a follow-up survey on 20 May 2023, when Hernandez Environmental Services (2023) found 300 individuals of smooth tarplant. … As an annual that blooms in spring and summer, the 5 November 2021 reconnaissance survey was the wrong time of year to survey for smooth tarplant, as the follow-up survey demonstrated with the finding of 300 individual plants. … However, not even the follow-up survey of 20 May 2023 met the minimum standards of the CDFW (2018) reconnaissance survey guidelines for plants. Hernandez Environmental Services (2023) did not perform multiple surveys in the blooming season, nor did it survey a reference site or summarize the qualifications of its survey personnel. … The minimum standards of the CDFW (2018) survey guidelines for plants have not been met. The IS/MND is incomplete and likely inaccurate." (Ex. A, pp. 17-18.)

2.11

- Lastly, Dr. Smallwood notes that "[t]he IS/MND … next asserts that 'removal of the onsite smooth tarplant during Project construction would not constitute as a significant direct or indirect impact through habitat modifications, on any species identified as a candidate, sensitive, or special status, and no mitigation would be required.' This assertion pretends that smooth tarplant is not a special-status species, and that its removal would qualify as take only if it is regarded as habitat to some other special-status species. But smooth tarplant is a special-status species. Destroying 300 individuals of a rare plant species would easily qualify as a significant impact." (Ex. A, p. 18 (citing IS/MND, p. 60.)

2.12

In conclusion, the IS/MND's insufficient baseline fails to adequately evaluate the significance of the impacts to special-status species of wildlife. As a result, Noriko Smallwood and Dr. Smallwood's expert observations are substantial evidence of a fair argument that wildlife impacts may occur as a result of the Project. Thus, the Project requires an EIR to properly mitigate wildlife impacts of the Project.

2.13

B. The Project will have a potentially significant impact on special-status species as a result of lost habitat and lost breeding capacity.

2.14

These are significant impacts that have not been analyzed in the IS/MND. While habitat loss results in the immediate numerical decline of birds and other animals, it also results in a permanent loss of productive capacity. (*Id.*) Dr. Smallwood found that Project-related habitat

loss and lost breading capacity will have a potentially significant impact on special-status species. 2.14 Cont.

Dr. Smallwood analyzed the lost breading capacity likely to result from the Project. He started by evaluating two studies that show bird nesting densities between 32.8 and 35.8 bird nests per acre, for an average of 34.3 bird nests per acre. (*Id.* (citing Young (1948) and Yahner (1982), respectively.) To acquire a total nest density closer to conditions of the Project site, Dr. Smallwood surveyed a fragmented 12.74-acre site surrounded on three sides by residential developments in Rancho Cordova 30 times from March through the first half of August. (*Id.*) According to Dr. Smallwood, the "[t]otal nest density of birds on this site was 2.12 nests per acre on the portion of the study area that was composed of annual grassland with a scattering of trees and after omitting all the nests that were in trees (leaving only ground nests)." (*Id.*) Additionally, "[o]n 4.29 acres of grassland in the San Jacinto Wildlife Area, Noriko tabulated 2.79 bird nests/acre last spring. Applying the mean total nest density between [Dr. Smallwood and Noriko's] two survey efforts to the 5.81 acres of the project site, [Dr. Smallwood] predict[s] the project site supports 14.3 bird nests/year." (Ex. A, p. 24.) As such, Dr. Smallwood concludes that "[t]he loss of 14.3 nest sites of birds would qualify as a significant project impact that has not been quantitatively addressed in the IS/MND." (*Id.*) 2.15

Based on an average of 2.9 fledglings per nest and an average bird generation time of 5 years, the Project would prevent the production of 47.5 birds per year. (*Id.*, pp. 24-25 (citing Young (1948) and Smallwood (2022), respectively).) Neither the IS/MND nor the GBA assess the lost breeding capacity of birds that would result from the Project. (*See* Ex. A, pp. 24-25.) The potential loss of 47.5 birds in California annually following construction of this Project easily qualifies as a significant and substantial impact to special-status species that has not been analyzed.

An EIR is required to fully analyze the Project's impact on lost breeding capacity, and to mitigate that impact.

C. The Project will have a potentially significant impact on wildlife movement.

Dr. Smallwood explains in his comments that why the Project will have a significant impact on wildlife movement:

> The project, due to its elimination of at least 5.81 acres of vegetation cover and due to its insertion of 5 new buildings into the aerospace used by birds, bats and butterflies[,] would cut wildlife off from one of the last remaining stopover and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites. This impact would be significant, and as the project is currently proposed, it would be unmitigated. 2.16

(Ex. A, p. 25.)

Dr. Smallwood's expert comments are substantial evidence of a significant impact that has not been mitigated, requiring preparation of an EIR. 2.16 Cont.

The IS/MND improperly dismisses the Project's potential to significantly impact wildlife movement by improperly focusing on wildlife corridors, reasoning that:

> Usually, mountain canyons or riparian corridors are used by wildlife as corridors. The project site is flat and surrounded by urban development. No wildlife movement corridors were found to be present on the project site. (IS/MND, Appendix B, p. 10.) 2.17

However, as Dr. Smallwood points out, "these conclusions lack supporting evidence," because Hernandez Environmental Services … reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region," and "[t]here was no sampling regime and there was no program of observation to record wildlife movement patterns, nor to quantify them or to qualitatively assess them. Based on what is reported, Hernandez Environmental Services … did not record or measure wildlife movement in any way." (Ex. A, p. 25.) As such, Dr. Smallwood states that "[t]he conclusions of the [GBA] and the IS/MND regarding wildlife movement on the project site are speculative and conclusory." (*Id.*)

Additionally, the IS/MND's conclusions regarding effects on wildlife movement rely on a false CEQA standard. (*Id.*) As Dr. Smallwood states, "[t]he primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol." (*Id.*; *see also* CEQA Guidelines, App. G, pp. 333-34 (stating that the CEQA significance threshold is whether, among other things, a project will "[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species….").) Impacts to wildlife movement may occur with or without the presence of a wildlife corridor. 2.18

Because the Project would interfere with wildlife movement in the region, an EIR needs to be prepared to address and mitigate the Project's impacts on wildlife movement in the region.

D. The Project's traffic will significantly impact special-status species.

Dr. Smallwood identifies the serious impacts that increased traffic has on wildlife. (Ex. A, pp. 25-29.) Analyzing the potential impact on wildlife due to vehicle collisions is especially important because "traffic impacts have taken devastating tolls on wildlife," across North America. (*Id.*, p. 26 (citing Forman et al. 2003).) In the United States alone, estimates for "avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year." (*Id.* (citing Loss et al. 2014).) As Dr. Smallwood explains: 2.19

> Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003).

(Ex. A, pp. 25-26.) Furthermore, a recent study conducted on traffic-caused wildlife mortality found "1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches" "along a 2.5 mile stretch of Vasco Road in Contra Costa County, California." (*Id.*, p. 26 (citing Mendelsohn et al. 2009).)

Dr. Smallwood conducted an analysis to determine how the increased traffic generated by the Project would impacts to local wildlife and special-status species. (*Id.*) 2.19 Cont.

Dr. Smallwood's estimated that the Project will result in 1,670,490 annual VMT, which would cause "915 vertebrate wildlife fatalities per year," which "would cause substantial, significant impacts to wildlife." (Ex. A, pp. 27-28.) Therefore, he concludes that "[a] fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife." (*Id.*, p. 28.)

Additionally, Dr. Smallwood notes that "[m]itigation measures to improve wildlife safety along roads are available and are feasible," and therefore, "need exploration for their suitability with the proposed project." (*Id.*) Specifically, Dr. Smallwood suggests compensatory mitigation in the form of "funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments," and "donations to wildlife rehabilitation facilities." (*Id.*, p. 30.)

The IS/MND fails to recognize at all this potential significant impact of the Project. Because Dr. Smallwood's comments constitute substantial evidence of a fair argument that the Project may have a significant impact on wildlife in the vicinity, an EIR must be prepared to assess this impact and identify appropriate mitigation. 2.20

E. The Project will have a potentially significant cumulative impacts on wildlife.

The IS/MND fails to adequately analyze the cumulative impacts to wildlife from the Project by improperly implying that cumulative impacts are in reality only residual impacts as a result of incomplete mitigation from project-level impacts. (Ex. A, pp. 28-29.) For example, the Dr. Smallwood notes that "[t]he IS/MND asserts that '... potential Project-related impacts are either less than significant or would be less than significant with mitigation incorporated.' And, 'Given that the potential Project-related impacts would be mitigated to a less than significant level, implementation of the proposed Project would not result in impacts that are cumulatively considerable when evaluated with the impacts of other current projects, or the effects of probable future projects.'" (*Id.*, p. 28.) However, the IS/MND's implied standard is not the standard of cumulative effects required under CEQA. (*Id.*) CEQA defines cumulative impacts, and it outlines two general approaches for performing the required cumulative analysis. (*See* 14 CCR § 15130; PRC § 21083(b)(2).) 2.21

Here, the IS/MND's cumulative "analysis" is based on flawed logic. The conclusion that the Project will have no cumulative impact because each individual impact has been reduced to a less-than-significant level relies on the exact argument CEQA's cumulative impact analysis is meant to protect against. The entire purpose of the cumulative impact analysis is to prevent the situation where mitigation occurs to address project-specific impacts, without looking at the bigger picture. This argument, applied over and over again, has resulted in major environmental damage, and is a major reason why CEQA was enacted. As the Court stated in *CBE v. CRA*:

> Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.

(*CBE v. CRA*, 103 Cal.App.4th at 114 (citations omitted).) As such, the IS/MND misrepresented the standard and failed to perform an appropriate analysis.

Dr. Smallwood's comments include at Table 3 an example of how a cumulative analysis can begin. According to Dr. Smallwood:

> Table 3 includes a recently proposed project in [the] City of San Bernardino – the Amazing 34 project, which I predicted would result in 500 wildlife-vehicle collision fatalities annually. Several other currently proposed similar projects are listed, as well. The City's web site includes 28 industrial/commercial projects in the planning phase, all of which should contribute to an expanded version of Table 3. But even considering only the four projects in Table 3, 15,519 annual wildlife fatalities are predictable based on the volumes of traffic that would be generated by these projects. This is an example of cumulative impacts to wildlife that has not been addressed in the IS/MND.

(Ex. A, pp. 28-29 & Table 3.) Therefore, Dr. Smallwood concludes:

> At least a fair argument can be made for the need to prepare a new EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife in the City. To do this, ongoing development in the City needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region. It also needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

(*Id.*, p. 29.) Thus, an EIR must be prepared to include an adequate, serious analysis of the Project's cumulative impacts on wildlife.

2.21 Cont.

F. The pre-construction survey mitigation measures are not sufficient to address potential impacts to birds that may be present at the site.

Dr. Smallwood has reviewed the proposed wildlife impact mitigation identified in the IS/MND related to pre-construction surveys for nesting birds and nesting bird buffers (i.e. **Mitigation Measures BIO-1** and **BIO-2**). (*See* Ex. A, pp. 29-30.) He concludes the mitigation is not sufficient to reduce impacts to a less-than-significant level.

Although Dr. Smallwood agrees with the need for pre-construction surveys and buffers for birds at the Project site, he states:

> Whereas I concur that preconstruction, take-avoidance surveys should be completed, in my experience, the majority of bird nests would not be found by biologists assigned to the survey. For instance, I surveyed for grassland nesters, including as part of an intensive survey effort that I performed from March through mid-August 2023 on another Central Valley site. I surveyed the site 30 times. I found that the nests of grassland birds are the most difficult to locate. Cavity nesters can more effectively defend their nests against predators, whereas ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Ground nesters, which include bird species that occur at the project site, are highly adept at concealing their nests both physically and behaviorally. Based on my experience, it is highly likely that preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The IS/MND's implication that preconstruction survey would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the IS/MND. It would help to cite examples of the success of this measure applied elsewhere. (*Id.*, p. 29.)
>
> This mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species. This measure lacks objective criteria, and is unenforceable. (*Id.*, pp. 29-30.)

2.22

In addition to pre-construction surveys, Dr. Smallwood recommends several other mitigation measures to help reduce impacts to biological resources on the project site. (*See id.*, p. 30.) In addition to the need for additional mitigation measures, an EIR should be prepared detailing how the results of preconstruction surveys will be reported.

2.23

CONCLUSION

For the foregoing reasons, the IS/MND for the Project should be withdrawn, an EIR should be prepared, and the draft EIR should be circulated for public review and comment in accordance with CEQA. Thank you for considering these comments.

2.24

Sincerely,

Victoria Yundt
LOZEAU | DRURY LLP

Response to Comment Letter 2: Supporters Alliance for Environmental Responsibility (SAFER), dated December 13, 2023.

February 7, 2024

Mike Rosales, Chairperson
Community Development Department
City of San Bernardino
201 North E St
San Bernardino, CA 92401

Hernandez Environmental Services

RE: Supporters Alliance for Environmental Responsibility comment letter on Initial Study and Mitigated Negative Declaration ("IS/MND") prepared for the Hardt and Brier Business Park Project (SCH No. 2023100916), dated December 13, 2023.

Hernandez Environmental Services (HES) is providing this response to the Supporters Alliance for Environmental Responsibility (SAFER) comment letter on Initial Study and Mitigated Negative Declaration ("IS/MND") prepared for the Hardt and Brier Business Park Project (SCH No. 2023100916), dated December 13, 2023.

Response to Comment 2.1: This comment states that the Supporters Alliance for Environmental Responsibility (SAFER) is writing this letter regarding the Initial Study Mitigated Negative Declaration (IS/MND) for the Hardt and Brier Project. This comment states that they have concluded there is fair argument that the Project may have environmental impacts not analyzed or mitigated in the IS/MND. Therefore, the comment requests that the City of San Bernardino prepare an EIR. The comment also states it has been prepared with the assistance of a wildlife biologist. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 2.2: This comment provides a summary of the Project Description. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 2.3: This comment provides an overview of the legal background and purposes of CEQA. More specifically, the comment points to case law and definitions on "substantial evidence" and "fair argument". The comment states that under the "fair argument standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. In addition, the comment defines what constitutes an adequate environmental baseline, or setting. The comment is introductory in nature and does not raise a specific issue with the adequacy of the DEIR evaluation or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to Comment 2.4: The comment states that "Dr. Smallwood's conclusions were informed by the site visit of his associate, wildlife biologist Noriko Smallwood" who "detected 27 species of vertebrate wildlife at or adjacent to the Project site, including 5 species with special status." The comment cross references Table 1 found on page 3 of Attachment A, which provides a list of species identified during a site survey completed on November 23, 2023, for the duration of 3.18 hours. As described within the comment and table, the table includes a combined list of species that were observed within the Project site, flying over and passing the Project site, or offsite.

Of the 27 species listed, Table 1 of Attachment A and photograph captions indicated the following:

- 13 species were observed nectaring, socializing, or foraging within the Project site;
- 10 species were observed flying over the Project site or "just off site"; and
- The remaining 4 species did not contain information as to whether they were observed within the Project site or outside of the Project site (European starling, House sparrow, Yellow-rumped warbler, and Botta's pocket gopher).

The Project site is disturbed and isolated, surrounded by developed, urbanized areas on all sides. Dr. Smallwood's study does not include information regarding the specific location of where each species was observed offsite in relation to the Project site. The information provided doesn't pertain to the specific conditions of the Project site or qualify as reliable evidence regarding the habitat of the Project site. Therefore, species observed offsite or whose location was not noted are not considered further throughout the remaining response to comments as present or having the potential for presence on the Project site.

All 13 species observed within the Project site by the commenter are avian species. The California gull is identified as a U.S. Fish and Wildlife Service Bird of Conservation Concern (BCC) and on the Taxa to Watch List (TTW), the Red-tailed hawk is a bird of prey (BOP), and the California horned lark is identified as TTW. None of the statuses indicated (BCC, TTW, or BOP) qualify a species as an official state or federally listed species (candidate, threatened, or endangered). The 10 remaining avian species observed on the Project site by the commenter do not have any special status and are not protected.

It should be noted that while curriculum vitae (cv) is provided for Dr. Kenneth Smallwood, no cv is provided for Noriko Smallwood; therefore, any conclusions made based on her observations do not rise to the level of expert opinion based on the information provided. This comment is informational and does not raise any specific CEQA issues or warrant any revisions to the IS/MND. No further response is warranted.

Response to Comment 2.5: This comment claims that based on database reviews and site visits, the Project site "supports multiple special-status species, and as a result, the site is far richer in special status-species as compared to what is characterized in the IS/MND".

California Code of Resources (CCR) Title 14, Section 15384 defines substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached", additionally "substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts". The databases reviewed by Dr. Smallwood, included as Table 2 of the comment letter, utilized eBird and iNaturalist records. The records obtained from these two sources were then used to determine the alleged potential presence of species within the Project site and vicinity, including special-status species. Conclusions drawn from these databases do not qualify as substantial evidence because they are databases primarily used by amateur birdwatchers, as described below. The scientific standard for biological assessments according to the CDFW Survey and Monitoring Protocols and Guidelines, as well as the State Water Resources Control Board Division of Water Rights Guidance for Biological Surveys and Reports uses the California National Diversity Database (CNDDB) and California Native Plant Society (CNPS). The CNDDB and CNPS are utilized and relied upon by biologists and CDFW as an industry standard. Therefore, field surveys must include a complete list of sensitive species and habitats generated from the CNDDB, CNPS, or other reliable sources to determine sensitive species in the area. Hernandez Environmental Services conducted a literature review of the CNDDB and CNPS for special-status species with the potential to occur on or in the vicinity of the Project site. The iNaturalist and eBird databases are not listed as credible primary databases.

The iNaturalist application includes an automated species identification tool and allows non-expert users to assist each other in identifying organisms from photographs. According to the iNaturalist website, it describes itself as "an online social network of people sharing biodiversity information to help each other learn about nature", with its primary goal being to connect people to nature. Observations of identified species on the iNaturalist application are classified as "Casual", "Needs ID" (needs identification), or "Research Grade" based on the quality of the data provided and the community identification process. The results of the iNaturalist records search for potentially occurring species does not specify which types of observations were used when determining species occurrence potential for the Project site and the results contain erroneous information not based on fact or expert opinion. The findings are not predicated upon facts, or expert opinion supported by facts as required under CCR Title 14, Section 15384, and the data used from the iNaturalist application does not qualify as fair argument.

Similar to iNaturalist, eBird is an application that allows non-expert users to document bird sightings. The eBird website states that eBird "is for everyone interested in birds, regardless of location or previous experience." eBird relies on volunteer reviewers (expert and non-expert) to review records for accuracy. Further, the eBird website discloses that some records could be flagged for inaccuracy months or years after submittal. As such, eBird recorded species sightings are not factually reliable records for determining potentially occurring species for the Project area. The findings are not predicated upon facts, or expert opinion supported by facts as required under CCR Title 14, Section 15384, and the data used from the eBird application does not qualify as fair argument.

As mentioned above, substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence. The data presented and used by Dr. Smallwood is inaccurate and the assertions made that "the site is far richer in special-status species than is characterized in the IS/MND" constitutes nothing more than speculation and unsubstantiated opinion. This comment does not meet the minimum requirements under CEQA for substantial evidence, does not raise a fair argument, and only amounts to speculation. Therefore, preparation of an EIR is not required and no further response is warranted.

Response to Comment 2.6: This comment erroneously claims the General Biological Assessment (GBA) "no methodological details" and that it did not accurately define the wildlife baseline, and that the IS/MND provided an inaccurate description of the environmental setting. The comment argues that the site survey did not explain the effort or methodology behind the site visit, and that it is therefore difficult to assess the validity of the outcomes.

The field surveys conducted by Hernandez Environmental Services followed industry standard survey methods, which are at the discretion of the qualified biologist conducting the surveys, depending upon the conditions of the site being surveyed. The methodology section of the GBA, found on page 2 of the GBA, includes discussions of the literature review and field survey that provides the basis for the findings of the report. Specifically, the field survey methodology describes the date, time, weather conditions, and methods used to assess the site, including spacing for linear walking transects, how and what types of data were recorded, etc. The site was walked and surveyed for 100 percent coverage. The site consists predominantly of disturbed, ruderal land with sparse non-native vegetation; therefore, no habitat constituent elements for sensitive species would have been required. Very few wildlife species (two bird species) were recorded on the site and documented within the GBA during the Project site survey.

Wildlife movement and corridors were also addressed in the GBA on page 10. Due to the fact that the site is general flat, dominated by disturbed, non-native ruderal vegetation, and is surrounded in all directions

by commercial and industrial uses, the GBA determined that the site lacked functionality as a wildlife corridor which is typically defined by habitat linkages, mountain canyons, or riparian corridors. The comment does not contain any credible information discrediting GBA, requiring changes to the IS/MND, or requiring the preparation of a DEIR. Further, this comment merely speculates the wildlife baseline is inaccurate and does not meet the requirements under CEQA for substantial evidence described in Response to Comment 2.5, does not raise a fair argument, and preparation of an EIR is not required.

Response to Comment 2.7: This comment asserts that the field survey conducted by Noriko Smallwood in November 2023 detected 13.5 times the number of vertebrate wildlife species detected by Hernandez Environmental Services during their Project site visit. Thus, the comment states that the IS/MND inaccurately details the environmental setting and argues that the site survey did not accurately reflect the existing environmental setting of the Project site.

As stated in the above response, the site consists predominantly of disturbed, ruderal land with sparse non-native vegetation. The environmental setting depicted in the site photos shown in Dr. Smallwood's report is consistent described in the GBA, the difference being that the site was recently mowed prior to the Hernandez Project site visit, versus additional vegetative growth being present during Dr. Smallwood's site visit. As described above in Response 2.4, only 10 of the species observed by the commenter were observed within the Project site. Further, none of the wildlife species identified by Dr. Smallwood are considered state or federal listed rare, threatened, or endangered species. Therefore, the general characterization of the Project site within the GBA is consistent with the findings provided by the commenter: the Project site is disturbed and supports avian species; no special status species were determined to be present within the Project site. The extent of Project surveys conducted and the subsequent findings of the GBA would not change with the inclusion of Dr. Smallwood's species list. The comment does not contain any information requiring changes to the IS/MND or preparation of a DEIR.

Additionally, as described in Response to Comment 2.4, no cv is provided for Noriko Smallwood; therefore, any conclusions made based on her observations do not rise to the level of expert opinion based on the information provided. Therefore, this comment does not meet the requirements under CEQA for substantial evidence, does not raise a fair argument, and preparation of an EIR is not required.

Response to Comment 2.8: This comment states that the IS/MND incompletely and inaccurately characterized the environmental setting by stating that no special-status species were observed during the field investigation conducted by Hernandez Environmental Services. The comment states that field surveys are not designed to detect special-status species, and that the IS/MND misleads readers into believing special-status species are absent without conducting protocol-level detection surveys.

As previously stated, the field surveys conducted by Hernandez Environmental Services followed standard survey protocols and the IS/MND accurately disclosed the findings of the survey without misleading readers. The IS/MND never states that the field survey was used as the determination of special-status species absence. Rather, the IS/MND states that "Based on habitat requirements for specific special-status wildlife species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status wildlife species known to occur in the area" (IS/MND page 60). Hernandez Environmental Services conducted a literature review of the CNDDB and CNPS for special-status species with the potential to occur on or in the vicinity of the Project site, the results of which are shown in the IS/MND Table BIO-1, page 60. Based on the literature review, habitat requirements for special-status species, and the availability and quality of on-site habitats (based on a survey by 2 qualified biologists), it was determined that the Project site does not have the potential to support these species. CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific

survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area. Thus, it is at the discretion of the qualified biologist to determine if protocol level surveys are required. Due to the absence of suitable habitat (the absence of suitable habitat is discussed on page 6 through 9 of the GBA), in addition to the lack of recorded observations of such species during the GBA site visit, it was determined by the qualified biologist that no protocol-level wildlife species surveys were required.

Therefore, the IS/MND factually defines the environmental setting as described in the GBA from Hernandez Environmental Services. This comment merely speculates that the environmental setting is inaccurate and does not contain any information, facts, or substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.9: This comment asserts that the GBA did not accurately assess the special-status bird species at or near the proposed Project site, according to eBird/iNaturalist records, and the IS/MND was therefore inaccurate. The comment states that absence determinations are supportable only after species-specific protocol-level detection surveys have been completed to the standards of the protocols, and the species were nevertheless not detected. The commenter notes that no such surveys have been completed.

As previously stated in response to comment 2.5, iNaturalist and eBird recorded species sightings are not factually reliable records for determining potentially occurring species for the Project area, and do not meet the qualification of substantial evidence supported by facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts as defined by CCR Title 14, Section 15384. The CNDDB, which is brought into question by the commentor, is an inventory of the status and locations of rare plants and animals in California, and observations are field verified by scientists and experts. The CNDDB is utilized and relied upon by biologists and CDFW as an industry standard. Thus, the GBA bases its assessment of special status bird species with the potential to occur on or near the site on facts and expert opinion supported by facts, unlike the eBird and iNaturalist records search.

Further, no state or federal listed rare, threatened, or endangered species were determined to occur on the site according to the commenter's observations. As noted above in Response to Comment 2.4, none of these species are listed species or species requiring focused or protocol surveys per the expert federal and state agencies, USFWS and CDFW. CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area. Due to the absence of suitable habitat (the absence of suitable habitat is discussed on page 6 through 9 of the GBA), in addition to the lack of recorded observations of such species during the GBA site visit, it was determined by the qualified biologist that no protocol-level species surveys were required.

This comment merely speculates that the GBA inaccurately assessed special status bird species and does not meet the requirements under CEQA for substantial evidence described in Response to Comment 2.5 and does not raise a fair argument. Therefore, the comment does not contain any facts requiring changes to the IS/MND and preparation of an EIR is not required.

Response to Comment 2.10: This comment asserts that the GBA did not accurately assess the special-status bird species at or near the Project site, and that the IS/MND therefore inaccurately analyzes impacts to special status species. The comment specifically refers to Dr. Smallwood's recording of the presence of Cooper's hawk offsite and California horned lark on the Project site.

As indicated in the comment, Cooper's hawk was observed offsite. As described in Comment 2.4, the species observed offsite do not qualify as substantial evidence that the species has the potential to occur on the Project site. Therefore, changes to the IS/MND and supporting GBA would not be required.

The GBA found that the California horned lark was presumed absent from the Project site based upon the lack of suitable habitat (see Response to Comment 2.4). The California horned lark is not listed as an endangered, threatened, or rare species under CDFW or USFW. Rather, they are ranked as State Rank 4 (SR 4), or "Apparently Secure", which are species defined as being at a fairly low risk of extirpation in the state due to an extensive range and/or many populations or occurrences, but with possible cause for some concern as a result of local recent declines, threats, or other factors.

Protections for this species is provided by the federal Migratory Bird Treaty Act and Sections 3503, 3503.5, and 3513 of the California Fish and Game Code which prohibit take of all birds and their active nests. The GBA includes discussions on the protection of migratory nesting birds and measures to avoid impacts to bird species that may be nesting on or adjacent to the site prior to the initiation of Project activities. The IS/MND included MM BIO-1 and MM BIO-2 within the IS/MND consistent with the recommendations of the GBA for consistency with the MBTA. Thus, the GBA and IS/MND accurately address bird species with the potential to occur within the Project site and provided measures to avoid impacts to those species, including California horned lark.

This comment merely speculates that the GBA inaccurately assessed special status bird species and does not meet the requirements under CEQA for substantial evidence described in Response to Comment 2.5, does not raise a fair argument and does not contain any facts requiring changes to the IS/MND and preparation of an EIR is not required.

Response to Comment 2.11: This comment asserts that the GBA did not accurately assess the special-status plant species at or near the proposed Project site, specifically smooth tarplant. Therefore, the comment states that the IS/MND was likely inaccurate in its impact determination.

Smooth tarplant, a CNPS 1B.1 species, was not observed during the GBA field visit. As noted by the comment letter, the survey was not conducted during the species blooming period. In addition, the site appeared to have been recently mowed prior to the GBA field visit. However, due to the CNDDB documentation of the species previously on the site, a focused survey for the species was conducted by Hernandez Environmental during May of 2023, which is the appropriate time of year to identify the species consistent with CDFW reconnaissance survey guidelines. Page 5 of the 2018 CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities suggest multiple visits to the site could be needed to identify particular plant species in diagnosable stages if warranted by the species list. The botanist conducting the survey determined that all species on site were identifiable under the site conditions and that a follow up survey later in the season would be necessary for additional identifications.

Therefore, the GBA and focused survey for smooth tarplant met the standards of the CDFW reconnaissance survey guidelines and the IS/MND accurately and fully analyzed the plant species. Therefore, this comment constitutes nothing more than speculation and unsubstantiated opinion. This comment does not meet the minimum requirements under CEQA for substantial evidence, does not raise a fair argument, and only amounts to speculation. Therefore, preparation of an EIR is not required and no further response is warranted.

Response to Comment 2.12: This comment states that the IS/MND includes flawed analysis of special status species, as smooth tarplant is listed as a 1.B1 CNPS species. The comment states that the IS/MND erroneously claims that smooth tarplant is not state or federally listed as Threatened or Endangered, as CNDDB identifies plant species of 1.B1 rank as rare species, which is one of the three key terms in CEQA that qualifies a

species as a special-status species. The comment claims that smooth tarplant is a special-status species and that destroying 300 individuals of a rare plant species would easily qualify as a significant impact.

Smooth tarplant is not listed by CDFW or USFW as a candidate, endangered, or threatened species (listed species). However, Smooth tarplant is on the Watchlist and is considered rare according to the CNDDB ranking of 1.B.1. The IS/MND and GBA determined that the removal of smooth tarplant did not meet the standard of a potentially significant impact, as threshold a) for Biological Resources within Appendix G of the CEQA guidelines assesses whether biological impacts would qualify as "a substantial adverse effect" to species habitat or populations identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFW. The GBA and IS/MND recognize Smooth tarplant as a special status species (p. As stated in the IS/MND on page 60, "there are no local or regional protections, policies, or removal requirements for this species. Since smooth tarplant is not listed or protected by a local, state, federal, or any outside agency, and no removal requirements currently exist, determination on the significance of the smooth tarplant individuals identified on the Project site is deferred to the certified biologist".

As described above in Response to Comment 2.6, the GBA determined that the Project site is disturbed, fragmented, and supports degraded habitat quality. Based on habitat requirements for specific special-status wildlife species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status wildlife species known to occur in the area. Although smooth tarplant is listed as a rare species under the CNDDB rank of 1.B1, the smooth tarplant population within the Project site is not located within important or significant habitat, thus it is not considered a substantial adverse effect to remove these individuals.

Therefore, the IS/MND and GBA by Hernandez Environmental Services provide a factual analysis of the smooth tarplant individuals and provided substantial evidence as to why removal of the rare species on site does not substantiate an adverse effect. The comment does not meet the minimum requirements under CEQA for substantial evidence, does not raise a fair argument, and only amounts to speculation. Therefore, preparation of an EIR is not required and no further response is warranted.

Response to Comment 2.13: This comment concludes that based on comments 2.6 through 2.12, the GBA and IS/MND fails to adequately evaluate the significance of the impacts to special-status species of wildlife.

As stated previously in Response to Comment 2.6 through 2.12, the field surveys conducted by Hernandez Environmental Services followed industry standard survey methods, which are at the discretion of the qualified biologist conducting the surveys, depending upon the conditions of the site being surveyed. The methodology section, page 2 of the GBA, includes discussions of the literature review and field survey that provides the basis for the findings of the report. The site consists predominantly of disturbed, ruderal land with sparse non-native vegetation. CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area. Due to the absence of suitable habitat and the lack of recorded observations of state or federal listed rare, threatened, or endangered species during the GBA site visit, it was determined that no protocol-level wildlife species surveys were required.

Very few wildlife species (two bird species) were recorded on the site and documented within the GBA. The bird species identified by the GBA are protected under the federal Migratory Bird Treaty Act. Additionally, Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit the take of all birds and

their active nests. MM BIO-1 and MM BIO-2 were included in the IS/MND, consistent with the MBTA, to require pre-constructing nesting bird surveys.

As detailed in response to comment 2.6 through 2.12, the GBA and IS/MND accurately described the environmental baseline and adequately evaluated impacts to special-status wildlife species. Additionally, the data presented by Dr. Smallwood is inaccurate and does not reflect facts or expert opinion regarding the number of special-status species with the potential to occur in the vicinity of the site. Occurrence records of wildlife species presented by Dr. Smallwood do not meet the requirements under CEQA for substantial evidence, do not raise a fair argument, and only amounts to speculation *according to CCR Title 14 Section 15384*. Therefore, the comment does not contain any information requiring changes to the IS/MND or preparation of a DEIR.

Response to Comment 2.14: This comment asserts that there are significant impacts that have not been analyzed in the IS/MND and that Dr. Smallwood found that Project-related loss of habitat and lost of breeding capacity would have a potentially significant impact on special status species. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND. Therefore, no further response is required or provided.

Response to Comment 2.15: This comment asserts that the loss of nesting sites due to Project implementation would be significant.

As described above in response to comment 2.6, the Project site is located within an intensely developed and urbanized setting within the City of San Bernardino. The site is disturbed and surrounded by commercial and industrial development in all directions. The GBA documented two species of bird on the site, one of which is non-native. The wildlife species identified within the GBA are consistent with the environmental setting and habitat quality recorded. The comment asserts that the site supports approximately 14.3 nests per year relying on two studies, one from a Wildlife area and one from a significantly less populated area in central California. The two reference sites include a protected wildlife area and a less fragmented and urbanized site that do not reflect similar conditions as those of the Project site which is dominated by disturbed habitat within a heavily urbanized area isolated from other wildlife habitat areas. Therefore, the comment uses the erroneously generated 14.3 nests per year to infer that the site will generate approximately 47.2 birds per year. Due to the use of reference sites that would inaccurately infer a substantial increase in nesting and breeding compared to the subject site, this argument is biased, unsubstantiated, and does not meet the requirements of CCR Title 24 Section 15384 for fair argument. The GBA identifies mitigation measures, MM BIO-1 and MM BIO-2, that are included to avoid nesting birds and would fully mitigate the potential impacts identified in the IS/MND.

This comment merely speculates that the Project would lead to a loss of nesting sites and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts to substantiate substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.16: This comment states that the Project would have a significant impact on wildlife movement.

Wildlife movement and wildlife corridors were addressed in the GBA on page 10, as described in response to Response to Comment 2.6. Due to the fact that the site is general flat, disturbed, dominated by non-native ruderal vegetation, and is surrounded in all directions by commercial and industrial uses, the GBA determined that the site lacked functionality as a wildlife corridor which is typically defined by habitat linkages, mountain canyons, or riparian corridors. The Project site is disturbed, fragmented, and does not support wildlife movement, due to the lack of presence of wildlife as confirmed through the Project site survey.

Two bird species were recorded on the site and documented within the GBA; no other wildlife movement was recorded. As mentioned in the IS/MND on page 62, the Project site was determined to contain areas with shrubs that can be used by nesting songbirds during the nesting bird season of February 1 to September 15. The IS/MND and GBA identify MM BIO-1 and MM BIO-2, consistent with the MBTA, to avoid potential impacts to volant wildlife and nesting songbirds. Implementation of MM BIO-1 and BIO-2 would mitigate impacts to avian species with the potential to occur within the Project site and that rely on the Project site for movement/migration. Thus, the analysis of wildlife movement in the GBA and IS/MND was supported by substantial evidence and adequately mitigated potentially significant impacts to a less than significant level. Finally, the Project would include the revegetation of the Project site following Project construction, as described in the Project Description on page 20 of the IS/MND. Proposed landscaping would include 36-inch and 24-inch box trees, 5-gallon trees, various shrubs and groundcover, which would provide replacement habitat for nesting birds.

This comment merely speculates that the Project would have a significant impact on wildlife movement and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts that rise to the level of substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.17: This comment further asserts that wildlife movement was not adequately addressed in the GBA.

As described in Response to Comment 2.16 above., the site was walked for 100 percent coverage, as stated in the GBA. The site is flat, disturbed, and surrounded by commercial and industrial developments. A limited number of wildlife was recorded on the site, consistent with the existing site conditions and disturbed and degraded habitat quality, and no wildlife movement was evident or observed. Thus, it was accurately determined, based on expert opinion and facts, that the proposed Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species due to the lack of wildlife. Additionally, the Project would include planting of landscape trees and shrubs throughout the Project site that would provide additional habitat for migratory and nesting birds identified as having potential presence on the Project site.

This comment merely speculates that the Project does not adequately address wildlife movement and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts to substantiate substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.18: This comment further asserts that wildlife movement was not adequately addressed in the GBA.

As described above in Response to Comment 2.16 and 2.17 above, the GBA and IS/MND adequately analyzed the site for potential wildlife movement. The site was walked and surveyed for 100 percent coverage and was observed for its potential to be used for wildlife movement. Based on the observations conducted as part of the field survey and through literature review, it was determined that the site consists of disturbed and degraded habitat quality, contained a limited number of wildlife, and is thus not conducive to wildlife movement potential. Additionally, the Project would include planting of landscape trees and shrubs throughout the Project site that would provide additional habitat for migratory and nesting birds identified as having potential presence on the Project site.

As described in Response to Comment 2.16 and 2.17, this comment is speculative and does not contain any information requiring changes to the IS/MND or preparation of a DEIR.

Response to Comment 2.19: This comment asserts that impacts to wildlife due to Project traffic generation were not adequately addressed. The comment claims that based on the predicted annual VMT of the proposed Project, it would result in 915 wildlife fatalities per year. The comment concludes that given the predicted level of Project-generated traffic-caused mortality and the lack of any proposed mitigation, impacts would be potentially significant.

As described in Response to Comment 2.4, the Project site is located within a heavily urbanized area, surrounded by existing commercial and industrial development. The GBA found that no state or federal listed rare, threatened, or endangered species were determined to have the potential to occur on the site. Further, a limited number of wildlife (two bird species) were recorded on the site and no wildlife movement was evident. As described in Response to Comment 2.7, the general characterization of the Project site within the GBA is consistent with the findings provided by the commenter: the Project site is disturbed and supports avian species. Avian species, as opposed to other vertebrate species, are unlikely to be involved in traffic related mortality. Additionally, as specified in the IS/MND on page 134, the Project site would be fully located within a Transit Priority Area (TPA). The adjacent roadways of Hardt Street and East Brier Drive are already used by adjacent development and the addition of traffic from implementation of the proposed Project would be nominal compared to existing conditions. Therefore, wildlife is not utilizing the site or adjacent roadways for movement, and the prediction that traffic related mortality would occur due to implementation of the proposed Project is mere speculation and narrative.

In addition, increased traffic generation, as well as increased traffic related wildlife mortality, associated with implementation of the Project would be considered an indirect physical change in the environment, consistent with the definition provided under CEQA Guidelines Section 15064 (2). As stated in CEQA Guidelines Section 15064 (3), "An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable". Furthermore, vehicle related fatalities of common wildlife species is not a CEQA impact threshold. No substantial evidence is provided that significant fatalities currently exist within the vicinity of the Project site or that the Project would result in, or contribute to, significant vehicle fatalities of common or protected wildlife species. Therefore, there are no anticipated significant impacts due to an indirect physical change to the environment as traffic related mortality is not a reasonably foreseeable impact and is speculative.

Furthermore, as described in Response to Comment 2.19 above and defined in CCR Title 14, Section 15126.4 "Mitigation measures are not required for effects which are not found to be significant". The proposed Project does not result in significant effect to wildlife mortality due project-generated automobile traffic. Furthermore, in *Dolan v. City of Tigard,*512 U.S. 374 (1994) the Court held that there must be an "essential nexus" between a legitimate state interest and the actual conditions of the permit being issued. Additionally, according to Cal. Code Regs. tit. 14 § 15126.4 "the mitigation measure must be "roughly proportional" to the impacts of the project". The compensatory mitigation listed in the comment letter does not provide a nexus between potential impacts and proposed mitigation measures and is not roughly proportional to the Project impacts identified in the comment letter.

Therefore, the prediction of an increase of 915 wildlife mortalities per year due to implementation of the proposed Project does not rise to substantial evidence, as described in Response to Comment 2.5, and is not required to be analyzed or mitigated as part of the IS/MND. The comment does not contain any information requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.20: This comment concludes that based on the substantial evidence of a fair argument, as described in comment 2.19, the IS/MND fails to recognize at all this potential significant impact of the Project. Thus, an EIR must be prepared to assess impacts due to traffic related wildlife mortality and

to identify appropriate mitigation. The commenters' concerns were addressed above in Response to Comment 2.19. The comment does not contain any information requiring changes to the IS/MND or preparation of a DEIR, and no further response is warranted.

Response to Comment 2.21: This comment states that the IS/MND presented flawed analysis for cumulative impacts, specifically regarding traffic related wildlife mortality. This comment states that ongoing development in the city needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region. The comment also states that the IS/MND needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

As described in Response to Comment 2.4, the Project site is disturbed and isolated, surrounded by developed, urbanized areas on all sides. The Project site is not located near any open space areas, wildlife areas, or protected habitat. The Project site is also not located in an area of regional importance to biological resources. The cumulative analysis within the IS/MND, Page 149, determined that the Project would not result in impacts that would be cumulatively considerable when evaluated with the impacts of other current projects, or the effects of probable future projects. As the site is surrounded completely by development and there are no open space or vacant sites near the Project, there are no potential Projects to consider when determining the cumulative setting for biological resources. Additionally, as described above in Response to Comment 2.19, there are no anticipated impacts due to traffic related wildlife mortality.

Traffic related wildlife mortality is not a reasonably foreseeable impact and is mere speculation, thus no cumulative discussion of traffic related wildlife mortality would be required. The comment does not contain a fair argument requiring the preparation of an EIR.

Response to Comment 2.22: This comment states that Mitigation Measure BIO-1 and BIO-2 are not sufficient to reduce impacts to a less than significant level. The comment states that based on prior survey efforts performed by Dr. Smallwood, ground nesters are difficult to locate and that the preconstruction nesting bird surveys (MM BIO-1) provide unsubstantiated evidence that preconstruction surveys would reduce impacts to a less than significant level in the IS/MND. Specifically, the commenter notes that the Project does not adequately mitigate impacts to ground-nesting birds. Additionally, the comment states that MM BIO-2 is subjective as it allows a single individual to determine the buffer area for any given species and is therefore unenforceable. The commenter asserts that an EIR should be prepared to detail how the results of pre-construction surveys will be reported.

MM BIO-1 and BIO-2 recommend pre-construction nesting bird surveys and buffers in order to avoid and minimize impacts to nesting birds. The commenter fails to recognize the inclusion of MM BIO-2 to mitigate impacts to ground nesting birds. Although pre-construction surveys may not identify all ground nests prior to construction, MM BIO-2 has been included to ensure that ground nests encountered during construction are surveyed prior to disturbance and protected in place.

Additionally, the buffer area is not a subjective and unenforceable measure. As it states in the IS/MND, MM BIO-1 enforces that "At a minimum, construction activities will stay outside of a 300-foot buffer around the active nests" (page 63). According to CDFW's *Conservation Measures for Biological Resources*, factors to be considered when determining buffer size should include: the presence of natural buffers provided by vegetation or topography; nest height; locations of foraging territory; and baseline levels of noise and human activity. For raptor species, the buffer is to be expanded to 500 feet. Therefore, the measure allows discretion to the qualified biologist to increase the buffer size, if deemed appropriate after considering the relevant factors as listed above. Buffer areas would be fenced off by a qualified biologist to indicate the

appropriate distance around any nests that are found to ensure nests are not disturbed. The results of the preconstruction nesting bird surveys (MM BIO-1) and nesting bird buffer (MM BIO-2) would be reported to the City of San Bernardino Planning Division, as ensured through the Mitigation Monitoring and Reporting Program (Chapter 4, page 4).

Therefore, the IS/MND provides ample evidence that MM BIO-1 and MM BIO-2 would mitigate all potential impacts to nesting birds, as protected by the MBTA, to a less than significant level. The comment does not contain any information requiring changes to the IS/MND. No further response is warranted. The comment does not contain a fair argument requiring the preparation of an EIR.

Response to Comment 2.23: This comment states that additional mitigation measures are needed in order to reduce impacts to biological resources on the Project site. The recommended mitigation includes measures to address road mortality, fund wildlife rehabilitation facilities, and to include native plants in landscaping. Therefore, the comment states a DEIR should be prepared.

As defined in CCR Title 14, Section 15126.4 "Mitigation measures are not required for effects which are not found to be significant". As explained in Response to Comments 2.21 through 2.23, the proposed Project does not result in significant effects to wildlife mortality due project-generated automobile traffic. Furthermore, in *Dolan v. City of Tigard,*512 U.S. 374 (1994) the Court held that there must be an "essential nexus" between a legitimate state interest and the actual conditions of the permit being issued. Additionally, according to Cal. Code Regs. tit. 14 § 15126.4 "the mitigation measure must be "roughly proportional" to the impacts of the project". The compensatory mitigation listed in the comment letter does not provide a nexus between impacts and proposed mitigation measures and is not roughly proportional to the Project impacts. Mitigation Measures BIO-1 and BIO-2 adequately and accurately mitigate the Project's potential impacts to nesting and migratory birds, including ground nesting birds. As discussed above, additional potentially significant impacts were not identified through the GBA or IS/MND analysis. Therefore, the inclusion of further mitigation measures would not be required.

This comment merely speculates that the Project does not adequately address impacts to biological resources and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts to substantiate substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to Comment 2.24: This comment concludes the comment letter and states that the IS/MND should be withdrawn and an EIR should be prepared and circulated for public review and comment in accordance with CEQA. The comment is conclusory in nature and does not raise a specific issue with the adequacy of the DEIR evaluation. The commenters' concerns were addressed above in Responses 2.1 through 2.24.

Comment Letter 2b: Shawn Smallwood dated December 13, 2023.

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

City of San Bernadino
Planning Department
290 N D St.
San Bernardino, CA 92401

6 December 2023

RE: Hardt and Brier Business Park Project

To Whom It May Concern,

I write to comment on potential impacts to biological resources that could result from the proposed Hardt and Brier Business Park Project, which I understand would add 81,210 square feet of floor space in five new speculative commercial buildings up to 40 feet tall on 5.81 acres located adjacent to Hardt Street and East Brier Drive. I comment on the analyses of impacts to biological resources in the IS/MND and in Hernandez Environmental Services (2023).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

2b.1

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 3.18 hours from 06:43 to 09:54 hours on 23 November 2023. She walked the site's perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

2b.2

Conditions were mostly cloudy with 3 mph southeast wind and temperatures of 54-64° F. The site has been previously disturbed, and at the time of the survey was covered by annual grass and scattered shrubs, some of which have been recently driven over and smashed (Photos 1–3).

1

Photos 1–3. *Views of the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2
Cont.

Noriko detected 27 species of vertebrate wildlife at or adjacent to the project site, including 5 species with special status (Table 1). Noriko saw California horned lark (Photo 4), California gull (Photo 5), red-tailed hawk (Photos 6-9), lesser goldfinch and house finch (Photos 10 and 11), Nuttall's woodpecker and northern flicker (Photos 12 and 13), western meadowlark (Photos 14-16), black phoebe and white-crowned sparrow (Photos 17 and 18), northern mockingbird and Cassin's kingbird (Photos 19 and 20), Anna's hummingbird and California towhee (Photos 21 and 22), Eurasian collared-dove and Canada goose (Photos 23 and 24), common raven (Photos 25-27), among the other

species listed in Table 1. The site also supports pollinating insects (Photos 28 and 29) and many other types of biological organisms.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

Table 1. *Species of wildlife Noriko observed during 3.18 hours of survey on 23 November 2023.*

Common name	*Species name*	Status[1]	Notes
Canada goose	*Branta canadensis*		Flew over
Rock pigeon	*Columba livia*	Non-native	Flew over
Eurasian collared-dove	*Streptopelia decaocto*	Non-native	Flew over
Mourning dove	*Zenaida macroura*		Flew over
Anna's hummingbird	*Calypte anna*		Nectared, socialized
California gull	*Larus californicus*	BCC, TWL	Many flew over
Cooper's hawk	*Accipiter cooperii*	TWL, BOP	Hunted just off site
Red-tailed hawk	*Buteo jamaicensis*	BOP	Hunted, perched, socialized
Nuttall's woodpecker	*Picoides nuttallii*	BCC	In riparian area just off site
Northern flicker	*Colaptes auratus*		
Cassin's kingbird	*Tyrannus vociferans*		
Black phoebe	*Sayornis nigricans*		
Common raven	*Corvus corax*		Many, stored nuts, socialized
California horned lark	*Eremophila alpestris actia*	TWL	Many, foraged
Bushtit	*Psaltriparus minimus*		Foraged
Bewick's wren	*Thryomanes bewickii*		Just off site
Northern mockingbird	*Mimus polyglottos*		
European starling	*Sturnus vulgaris*	Non-native	
House sparrow	*Passer domesticus*	Non-native	
American pipit	*Anthus rubescens*		Foraged
House finch	*Haemorphous mexicanus*		Many, foraged
Lesser goldfinch	*Spinus psaltria*		Foraged
White-crowned sparrow	*Zonotrichia leucophrys*		Foraged
California towhee	*Melozone crissalis*		Foraged just off site
Western meadowlark	*Sturnella neglecta*		Many, foraged
Yellow-rumped warbler	*Setophaga coronata*		
Botta's pocket gopher			Burrows

[1] Listed as BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, TWL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (California Fish and Game Code 3503.5).

2b.2 Cont.

3

Photo 4. *California horned lark on the project site, 23 November 2023. Photo by Noriko Smallwood.*

Photo 5. *California gulls flying over the project site, 23 November 2023. Photo by Noriko Smallwood.*

2b.2 Cont.

4

Photos 6 and 7. *Red-tailed hawk comfy-footing (left), and hunting (right) on the project site, 23 November 2023. Photos by Noriko Smallwood.*

Photos 8 and 9. *Red-tailed hawks being harassed by common ravens on the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2 Cont.

5

Photos 10 and 11. *Lesser goldfinch (left), and house finch (right) foraging on shrubs on the project site, 23 November 2023. Photos by Noriko Smallwood.*

Photos 12 and 13. *Nuttall's woodpecker (left) and northern flicker (right) just off of the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2 Cont.

6

Photos 14, 15, and 16. *Western meadowlarks flying over the project site (top), stretching (bottom left), and foraging (bottom right) on the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2
Cont.

Photos 17 and 18. *Black phoebe (left), and white-crowned sparrow (right) on the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2 Cont.

Photos 19 and 20. *Northern mockingbird (left), and Cassin's kingbird (right) on the project site, 23 November 2023. Photos by Noriko Smallwood.*

8

Photos 21 and 22. *Anna's hummingbird (left), and California towhee (right) just off of the project site, 23 November 2023. Photos by Noriko Smallwood.*

Photos 23 and 24. *Eurasian collared-dove (left), and Canada goose (right) flying over the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2 Cont.

9

Photos 25, 26, and 27. *Common ravens on the project site, 23 November 2023. Photos by Noriko Smallwood.*

2b.2 Cont.

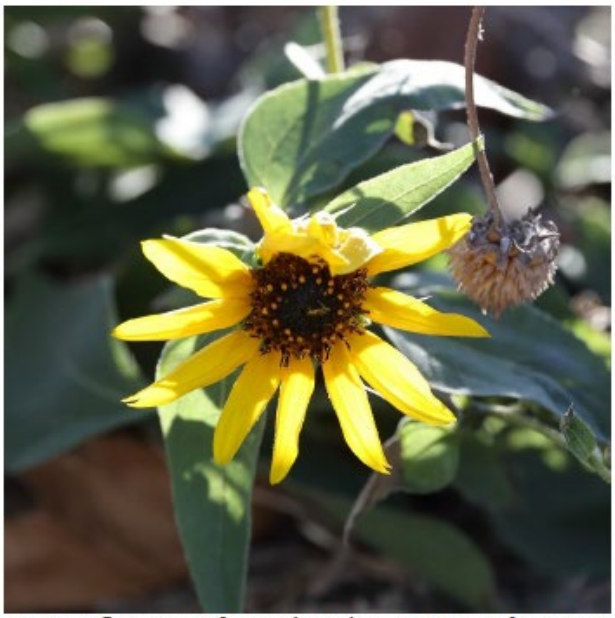


Photo 28. *Common sunflower on the project site, 23 November 2023. Photo by Noriko Smallwood.*

2b.2 Cont.

Photo 29. *Honeybees collecting pollen from sacred datura on the project site, 23 November 2023. Photo by Noriko Smallwood.*

11

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches ab asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts 40 species of vertebrate wildlife were available to be detected on the morning of the 23rd, which left 13 species undetected during her survey (Figure 1). Unfortunately, I do not know the identities of those 13 species Noriko missed, but the pattern in her data indicates relatively high use of the project site compared to 53 surveys at other sites she and I have completed in the region. Compared to models fit to data I collected from 53 other site in the region between 2019 and 2023, the data from the New Hardt project site mostly exceeded the upper bound of the 95% confidence interval of the rate of accumulated species detections with time into the survey (Figure 1). Importantly, however, the species Noriko did and did not detect on November 23 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrence.

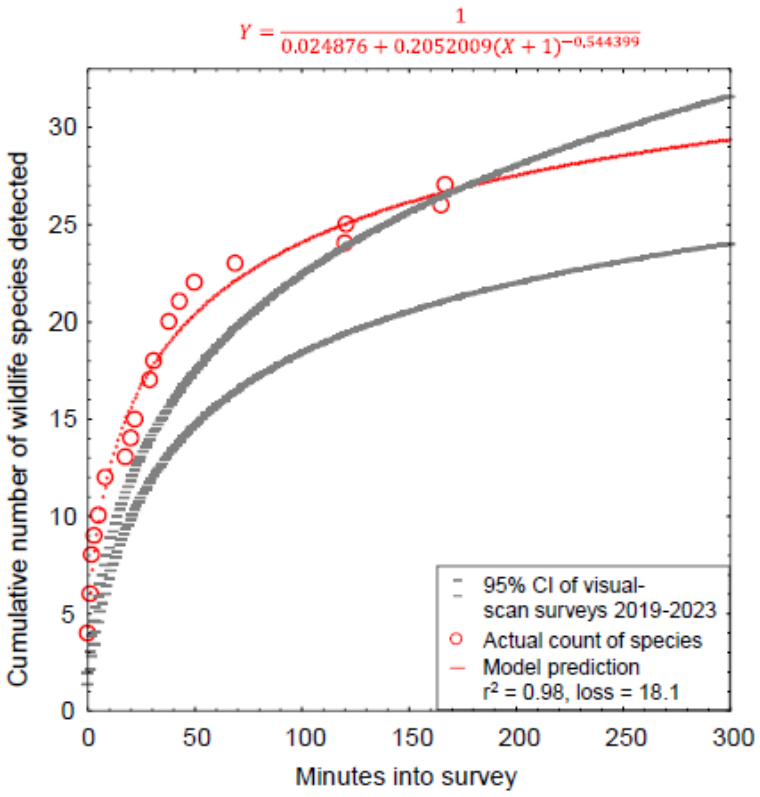


Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 23 November 2023. Note that the relationship would differ if the survey was based on another method or during another season.*

2b.3

12

At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a+b\times(Hours)^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2, of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data. 2b.4

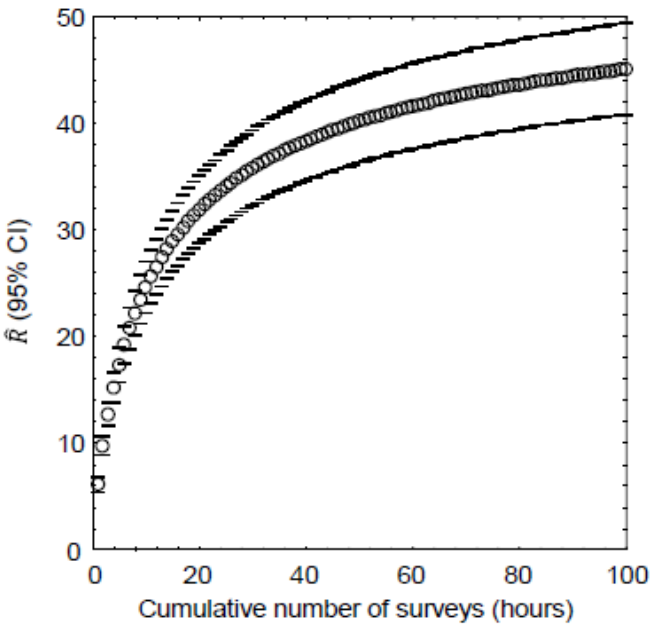
I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 13.2 species over my first 3.18 hours of surveys at my research site in the Altamont Pass (3.18 hours to match the 3.18 hours Noriko surveyed at the project site), which composed 23.15% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 27 species Noriko detected after her 3.18 hours of survey at the project site likely represented 23.15% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $^{27}/_{0.2315} = 117$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 117 predicted species, then continued surveys would eventually detect 22 special-status species of vertebrate wildlife.

Because my prediction of 117 species of vertebrate wildlife, including 22 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her one survey to inventory use of the project site by wildlife.

13

Nevertheless, the large number of species I predict at the project site is indicative of a relatively species-rich wildlife community that warrants a serious survey effort.

Figure 2. *Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.*



2b.4 Cont.

EXISTING ENVIRNMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

2b.5

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to

2b.6

characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

Hernandez Environmental Services (2023) performed a reconnaissance survey of the project site on 5 November 2021 "to document the existing habitat conditions, obtain plant and animal species information, view the surrounding uses, assess the potential for state and federal waters, assess the potential for wildlife movement corridors, and assess for the presence of critical habitat constituent elements." Performing a survey with six objectives must have been a challenge. Surveys for biological resources should include no more than two objectives.

2b.6 Cont.

Hernandez Environmental Services' first reported objective is habitat assessment. The most effective methodology for habitat assessment is a survey of sufficient effort to determine whether each potentially occurring species truly occurs at the project site. The presence of a species confirms the existence of habitat of the species. This most effective methodology, if implemented, would simultaneously achieve the first two of the reported survey objectives. The weakness of this approach is that undetected species might truly occur on the site, either because the survey failed to detect the species that was truly present or the habitat was unoccupied at the time of the survey. Each detection of a species provides certainty of the presence of the species' habitat whereas lack of detection provides uncertainty unless a compelling argument can be made for true absence. Given this uncertainty associated with all of the species that were not detected by Hernandez Environmental Services' reconnaissance survey, Hernandez Environmental Services' stated objective of determining presence/absence could not be achieved.

Two biologists from Hernandez Environmental Services walked transects separated by 50 feet, but otherwise no methodological details are reported. There is no report of what time the survey began, nor how long the survey lasted. No checklist is shared of habitat elements that the biologists might have used during their survey. No explanation is provided of whether or how animal behavior data or other evidence contributed to the biologist's assessment of the site for its importance to animal movement. It is therefore difficult to assess survey outcomes relative to survey effort and methods.

Hernandez Environmental Services (2023) reportedly detected only two species of vertebrate wildlife on the project site. These species included rock pigeon and song sparrow. During her survey on my behalf, Noriko did not detect the song sparrows on site, but she did detect 26 species that Hernandez Environmental Services did not. Noriko detected 13.5 times the number of vertebrate wildlife species detected by Hernandez Environmental Services, and she did it at the same time of year and over only 3.18 hours of survey. In fact, within only the first minute of her survey, Noriko detected twice the number of species reportedly detected by Hernandez Environmental Services. Furthermore, Noriko reported that the site was very active with wildlife throughout her survey. She observed large flocks of house finch, western meadowlark, California horned lark, and American pipit, as well as four red-tailed hawks on site, one of which was on site for the entirely of her survey. There were also numerous common ravens on site throughout her survey. Based on Noriko's survey, the existing

2b.7

environmental setting of the project site is entirely different from the setting characterized by Hernandez Environmental Services (2023).

Considering all of the above differences between what Hernandez Environmental Services found and what Noriko found, Hernandez Environmental Services must have been distracted by other survey objectives, or lacked the skill needed to perform the survey. The findings of Hernandez Environmental Services are not credible.

The IS/MND (page 61) reports, "no special-status wildlife species were observed onsite during the field investigation conducted on November 5, 2021." However, whereas this report could be factual, it is misleading to the readers of the IS/MND. Reconnaissance surveys for wildlife are not designed to detect special-status species. Special-status species can be detected during such surveys, as Noriko demonstrated at the project site, but these surveys are not formulated to detected them, nor are there minimum standards to be met in these surveys to support absence determinations. For the latter purpose, protocol-level detection surveys have been formulated by species experts. Hernandez Environmental Services (2023) did not perform any detection surveys. Based on Hernandez Environmental Services (2023), the IS/MND's characterization of the existing environmental setting is therefore incomplete and inaccurate.

2b.7 Cont.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

Hernandez Environmental Services (2023) did not review eBird (https://eBird.org) or iNaturalist (https://www.inaturalist.org) for documented occurrence records at or near the project site. Instead, Hernandez Environmental Services (2023) queried the California Natural Diversity Data Base (CNDDB) for documented occurrences of special-status species within the nearest CNDDB quadrangles. By doing so, Hernandez Environmental Services (2023) and the IS/MND screen out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, "*The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present.*" Hernandez Environmental Services (2023) and the IS/MND misuse CNDDB.

2b.8

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported

to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlapped the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative findings are not reported to CNDDB, CNDDB cannot provide the basis for estimating occurrence likelihoods, either.

2b.8 Cont.

In my assessment based on database reviews and site visits, 134 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 134 species, 5 (4%) were recorded on or adjacent to the project site, and another 34 (25%) species have been documented within 1.5 miles of the site ('Very close'), another 24 (18%) within 1.5 and 4 miles ('Nearby'), and another 61 (46%) within 4 to 30 miles ('In region'). Nearly half (47%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

2b.9

Only 43 (32%) of the species in Table 2 are analyzed for occurrence potential in the IS/MND. Of these, the IS/MND concludes that all are "not present," which is another way of saying they are absent. Except for species whose habitat is compellingly absent from the site, absence determinations are inappropriate based on the evidence gathered by Hernandez Environmental Services (2023). Absence determinations are supportable only after species-specific protocol-level detection surveys have been completed to the standards of the protocols, and the species were nevertheless not detected. No such surveys have been completed. It is inappropriate to conclude that a species is absent simply by looking at a site, and it is especially inappropriate to do so for 43 species of wildlife. The findings of Hernandez Environmental Services are not supportable.

Of the special-status species that Hernandez Environmental Services (2023) claim to be absent from the project site, two – Cooper's hawk and California horned lark – were found by Noriko either on site or immediately adjacent to the site. Occurrence records of another 11 supposedly absent special-status species have been reported within only 1.5 miles of the site, and another 9 have been reported within 1.5 and 4 miles of the project site, and another 17 have been reported within 4 and 30 miles of the project site. The findings of Hernandez Environmental Services are not credible.

Consistent with the pattern of absence determinations applied to wildlife, Hernandez Environmental Services (2023) concludes all special-status plant species are absent, except for smooth tarplant, which is reportedly present. However, the IS/MND reports that Hernandez Environmental Services (2023) had found no special-status plant species during its reconnaissance survey in 2021. The discovery of a CNDDB occurrence record of smooth tarplant on the project site from 2003 prompted a follow-up survey on

2b.10

20 May 2023, when Hernandez Environmental Services (2023) found 300 individuals of smooth tarplant. The CNDDB record must have been the reason for the follow-up survey and the update of Hernandez Environmental Services's report from 2001 to 2003. As an annual that blooms in spring and summer, the 5 November 2021 reconnaissance survey was the wrong time of year to survey for smooth tarplant, as the follow-up survey demonstrated with the finding of 300 individual plants. Surveying at the right time of year can obviously make a large difference in survey outcome.

However, not even the follow-up survey of 20 May 2023 met the minimum standards of the CDFW (2018) reconnaissance survey guidelines for plants. Hernandez Environmental Services (2023) did not perform multiple surveys in the blooming season, nor did it survey a reference site or summarize the qualifications of its survey personnel. Just as the 2021 survey failed to detect smooth tarplant, the 2023 survey was ill-suited for detecting multiple the other potentially-occurring special-status species of plants on the project site. The minimum standards of the CDFW (2018) survey guidelines for plants have not been met. The IS/MND is incomplete and likely inaccurate.

2b.10 Cont.

The analysis in the IS/MND includes additional flaws on the issue of special-status species of plants. According to the IS/MND (page 60), "Smooth tarplant is ranked as a 1.B1 CNPS species and is not state or federally listed as Threatened or Endangered or listed under Section 670.2, Title 14, of the California Code of Regulations and is thereby not declared to be endangered, threatened (as defined by section 2067 of the Fish and Game Code) or rare (as defined by section 1901 of the Fish and Game Code)." Smooth tarplant is indeed ranked 1.B1, but the last phrase of the statement in the IS/MND is in error. CDDB defines "The plants of Rank 1B" as "rare throughout their range with the majority of them endemic to California." It defines the subscript, ".1" as "Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)." The CNDDB ranking of smooth tarplant as 1B.1 meets the CEQA definition of a special-status species, as the ranking identifies the species as rare, which is one of the three key terms in CEQA that qualifies a species as a special-status species.

2b.11

The IS/MND (page 60) next asserts that "removal of the onsite smooth tarplant during Project construction would not constitute as a significant direct or indirect impact through habitat modifications, on any species identified as a candidate, sensitive, or special status, and no mitigation would be required." This assertion pretends that smooth tarplant is not a special-status species, and that its removal would qualify as take only if it is regarded as habitat to some other special-status species. But smooth tarplant is a special-status species. Destroying 300 individuals of a rare plant species would easily qualify as a significant impact.

Considering the inaccuracies of the IS/MND's characterization of the existing environmental setting, a fair argument can be made for the need to prepare an EIR to appropriately characterize the existing environmental setting. The IS/MND's impact analysis directed to smooth tarplant demonstrates the need for an accurate characterization of the existing environmental setting. The City needs to understand the nature of the biological assets that exist on the project site.

2b.12

Table 2. *Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (https://eBird.org, https://www.inaturalist.org) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site. Entries in bold font indicate those species detected by Noriko Smallwood during her reconnaissance survey.*

Common name	***Species name***	**Status[1]**	**IS/NMD occurrence potentials**	**Data base records, Site visits**
Delhi sands flower-loving fly	*Rhaphiomidas terminatus abdominalis*	FE	Not present	In region
Monarch	*Danaus plexippus*	FC		Nearby
Quino checkerspot butterfly	*Euphydryas editha quino*	FE	Not present	In range
Crotch's bumble bee	*Bombus crotchii*	CCE	Not present	Nearby
Western spadefoot	*Spea hammondii*	SSC	Not present	Nearby
Arroyo toad	*Anaxyrus californicus*	FE, SSC		In region
Western pond turtle	*Emys marmorata*	SSC	Not present	In region
Blainville's horned lizard	*Phrynosoma blainvillii*	SSC	Not present	Nearby
Orange-throated whiptail	*Aspidoscelis hyperythra*	WL	Not present	Nearby
Coastal whiptail	*Aspidoscelis tigris stejnegeri*	SSC	Not present	Nearby
San Diegan legless lizard	*Anniella stebbinsi*	SSC	Not present	Very close
California glossy snake	*Arizona elegans occidentalis*	SSC	Not present	In region
Coast patch-nosed snake	*Salvadora hexalepis virgultea*	SSC	Not present	In region
Two-striped gartersnake	*Thamnophis hammondii*	SSC	Not present	In region
South coast gartersnake	*Thamnophis sirtalis pop. 1*	SSC		In range
Red-diamond rattlesnake	*Crotalus ruber*	SSC	Not present	Nearby
Fulvous whistling-duck	*Dendrocygna bicolor*	SSC_1		In region
Brant	*Branta bernicla*	SSC_2		In region
Cackling goose (Aleutian)	*Branta hutchinsii leucopareia*	WL		Very close
Redhead	*Aythya americana*	SSC_2		Very close
Western grebe	*Aechmophorus occidentalis*	BCC		Nearby
Clark's grebe	*Aechmophorus clarkii*	BCC		Nearby
Western yellow-billed cuckoo	*Coccyzus americanus occidentalis*	FT, CE, BCC	Not present	In region
Black swift	*Cypseloides niger*	SSC_3, BCC		In region
Vaux's swift	*Chaetura vauxi*	SSC_2, BCC		Very close

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Common name	***Species name***	**Status[1]**	**IS/NMD occurrence potentials**	**Data base records, Site visits**
Costa's hummingbird	*Calypte costae*	BCC		Very close
Rufous hummingbird	*Selasphorus rufus*	BCC		Very close
Allen's hummingbird	*Selasphorus sasin*	BCC		Very close
American avocet[2]	*Recurvirostra americana*	BCC		Very close
Mountain plover	*Charadrius montanus*	SSC_2, BCC		In region
Snowy plover	*Charadrius nivosus*	BCC		In region
Whimbrel[2]	*Numenius phaeopus*	BCC		In region
Long-billed curlew	*Numenius americanus*	WL		In region
Marbled godwit	*Limosa fedoa*	BCC		In region
Red knot (Pacific)	*Calidris canutus*	BCC		In region
Short-billed dowitcher	*Limnodromus griseus*	BCC		In region
Willet	*Tringa semipalmata*	BCC		In region
Laughing gull	*Leucophaeus atricilla*	WL		In region
Heermann's gull	*Larus heermanni*	BCC		In region
Western gull	*Larus occidentalis*	BCC		In region
California gull	*Larus californicus*	BCC, WL		**On site**
California least tern	*Sternula antillarum browni*	FE, CE, FP		In region
Gull-billed tern	*Gelochelidon nilotica*	BCC, SSC_3		In region
Black tern	*Chlidonias niger*	SSC_2, BCC		In region
Elegant tern	*Thalasseus elegans*	BCC, WL		In region
Black skimmer	*Rynchops niger*	BCC, SSC_3		In region
Common loon	*Gavia immer*	SSC		In region
Double-crested cormorant	*Phalacrocorax auritus*	WL		Very close
American white pelican	*Pelecanus erythrorhynchos*	SSC_1, BCC		Very close
California brown pelican	*Pelecanus occidentalis californicus*	FP		In region
Least bittern	*Ixobrychus exilis*	SSC_2		In region
White-faced ibis	*Plegadis chihi*	WL		Nearby
Turkey vulture	*Cathartes aura*	BOP		Very close
Osprey	*Pandion haliaetus*	WL, BOP		Very close
White-tailed kite	*Elanus luecurus*	CFP, BOP		Nearby

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Common name	*Species name*	Status[1]	IS/NMD occurrence potentials	Data base records, Site visits
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP, BOP, WL		Nearby
Northern harrier	*Circus cyaneus*	BCC, SSC_3, BOP		Very close
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP		Very close
Cooper's hawk	*Accipiter cooperii*	WL, BOP	Not present	**Just off site**
Bald eagle	*Haliaeetus leucocephalus*	CE, BGEPA	Not present	In region
Red-shouldered hawk	*Buteo lineatus*	BOP		Very close
Swainson's hawk	*Buteo swainsoni*	CT, BOP	Not present	Very close
Red-tailed hawk	*Buteo jamaicensis*	BOP		**On site**
Ferruginous hawk	*Buteo regalis*	WL, BOP	Not present	Very close
Zone-tailed hawk	*Buteo albonotatus*	BOP		In region
Harris' hawk	*Parabuteo unicinctus*	WL, BOP		In region
Rough-legged hawk	*Buteo lagopus*	BOP		In region
Barn owl	*Tyto alba*	BOP		Nearby
Western screech-owl	*Megascops kennicotti*	BOP		Nearby
Great horned owl	*Bubo virginianus*	BOP		Very close
Burrowing owl	*Athene cunicularia*	BCC, SSC_2, BOP	Not present	Very close
Long-eared owl	*Asio otus*	BCC, SSC_3, BOP		In region
Short-eared owl	*Asia flammeus*	BCC, SSC_3, BOP		In region
Lewis's woodpecker	*Melanerpes lewis*	BCC		Nearby
Nuttall's woodpecker	*Picoides nuttallii*	BCC		**Just off site**
American kestrel	*Falco sparverius*	BOP		Very close
Merlin	*Falco columbarius*	WL, BOP	Not present	Very close
Peregrine falcon	*Falco peregrinus*	BOP		Very close
Prairie falcon	*Falco mexicanus*	WL, BOP		Very close
Olive-sided flycatcher	*Contopus cooperi*	BCC, SSC_2		Very close
Willow flycatcher	*Empidonax traillii*	CE		Very close
Southwestern willow flycatcher	*Empidonax traillii extimus*	FE, CE	Not present	In region
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC_2		Nearby
Least Bell's vireo	*Vireo bellii pusillus*	FE, CE	Not present	Very close

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Common name	***Species name***	**Status[1]**	**IS/NMD occurrence potentials**	**Data base records, Site visits**
Loggerhead shrike	*Lanius ludovicianus*	SSC2	Not present	Very close
Oak titmouse	*Baeolophus inornatus*	BCC		Nearby
California horned lark	*Eremophila alpestris actia*	WL	Not present	**On site**
Bank swallow	*Riparia riparia*	CT		Nearby
Purple martin	*Progne subis*	SSC2		In region
Wrentit	*Chamaea fasciata*	BCC		Very close
California gnatcatcher	*Polioptila c. californica*	FT, SSC2	Not present	Nearby
California thrasher	*Toxostoma redivivum*	BCC		Very close
Cassin's finch	*Haemorhous cassinii*	BCC		In region
Lawrence's goldfinch	*Spinus lawrencei*	BCC	Not present	Very close
Grasshopper sparrow	*Ammodramus savannarum*	SSC2		In region
Black-chinned sparrow	*Spizella atrogularis*	BCC		Nearby
Gray-headed junco	*Junco hyemalis caniceps*	WL		Nearby
Bell's sparrow	*Amphispiza b. belli*	WL	Not present	Nearby
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	WL	Not present	Nearby
Yellow-breasted chat	*Icteria virens*	SSC3	Not present	Very close
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	SSC3		Nearby
Bullock's oriole	*Icterus bullockii*	BCC		Very close
Tricolored blackbird	*Agelaius tricolor*	CT, BCC, SSC1	Not present	Very close
Lucy's warbler	*Leiothlypis luciae*	SSC3, BCC		In region
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC		In region
Yellow warbler	*Setophaga petechia*	SSC2	Not present	Very close
Summer tanager	*Piranga rubra*	SSC1		In region
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H	Not present	In region
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H		In region
Canyon bat	*Parastrellus hesperus*	WBWG:L		In region
Big brown bat	*Episticus fuscus*	WBWG:L		In region
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M		In region
Spotted bat	*Euderma maculatum*	SSC, WBWG:H		In range

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Common name	*Species name*	Status[1]	IS/NMD occurrence potentials	Data base records, Site visits
Hoary bat	*Lasiurus cinereus*	WBWG:M		In region
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG:H	Not present	In region
Western small-footed myotis	*Myotis cililabrum*	WBWG:M		In range
Miller's myotis	*Myotis evotis*	WBWG:M		In region
Little brown myotis	*Myotis lucifugus*	WBWG:M		In range
Fringed myotis	*Myotis thysanodes*	WBWG:H		In range
Long-legged myotis	*Myotis volans*	WBWG:H		In range
Yuma myotis	*Myotis yumanensis*	WBWG:LM		In region
California myotis	*Myotis californicus*	WBWG:L		In region
Western mastiff bat	*Eumops perotis*	SSC, WBWG:H	Not present	In range
Mexican free-tailed bat	*Tadarida brasiliensis*	WBWG:L		In region
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC	Not present	In region
Northwestern San Diego pocket mouse	*Chaetodipus fallax fallax*	SSC	Not present	In region
Pallid San Diego pocket mouse	*Chaetodipus fallax pallidus*	SSC	Not present	In range
San Bernardino kangaroo rat	*Dipodomys merriami parvus*	FE, CCE, SSC	Not present	In region
Stephens' kangaroo rat	*Dipodomys stephensi*	FE, CT	Not present	In region
Los Angeles pocket mouse	*Perognathus longimembris brevinasus*	SSC	Not present	In region
San Diego desert woodrat	*Neotoma lepida intermedia*	SSC	Not present	In region
Ringtail	*Bassariscus astutus*	CFP		In region
Southern grasshopper mouse	*Onychomys torridus ramona*	SSC	Not present	In range
American badger	*Taxidea taxus*	SSC	Not present	In region

[1] Listed as FC, FT or FE = federal candidate, threatened or endangered, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CCT, CCE, CT or CE = California Candidate threatened or endangered, or California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern, SSC_1, SSC_2 and SSC_3 = Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

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POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, and wildlife-automobile collision mortality. 2b.13

HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species, but the General Biological Assessment makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). However, several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, I surveyed a 12.74-acre site in Rancho Cordova 30 times from March through the first half of August. The Rancho Cordova site was surrounded on three sides by residential developments, so was also a habitat fragment. Total nest density of birds on this site was 2.12 nests per acre on the portion of the study area that was composed of annual grassland with a scattering of trees and after omitting all the nests that were in trees (leaving only ground nests). On 4.29 acres of grassland in the San Jacinto Wildlife Area, Noriko tabulated 2.79 bird nests/acre last spring. Applying the mean total nest density between our two survey efforts to the 5.81 acres of the project site, I predict the project site supports 14.3 bird nests/year. 2b.14

The loss of 14.3 nest sites of birds would qualify as a significant project impact that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 41.5 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): {(nests/year × chicks/nest ×

number of years) + (2 adults/nest × nests/year) × (number of years ÷ years/generation)} ÷ (number of years) = 47.2 birds per year denied to California. At least a fair argument can be made for the need to prepare an EIR to appropriately analyze the project's impacts to wildlife caused by habitat loss and habitat fragmentation. 2b.14 Cont.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to Hernandez Environmental Services (2023:10), "Usually, mountain canyons or riparian corridors are used by wildlife as corridors. The project site is flat and surrounded by urban development. No wildlife movement corridors were found to be present on the project site." However, these conclusions lack supporting evidence. Hernandez Environmental Services (2023) reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. There was no sampling regime and there was no program of observation to record wildlife movement patterns, nor to quantify them or to qualitatively assess them. Based on what is reported, Hernandez Environmental Services (2023) did not record or measure wildlife movement in any way. The conclusions of Hernandez Environmental Services (2023) and the IS/MND regarding wildlife movement on the project site are speculative and conclusory. 2b.15

Furthermore, whether the site includes or is within a wildlife movement corridor is not the only consideration when it comes to the standard CEQA Checklist question of whether the project would interfere with wildlife movement in the region. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project, due to its elimination of at least 5.81 acres of vegetation cover and due to its insertion of 5 new buildings into the aerospace used by birds, bats and butterflies. would cut wildlife off from one of the last remaining stopover and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites. This impact would be significant, and as the project is currently proposed, it would be unmitigated.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 30–32), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level 2b.16

(Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

2b.16 Cont.

Photo 30. *A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

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Photo 31. *Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 32 *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

2b.16 Cont.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND does not report a predicted annual VMT. Fortunately, I have maintained a data base of VMT and floorspace of proposed warehouses in California. It is unclear whether the project would include the same type of traffic as typical of the warehouse projects that contributed to my data base, but the type of traffic is likely near enough in volume and trip lengths for the purpose of demonstrating how traffic-generated impacts to wildlife can be analyzed. Among 26 warehouse projects, mean annual VMT/square foot pf floor space was 20.57. Applying this mean to the square footage of the project would predict 1,670,490 annual VMT.

2b.17

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During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 915 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause substantial, significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife.

2b.17 Cont.

CUMULATIVE IMPACTS

The IS/MND presents a flawed analysis of cumulative impacts, including to biological resources. The IS/MND asserts that "... potential Project-related impacts are either less than significant or would be less than significant with mitigation incorporated." And, "Given that the potential Project-related impacts would be mitigated to a less than significant level, implementation of the proposed Project would not result in impacts that are cumulatively considerable when evaluated with the impacts of other current projects, or the effects of probable future projects." The IS/MND contrives the false standard that a given project impact is cumulatively considerable only when it has not been fully mitigated at the project level. The IS/MND implies that cumulative impacts are really residual impacts left over by inadequate mitigation of project impacts. This notion of residual impacts being the source of cumulative impacts is inconsistent with CEQA's definition of cumulative effects. Individually mitigated projects do not negate the significance of cumulative impacts. If they did, then CEQA would not require a cumulative effects analysis. To summarize, the IS/MND presents no cumulative effects analysis as defined in two ways by CEQA.

2b.18

Table 3 includes an example of how a cumulative analysis can begin. Table 3 includes a recently proposed project in City of San Bernardino – the Amazing 34 project, which I predicted would result in 500 wildlife-vehicle collision fatalities annually. Several other currently proposed similar projects are listed, as well. The City's web site includes 28 industrial/commercial projects in the planning phase, all of which should contribute to an expanded version of Table 3. But even considering only the four projects in Table 3, 15,519 annual wildlife fatalities are predictable based on the volumes of traffic that would be generated by these projects. This is an example of cumulative impacts to wildlife that has not been addressed in the IS/MND.

Table 3. *Project attributes of some of the projects recently built or under consideration in the City of San Bernardino, and which contribute to cumulative impacts to wildlife. Entries in red font are Annual VMT I predicted based in my data base of annual VMT predictions as a function of square-footage of floor space of 26 other industrial buildings that I reviewed.*

Project	Acres	Square feet	Annual VMT	Annual wildlife fatalities
Amazing 34	3.84	77,562	913,213	500
Truck Terminal Facility	4.02	89,475	1,840,501	1,008
The Landing	53	1,153,644	23,730,457	13,003
Industrial Warehouse	4.02	89,457	1,840,130	1,008
Total	64.83	14,101,138	28,324,301	15,519

2b.18 Cont.

At least a fair argument can be made for the need to prepare a new EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife in the City. To do this, ongoing development in the City needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region. It also needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

MITIGATION

Mitigation Measure BIO-1: Nesting Bird Survey.

Whereas I concur that preconstruction, take-avoidance surveys should be completed, in my experience, the majority of bird nests would not be found by biologists assigned to the survey. For instance, I surveyed for grassland nesters, including as part of an intensive survey effort that I performed from March through mid-August 2023 on another Central Valley site. I surveyed the site 30 times. I found that the nests of grassland birds are the most difficult to locate. Cavity nesters can more effectively defend their nests against predators, whereas ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Ground nesters, which include bird species that occur at the project site, are highly adept at concealing their nests both physically and behaviorally. Based on my experience, it is highly likely that preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The IS/MND's implication that preconstruction survey would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the IS/MND. It would help to cite examples of the success of this measure applied elsewhere. 2b.19

Mitigation Measure BIO-2: Nesting Bird Buffer. *If nesting birds are encountered, a qualified biologist must establish an avoidance buffer zone around the nest (buffer zones vary according to species involved and shall be determined by the qualified biologist). No activities that would adversely affect the nest shall occur within the buffer zone until the qualified biologist has determined the nest is no longer active and the young are no longer dependent on the nest.*

This mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

RECOMMENDED MEASURES

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with automobiles traveling to and from the project's buildings.

2b.19 Cont.

Landscaping: If the project goes forward, California native plant landscaping (i.e., chaparral, grassland, and locally appropriate scrub plants) should be considered to be used as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threated insects require native host plants for reproduction and migration, e.g., monarch butterfly. Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your consideration,

Shawn Smallwood, Ph.D.

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Kenneth Shawn Smallwood
Curriculum Vitae

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Born May 3, 1963 in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 762 professional reports, including:
- 90 peer reviewed publications
- 24 in non-reviewed proceedings
- 646 reports, declarations, posters and book reviews
- 8 in mass media outlets
- 92 public presentations of research results

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The five-member committee investigated causes of bird and bat collisions in the Altamont Pass Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised

the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Part-time Lecturer, 1998-2005, California State University, Sacramento. Instructed Mammalogy, Behavioral Ecology, and Ornithology Lab, Contemporary Environmental Issues, Natural Resources Conservation.

Senior Ecologist, 1999-2005, BioResource Consultants. Designed and implemented research and monitoring studies related to avian fatalities at wind turbines, avian electrocutions on electric distribution poles across California, and avian fatalities at transmission lines.

Chairman, Conservation Affairs Committee, The Wildlife Society--Western Section, 1999-2001. Prepared position statements and led efforts directed toward conservation issues, including travel to Washington, D.C. to lobby Congress for more wildlife conservation funding.

Systems Ecologist, 1995-2000, Institute for Sustainable Development. Headed ISD's program on integrated resources management. Developed indicators of ecological integrity for large areas, using remotely sensed data, local community involvement and GIS.

Associate, 1997-1998, Department of Agronomy and Range Science, University of California, Davis. Worked with Shu Geng and Mingua Zhang on several studies related to wildlife interactions with agriculture and patterns of fertilizer and pesticide residues in groundwater across a large landscape.

Lead Scientist, 1996-1999, National Endangered Species Network. Informed academic scientists and environmental activists about emerging issues regarding the Endangered Species Act and other environmental laws. Testified at public hearings on endangered species issues.

Ecologist, 1997-1998, Western Foundation of Vertebrate Zoology. Conducted field research to determine the impact of past mercury mining on the status of California red-legged frogs in Santa Clara County, California.

Senior Systems Ecologist, 1994-1995, EIP Associates, Sacramento, California. Provided consulting services in environmental planning, and quantitative assessment of land units for their conservation and restoration opportunities basedon ecological resource requirements of 29 special-status species. Developed ecological indicators for prioritizing areas within Yolo County

to receive mitigation funds for habitat easements and restoration.

Post-Graduate Researcher, 1990-1994, Department of Agronomy and Range Science, *U.C. Davis*. Under Dr. Shu Geng's mentorship, studied landscape and management effects on temporal and spatial patterns of abundance among pocket gophers and species of Falconiformes and Carnivora in the Sacramento Valley. Managed and analyzed a data base of energy use in California agriculture. Assisted with landscape (GIS) study of groundwater contamination across Tulare County, California.

Work experience in graduate school: Co-taught Conservation Biology with Dr. Christine Schonewald, 1991 & 1993, UC Davis Graduate Group in Ecology; Reader for Dr. Richard Coss's course on Psychobiology in 1990, UC Davis Department of Psychology; Research Assistant to Dr. Walter E. Howard, 1988-1990, UC Davis Department of Wildlife and Fisheries Biology, testing durable baits for pocket gopher management in forest clearcuts; Research Assistant to Dr. Terrell P. Salmon, 1987-1988, UC Wildlife Extension, Department of Wildlife and Fisheries Biology, developing empirical models of mammal and bird invasions in North America, and a rating system for priority research and control of exotic species based on economic, environmental and human health hazards in California. Student Assistant to Dr. E. Lee Fitzhugh, 1985-1987, UC Cooperative Extension, Department of Wildlife and Fisheries Biology, developing and implementing statewide mountain lion track count for long-term monitoring.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

Projects

Repowering wind energy projects through careful siting of new wind turbines using map-based collision hazard models to minimize impacts to volant wildlife. Funded by wind companies (principally NextEra Renewable Energy, Inc.), California Energy Commission and East Bay Regional Park District, I have collaborated with a GIS analyst and managed a crew of five field biologists performing golden eagle behavior surveys and nocturnal surveys on bats and owls. The goal is to quantify flight patterns for development of predictive models to more carefully site new wind turbines in repowering projects. Focused behavior surveys began May 2012 and continue. Collision hazard models have been prepared for seven wind projects, three of which were built. Planning for additional repowering projects is underway.

Test avian safety of new mixer-ejector wind turbine (MEWT). Designed and implemented a before-after, control-impact experimental design to test the avian safety of a new, shrouded wind turbine developed by Ogin Inc. (formerly known as FloDesign Wind Turbine Corporation). Supported by a $718,000 grant from the California Energy Commission's Public Interest Energy Research program and a 20% match share contribution from Ogin, I managed a crew of seven field biologists who performed periodic fatality searches and behavior surveys, carcass detection trials, nocturnal behavior surveys using a thermal camera, and spatial analyses with the collaboration of a GIS analyst. Field work began 1 April 2012 and ended 30 March 2015 without Ogin installing its MEWTs, but we still achieved multiple important scientific advances.

Reduce avian mortality due to wind turbines at Altamont Pass. Studied wildlife impacts caused by 5,400 wind turbines at the world's most notorious wind resource area. Studied how impacts are perceived by monitoring and how they are affected by terrain, wind patterns, food resources, range management practices, wind turbine operations, seasonal patterns, population cycles, infrastructure management such as electric distribution, animal behavior and social interactions.

Reduce avian mortality on electric distribution poles. Directed research toward reducing bird electrocutions on electric distribution poles, 2000-2007. Oversaw 5 founds of fatality searches at 10,000 poles from Orange County to Glenn County, California, and produced two large reports.

Cook *et al.* v. Rockwell International *et al.*, No. 90-K-181 (D. Colorado). Provided expert testimony on the role of burrowing animals in affecting the fate of buried and surface-deposited radioactive and hazardous chemical wastes at the Rocky Flats Plant, Colorado. Provided expert reports based on four site visits and an extensive document review of burrowing animals. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals. I testified in federal court in November 2005, and my clients were subsequently awarded a $553,000,000 judgment by a jury. After appeals the award was increased to two billion dollars.

Hanford Nuclear Reservation Litigation. Provided expert testimony on the role of burrowing animals in affecting the fate of buried radioactive wastes at the Hanford Nuclear Reservation, Washington. Provided three expert reports based on three site visits and extensive document review. Predicted and verified a certain population density of pocket gophers on buried waste structures, as well as incidence of radionuclide contamination in body tissue. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals.

Expert testimony and declarations on proposed residential and commercial developments, gas-fired power plants, wind, solar and geothermal projects, water transfers and water transfer delivery systems, endangered species recovery plans, Habitat Conservation Plans and Natural Communities Conservation Programs. Testified before multiple government agencies, Tribunals, Boards of Supervisors and City Councils, and participated with press conferences and depositions. Prepared expert witness reports and court declarations, which are summarized under Reports (below).

Protocol-level surveys for special-status species. Used California Department of Fish and Wildlife and US Fish and Wildlife Service protocols to search for California red-legged frog, California tiger salamander, arroyo southwestern toad, blunt-nosed leopard lizard, western pond turtle, giant kangaroo rat, San Joaquin kangaroo rat, San Joaquin kit fox, western burrowing owl, Swainson's hawk, Valley elderberry longhorn beetle and other special-status species.

Conservation of San Joaquin kangaroo rat. Performed research to identify factors responsible for the decline of this endangered species at Lemoore Naval Air Station, 2000-2013, and implemented habitat enhancements designed to reverse the trend and expand the population.

Impact of West Nile Virus on yellow-billed magpies. Funded by Sacramento-Yolo Mosquito and Vector Control District, 2005-2008, compared survey results pre- and post-West Nile Virus epidemic for multiple bird species in the Sacramento Valley, particularly on yellow-billed magpie and American crow due to susceptibility to WNV.

Workshops on HCPs. Assisted Dr. Michael Morrison with organizing and conducting a 2-day workshop on Habitat Conservation Plans, sponsored by Southern California Edison, and another 1-day workshop sponsored by PG&E. These Workshops were attended by academics, attorneys, and consultants with HCP experience. We guest-edited a Proceedings published in Environmental Management.

Mapping of biological resources along Highways 101, 46 and 41. Used GPS and GIS to delineate vegetation complexes and locations of special-status species along 26 miles of highway in San Luis Obispo County, 14 miles of highway and roadway in Monterey County, and in a large area north of Fresno, including within reclaimed gravel mining pits.

GPS mapping and monitoring at restoration sites and at Caltrans mitigation sites. Monitored the success of elderberry shrubs at one location, the success of willows at another location, and the response of wildlife to the succession of vegetation at both sites. Also used GPS to monitor the response of fossorial animals to yellow star-thistle eradication and natural grassland restoration efforts at Bear Valley in Colusa County and at the decommissioned Mather Air Force Base in Sacramento County.

Mercury effects on Red-legged Frog. Assisted Dr. Michael Morrison and US Fish and Wildlife Service in assessing the possible impacts of historical mercury mining on the federally listed California red-legged frog in Santa Clara County. Also measured habitat variables in streams.

Opposition to proposed No Surprises rule. Wrote a white paper and summary letter explaining scientific grounds for opposing the incidental take permit (ITP) rules providing ITP applicants and holders with general assurances they will be free of compliance with the Endangered Species Act once they adhere to the terms of a "properly functioning HCP." Submitted 188 signatures of scientists and environmental professionals concerned about No Surprises rule US Fish and Wildlife Service, National Marine Fisheries Service, all US Senators.

Natomas Basin Habitat Conservation Plan alternative. Designed narrow channel marsh to increase the likelihood of survival and recovery in the wild of giant garter snake, Swainson's hawk and Valley Elderberry Longhorn Beetle. The design included replication and interspersion of treatments for experimental testing of critical habitat elements. I provided a report to Northern Territories, Inc.

Assessments of agricultural production system and environmental technology transfer to China. Twice visited China and interviewed scientists, industrialists, agriculturalists, and the Directors of the Chinese Environmental Protection Agency and the Department of Agriculture to assess the need and possible pathways for environmental clean-up technologies and trade opportunities between the US and China.

Yolo County Habitat Conservation Plan. Conducted landscape ecology study of Yolo County to spatially prioritize allocation of mitigation efforts to improve ecosystem functionality within the County from the perspective of 29 special-status species of wildlife and plants. Used a hierarchically structured indicators approach to apply principles of landscape and ecosystem ecology, conservation biology, and local values in rating land units. Derived GIS maps to help guide the conservation area design, and then developed implementation strategies.

Mountain lion track count. Developed and conducted a carnivore monitoring program throughout California since 1985. Species counted include mountain lion, bobcat, black bear, coyote, red and gray fox, raccoon, striped skunk, badger, and black-tailed deer. Vegetation and land use are also monitored. Track survey transect was established on dusty, dirt roads within randomly selected quadrats.

Sumatran tiger and other felids. Upon award of Fulbright Research Fellowship, I designed and initiated track counts for seven species of wild cats in Sumatra, including Sumatran tiger, fishing cat, and golden cat. Spent four months on Sumatra and Java in 1988, and learned Bahasa Indonesia, the official Indonesian language.

Wildlife in agriculture. Beginning as post-graduate research, I studied pocket gophers and other wildlife in 40 alfalfa fields throughout the Sacramento Valley, and I surveyed for wildlife along a 200 mile road transect since 1989 with a hiatus of 1996-2004. The data are analyzed using GIS and methods from landscape ecology, and the results published and presented orally to farming groups in California and elsewhere. I also conducted the first study of wildlife in cover crops used on vineyards and orchards.

Agricultural energy use and Tulare County groundwater study. Developed and analyzed a data base of energy use in California agriculture, and collaborated on a landscape (GIS) study of groundwater contamination across Tulare County, California.

Pocket gopher damage in forest clear-cuts. Developed gopher sampling methods and tested various poison baits and baiting regimes in the largest-ever field study of pocket gopher management in forest plantations, involving 68 research plots in 55 clear-cuts among 6 National Forests in northern California.

Risk assessment of exotic species in North America. Developed empirical models of mammal and bird species invasions in North America, as well as a rating system for assigning priority research and control to exotic species in California, based on economic, environmental, and human health hazards.

Peer Reviewed Publications

Smallwood, K. S. 2022. Utility-scale solar impacts to volant wildlife. Journal of Wildlife Management: e22216. https://doi.org/10.1002/jwmg.22216

Smallwood, K. S., and N. L. Smallwood. 2021. Breeding Density and Collision Mortality of Loggerhead Shrike (*Lanius ludovicianus*) in the Altamont Pass Wind Resource Area. Diversity 13, 540. https://doi.org/10.3390/d13110540.

Smallwood, K. S. 2020. USA wind energy-caused bat fatalities increase with shorter fatality search intervals. Diversity 12(98); https://doi.org/10.3390/d12030098

Smallwood, K. S., D. A. Bell, and S. Standish. 2020. Dogs detect larger wind energy impacts on bats and birds. Journal of Wildlife Management 84:852-864. DOI: 10.1002/jwmg.21863.

Smallwood, K. S., and D. A. Bell. 2020. Relating bat passage rates to wind turbine fatalities.

Diversity 12(84); doi:10.3390/d12020084.

Smallwood, K. S., and D. A. Bell. 2020. Effects of wind turbine curtailment on bird and bat fatalities. Journal of Wildlife Management 84:684-696. DOI: 10.1002/jwmg.21844

Kitano, M., M. Ino, K. S. Smallwood, and S. Shiraki. 2020. Seasonal difference in carcass persistence rates at wind farms with snow, Hokkaido, Japan. Ornithological Science 19: 63 – 71.

Smallwood, K. S. and M. L. Morrison. 2018. Nest-site selection in a high-density colony of burrowing owls. Journal of Raptor Research 52:454-470.

Smallwood, K. S., D. A. Bell, E. L. Walther, E. Leyvas, S. Standish, J. Mount, B. Karas. 2018. Estimating wind turbine fatalities using integrated detection trials. Journal of Wildlife Management 82:1169-1184.

Smallwood, K. S. 2017. Long search intervals under-estimate bird and bat fatalities caused by wind turbines. Wildlife Society Bulletin 41:224-230.

Smallwood, K. S. 2017. The challenges of addressing wildlife impacts when repowering wind energy projects. Pages 175-187 in Köppel, J., Editor, Wind Energy and Wildlife Impacts: Proceedings from the CWW2015 Conference. Springer. Cham, Switzerland.

May, R., Gill, A. B., Köppel, J. Langston, R. H.W., Reichenbach, M., Scheidat, M., Smallwood, S., Voigt, C. C., Hüppop, O., and Portman, M. 2017. Future research directions to reconcile wind turbine–wildlife interactions. Pages 255-276 in Köppel, J., Editor, Wind Energy and Wildlife Impacts: Proceedings from the CWW2015 Conference. Springer. Cham, Switzerland.

Smallwood, K. S. 2017. Monitoring birds. M. Perrow, Ed., Wildlife and Wind Farms - Conflicts and Solutions, Volume 2. Pelagic Publishing, Exeter, United Kingdom. www.bit.ly/2v3cR9Q

Smallwood, K. S., L. Neher, and D. A. Bell. 2017. Turbine siting for raptors: an example from Repowering of the Altamont Pass Wind Resource Area. M. Perrow, Ed., Wildlife and Wind Farms - Conflicts and Solutions, Volume 2. Pelagic Publishing, Exeter, United Kingdom. www.bit.ly/2v3cR9Q

Johnson, D. H., S. R. Loss, K. S. Smallwood, W. P. Erickson. 2016. Avian fatalities at wind energy facilities in North America: A comparison of recent approaches. Human–Wildlife Interactions 10(1):7-18.

Sadar, M. J., D. S.-M. Guzman, A. Mete, J. Foley, N. Stephenson, K. H. Rogers, C. Grosset, K. S. Smallwood, J. Shipman, A. Wells, S. D. White, D. A. Bell, and M. G. Hawkins. 2015. Mange Caused by a novel Micnemidocoptes mite in a Golden Eagle (*Aquila chrysaetos*). Journal of Avian Medicine and Surgery 29(3):231-237.

Smallwood, K. S. 2015. Habitat fragmentation and corridors. Pages 84-101 in M. L. Morrison and H. A. Mathewson, Eds., Wildlife habitat conservation: concepts, challenges, and solutions. John Hopkins University Press, Baltimore, Maryland, USA.

Response to Comment Letter 2b: Shawn Smallwood dated December 13, 2023.

Comment Letter 2b: Shawn Smallwood dated December 13, 2023.

Response to comment 2b.1: This comment introduces Dr. Smallwood and states that he is writing to comment on the analysis of environmental resources in the IS/MND. The comment summarized Dr. Smallwood's qualifications and experience as an expert in this field. Dr. Smallwood's CV was attached to the comment letter. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to comment 2b.2: This comment describes the survey methodologies used by Noriko Smallwood during their visit to the Project site, the existing environmental setting at the time of the survey, and lists the species observed during the survey. The comment states that the site consisted predominantly of disturbed, annual grass and scattered shrubs and that 27 species of vertebrate wildlife at or adjacent to the project site, including 5 species with special status were identified.

As stated in Response to Comment 2.4 and as shown on Table 1 of the comment letter, several of the bird species referenced by Dr. Smallwood were documented offsite or flying over the site and were not seen utilizing the site. 10 of these species were observed offsite and 4 did not contain information as to whether they were observed. Additionally, Smallwood's study does not include information regarding the specific location of where each species was observed offsite in relation to the Project site. The information provided doesn't pertain to the specific conditions of the Project site or qualify as reliable evidence regarding the habitat of the Project site, therefore these 14 species are not considered as having the potential for presence on the Project site. As explained in Response to Comment 2.4, three of the avian species identified on the Project site have statuses indicated as (BCC, TTW, or BOP) and do not qualify as an official state or federally listed species (candidate, threatened, or endangered). The 10 remaining avian species observed on the Project site by the commenter do not have any special status and are not protected.

It should be noted that while curriculum vitae (cv) is provided for Dr. Kenneth Smallwood, no cv is provided for Noriko Smallwood; therefore, any conclusions made based on her observations do not rise to the level of expert opinion based on the information provided. This comment is informational and does not raise any specific CEQA issues or warrant any revisions to the IS/MND. No further response is warranted.

Response to comment 2b.3: This comment projects the number of wildlife species that would potentially be detectable to the Project site during the time of Dr. Smallwood's survey.

The modeling presented by Dr. Smallwood infers the total number of species that may have been detected with a longer survey or with additional biologists. The model predicts 40 species of wildlife were available to be detected on the morning that the comment letters site survey was conducted which left 13 species undetected during the site survey conducted by Hernanadez Environmental Services. However, the 13 species inferred to be undetected on the site were not identified through the model provided by the commentor. Thus, the species status cannot be inferred either. Additionally, as described in Response to Comment 2.4, the 27 species identified by Dr. Smallwood in Table 1 are not considered as having the potential for presence on the Project site or do not qualify as an official state or federally listed species (candidate, threatened, or endangered). Thus, the model is based on irrelevant data and does not provide facts or expert opinion supported by facts for assessing the presence or absence of sensitive habitats or listed species as it provides a speculative inference and prediction of the number of wildlife species that could have been identified during the field survey. Therefore, no determinations can be concluded from the inference of wildlife species using this model as it is mere speculation.

This comment is informational and does not raise any specific CEQA issues or warrant any revisions to the IS/MND. No further response is warranted.

Response to comment 2b.4: This comment asserts that a larger survey effort would be needed to assess wildlife species richness at the site. The comment states that based on a data acquired from a previous survey effort conducted by Dr. Smallwood across the Altamount Pass Wind Resource Area, with many more repeat surveys through the year, Noriko would likely detect 117 species wildlife at the site. The comment further states that assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 117 predicted species, then continued surveys would eventually detect 22 special-status species of wildlife on the Project site.

As described in Response to Comment 2.4 above, the species observed during the GBA field survey and during Dr. Smallwood's field surveys are not considered state or federal listed rare, threatened, or endangered species. Additionally, the field survey conducted by Dr. Smallwood included 14 species that were either identified offsite or did not provide the location of the occurrence. Therefore, the field survey referenced in determining the 117 species with the potential to be detected on the Project site doesn't pertain to the specific conditions of the Project site or qualify as reliable evidence. Further, referencing the larger survey effort across 167 km2 of annual grasslands of the Altamont Pass Wind Resource Area to infer species richness at the subject site is not appropriate and does not constitute fair argument. The referenced site contains open space and annual grassland that is undisturbed, whereas the proposed Project site contains disturbed, fragmented habitat surrounded by development. Thus, there is no nexus between the two sites and no determinations can be concluded from the inference of wildlife species richness using these survey efforts provided by Dr. Smallwood. Dr. Smallwood's assertion of species richness constitutes nothing more than speculation and unsubstantiated opinion.

This comment is informational and does not raise any specific CEQA issues or warrant any revisions to the IS/MND. No further response is warranted.

Response to comment 2b.5: This comment describes why a reasonably accurate characterization of an environmental setting is crucial in determining potential impacts of a project. Additionally, the comment describes the methods necessary to achieve an accurate characterization of the environmental setting for biological resources. This comment concludes by stating that the proposed Project did not follow these methods and is inadequate to accurately describe the setting.

Please refer to Response to Comment 2.6. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to comment 2b.6: This comment states that the GBA did not accurately define the wildlife baseline, and the IS/MND therefore was inaccurate. The comment argues that the site survey did not explain the effort or methodology behind the site visit, and it is therefore difficult to assess the validity of the outcomes. The comment also states that the most effective methodology for habitat assessment is a survey of sufficient effort to determine whether each potentially occurring species truly occurs at the project site and that identifying the presence of a species confirms the existence of habitat of the species. The comment concludes that given this uncertainty associated with all the species that were not detected by Hernandez Environmental Services' reconnaissance survey, Hernandez Environmental Services' stated objective of determining presence/absence could not be achieved.

As described in Response to Comment 2.6, the field surveys conducted by Hernandez Environmental Services followed industry standard survey methods, which are at the discretion of the qualified biologist conducting the surveys, depending upon the conditions of the site being surveyed. The site was walked and surveyed

for 100 percent coverage. The site consists predominantly of disturbed, ruderal land with sparse non-native vegetation; therefore, no habitat constituent elements for sensitive species would have been required. Very few wildlife species (two bird species) were recorded on the site and documented within the GBA. As described in Response to Comment 2.8, the IS/MND never states that the field survey was used as the determination of special-status species absence. Rather, Hernandez Environmental Services conducted a literature review of the CNDDB and CNPS for special-status species with the potential to occur on or in the vicinity of the Project site, the results of which are shown in the IS/MND Table BIO-1, page 60. Based on the literature review, habitat requirements for special-status species, and the availability and quality of on-site habitats, it was determined that the Project site does not have the potential to support these species.

CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area.

Therefore, the IS/MND factually defines the wildlife baseline as described in the GBA prepared by Hernandez Environmental Services. This comment merely speculates that the environmental setting is inaccurate and does not contain any information, facts, or substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.7: This comment argues that the site survey did not explain the effort or methodology behind the site visit, and it is therefore difficult to assess the validity of the outcomes. This comment also asserts that the GBA did not accurately assess special-status species or conduct focused surveys.

As previously stated, the field surveys conducted by Hernandez Environmental Services followed industry standard survey methods, which are at the discretion of the qualified biologist conducting the surveys, depending upon the conditions of the site being surveyed. As described in Response to Comment 2.7, the environmental setting depicted in the site photos shown in Dr. Smallwood's report is consistent with that described in the GBA. As described in Response 2.4, only 10 of the species observed by the commenter were observed within the Project site. Further, none of the wildlife species identified by Dr. Smallwood are considered state or federal listed rare, threatened, or endangered species. Therefore, the general characterization of the Project site within the GBA is consistent with the findings provided by the commenter: the Project site is disturbed and supports avian species; no special status species were determined to be present within the Project site. The extent of Project surveys conducted and the subsequent findings of the GBA would not change with the inclusion of Dr. Smallwood's species list. Dr. Smallwood's observations of the Cooper's hawk offsite and the California horned lark on the site, although contrary to the GBA determinations, do not change the findings of the GBA. Neither of these species are listed species or species requiring focused or protocol surveys. CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area. Due to the absence of suitable habitat and the lack of recorded observations of such species during the GBA site visit, it was determined that no protocol-level species surveys were required.

Therefore, the IS/MND accurately analyzed impacts to special status species as described in the GBA from Hernandez Environmental Services. This comment merely speculates that focused surveys are required to determine species absence and does not contain any information, facts, or substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.8: This comment questions the validity of the database reviews utilized by the GBA.

As described in Response to Comment 2.5, the databases reviewed by Dr. Smallwood, included as Table 2 of the comment letter, utilized eBird and iNaturalist records. The records obtained from these two sources were used to determine species information for the Project area, including special-status species with potential to occur in the Project site vicinity. These databases do not provide substantial evidence to draw conclusions upon. The iNaturalist application includes an automated species identification tool and allows non-expert users to assist each other in identifying organisms from photographs. According to the iNaturalist website, it describes itself as "an online social network of people sharing biodiversity information to help each other learn about nature", with its primary goal being to connect people to nature. Observations of identified species on the iNaturalist application are classified as "Casual", "Needs ID" (needs identification), or "Research Grade" based on the quality of the data provided and the community identification process. As the records search for potentially occurring species in the comment letter does not specify which types of observations were used when determining species occurrence potential for the site, the findings are not predicated upon facts, or expert opinion supported by facts as required under CCR Title 14, Section 15384.

Similar to iNaturalist, eBird is an application that allows non-expert users to document bird sightings. The eBird website states that eBird "is for everyone interested in birds, regardless of location or previous experience." eBird relies on volunteer reviewers (expert and non-expert) to review records for accuracy. Further, the eBird website discloses that some records could be flagged for inaccuracy months or years after submittal. As such, eBird recorded species sightings are not factually reliable records for determining potentially occurring species for the Project area. The findings are not predicated upon facts, or expert opinion supported by facts as required under CCR Title 14, Section 15384, and the data used from the eBird application does not qualify as fair argument.

The CNDDB, which is brought into question by the commentor, is an inventory of the status and locations of rare plants and animals in California, and observations are field verified by scientists and experts. The CNDDB is utilized and relied upon by biologists and CDFW as an industry standard and is therefore supported by facts and expert opinion unlike the eBird and iNaturalist applications.

As described in Response to Comment 2.5, the data presented and used by Dr. Smallwood is inaccurate and the assertions made constitute nothing more than speculation and unsubstantiated opinion. This comment does not meet the minimum requirements under CEQA for substantial evidence, does not raise a fair argument, and only amounts to speculation. Therefore, preparation of an EIR is not required and no further response is warranted.

Response to comment 2b.9: This comment asserts that the GBA did not accurately assess the special-status bird species at or near the proposed Project site, and the IS/MND therefore was inaccurate. The comment states that based on Dr. Smallwood's database reviews and site visits, 134 special-status species of wildlife are known to occur near the site and that the IS/MND only analyzed 34 (32 percent) of those species for occurrence potential. The comment specifically refers to Dr. Smallwood's recording of the presence of Cooper's hawk adjacent to the site and California horned lark on the site.

As described in Response 2b.8 above, the list of species with occurrence potential presented in Table 2 of the comment letter are not predicated upon facts, or expert opinion supported by facts as required under CCR Title 14, Section 15384, and the data used from the eBird and iNaturalist applications do not qualify as fair argument. Additionally, as described in Response 2.4, only 10 of the species observed by the commenter were observed within the Project site. Further, none of the wildlife species identified by Dr. Smallwood are considered state or federal listed rare, threatened, or endangered species.

As described in Response to Comment 2.10, the GBA found that these species were absent from the site based upon the lack of suitable habitat. As previously stated, the site appeared to have recently been cleared of vegetation during the time of the GBA field survey. Additionally, The GBA found that the California horned lark was presumed absent from the Project site based upon the lack of suitable habitat (see Response to Comment 2.4). The California horned lark is not listed as an endangered, threatened, or rare species under CDFW or USFW. Rather, they are ranked as State Rank 4 (SR 4), or "Apparently Secure", which are species defined as being at a fairly low risk of extirpation in the state due to an extensive range and/or many populations or occurrences, but with possible cause for some concern as a result of local recent declines, threats, or other factors. Protections for these species are provided by the federal Migratory Bird Treaty Act and Sections 3503, 3503.5, and 3513 of the California Fish and Game Code which prohibit take of all birds and their active nests. The GBA includes discussions on the protection of migratory nesting birds and measures to avoid impacts to bird species that may be nesting on or adjacent to the site prior to the initiation of Project activities.

This comment merely speculates that the GBA inaccurately assessed special status bird species and does not meet the requirements under CEQA for substantial evidence described in Response to Comment 2.5, does not raise a fair argument and does not contain any facts requiring changes to the IS/MND and preparation of an EIR is not required.

Response to comment 2b.10: This comment asserts that the GBA did not accurately assess the special-status plant species at or near the proposed Project site, and the IS/MND therefore was inaccurate.

As described in Response to Comment 2.11, smooth tarplant, a CNPS 1B.1 species, was not observed during the GBA field visit. As noted by the comment letter, the survey was not conducted during the species blooming period. In addition, the site appeared to have been recently mowed prior to the GBA field visit. However, due to the CNDDB documentation of the species previously on the site, a focused survey for the species was conducted during May of 2023, which is the appropriate time of year to identify the species consistent with CDFW reconnaissance survey guidelines. Page 5 of the 2018 CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities suggest multiple visits to the site could be needed to identify a particular plant species in diagnosable stages if warranted by the species list. The botanist conducting the survey determined that all species on site were identifiable under the site conditions and that a follow up survey later in the season would be necessary for additional identifications.

Therefore, the GBA and focused survey for smooth tarplant met the standards of the CDFW reconnaissance survey guidelines and the IS/MND accurately and fully analyzed the special-status plant species. The comment is speculative, does not raise a fair argument, and does not contain any information requiring changes to the IS/MND or necessitating preparation of a DEIR. No further response is warranted.

Response to comment 2b.11: This comment states that the IS/MND includes flawed analysis of special status species, as smooth tarplant is listed as a 1.B1 CNPS species. The comment states that the IS/MND erroneously claims that smooth tarplant is not state or federally listed as Threatened or Endangered, as CNDDB identifies plant species of 1.B1 rank as rare species, which is one of the three key terms in CEQA that qualifies a species as a special-status species. The comment claims that smooth tarplant is a special-status species and that destroying 300 individuals of a rare plant species would easily qualify as a significant impact.

Smooth tarplant is not listed by CDFW or USFW as a candidate, endangered, or threatened species (listed species). However, Smooth tarplant is on the Watchlist and is considered rare according to the CNDDB ranking of 1.B.1. The IS/MND and GBA determined that the removal of smooth tarplant did not meet the standard of a potentially significant impact, as threshold a) for Biological Resources within Appendix G of

the CEQA guidelines assesses whether biological impacts would qualify as "a substantial adverse effect" to species habitat or populations identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFW. The GBA and IS/MND recognize Smooth tarplant as a special status species (p. As stated in the IS/MND on page 60, "there are no local or regional protections, policies, or removal requirements for this species. Since smooth tarplant is not listed or protected by a local, state, federal, or any outside agency, and no removal requirements currently exist, determination on the significance of the smooth tarplant individuals identified on the Project site is deferred to the certified biologist".

As described above in Response to Comment 2.6, the GBA determined that the Project site is disturbed, fragmented, and supports degraded habitat quality. Based on habitat requirements for specific special-status wildlife species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status wildlife species known to occur in the area. Although smooth tarplant is listed as a rare species under the CNDDB rank of 1.B1, the smooth tarplant population within the Project site is not located within important or significant habitat, thus it is not considered a substantial adverse effect to remove these individuals.

Therefore, the IS/MND and GBA by Hernandez Environmental Services provide a factual analysis of the smooth tarplant individuals and provided substantial evidence as to why removal of the rare species on site does not substantiate an adverse effect. The comment, however, is speculative, does not raise a fair argument, and does not contain any information requiring changes to the IS/MND or necessitating preparation of a DEIR. No further response is warranted.

Response to comment 2b.12: This comment states that the IS/MND incompletely and inaccurately characterized the environmental setting by stating that no special-status species were observed during the field investigation conducted by Hernandez Environmental Services. The comment also states that the IS/MND's impact analysis directed to smooth tarplant demonstrates the need for an accurate characterization of the existing environmental setting.

This comment is conclusionary in nature, please refer to Response to Comment 2.8 through 2.12 above. As previously stated, the field surveys conducted by Hernandez Environmental Services followed industry standard survey methods, which are at the discretion of the qualified biologist conducting the surveys, depending upon the conditions of the site being surveyed. Additionally, the IS/MND accurately disclosed the findings of the survey without misleading readers. The IS/MND never states that the field survey was used as the determination of special-status species absence. Rather, the IS/MND states that "Based on habitat requirements for specific special-status wildlife species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status wildlife species known to occur in the area" (IS/MND page 60). Hernandez Environmental Services conducted a literature review of the CNDDB and CNPS for special-status species with the potential to occur on or in the vicinity of the Project site, the results of which are shown in the IS/MND Table BIO-1, page 60 and 61. Based on the literature review, habitat requirements for special-status species, and the availability and quality of on-site habitats, it was determined that the Project site does not have the potential to support these species. CDFW and USFWS are the state and federal agencies that administer survey protocols and requirements for various special status species. None of the species identified through literature review for the Project are subject to specific survey requirements per existing USFWS and CDFW guidance. Therefore, it is at the discretion of the qualified biologist to determine if focused surveys are required and the best practices for determining whether a species has the potential to occur within the biological study area.

Therefore, the IS/MND and GBA by Hernandez Environmental Services provide a factual analysis of the smooth tarplant individuals and provided substantial evidence as to why removal of the rare species on site

does not substantiate an adverse effect. The comment does not meet the minimum requirements under CEQA for substantial evidence, does not raise a fair argument, and only amounts to speculation. Therefore, preparation of an EIR is not required and no further response is warranted.

Response to comment 2b.13: This comment states that the accuracy of an impact analysis depends on an accurate characterization of the existing environmental setting and should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The comment states that the IS/MND failed to discuss the impacts of habitat loss, interference with wildlife movement, and wildlife-automobile collision mortality.

Please refer to Response to Comment 2.8. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to comment 2b.14: This comment asserts that the loss of nesting sites due to Project implementation would be significant.

Please refer to Response to Comment 2.15. The site is located within an intensely developed and urbanized setting within the City of San Bernardino. The site is disturbed and surrounded by commercial and industrial development in all directions. The GBA documented two species of bird on the site, one of which is non-native. The wildlife species identified within the GBA are consistent with the environmental setting and habitat quality recorded. The comment asserts that the site supports approximately 14.3 nests per year relying on two studies, one from a Wildlife area and one from a significantly less populated area in central California. The two reference sites include a protected wildlife area and a less fragmented and urbanized site that do not reflect similar conditions as those of the Project site which are highly urbanized disturbed habitat isolated from other wildlife habitat areas. Therefore, the comment uses the erroneously generated 14.3 nests per year to estimate that the site would generate approximately 47.2 birds per year.

As described in Response to Comment 2.15 above, due to the use of reference sites that infer a substantial increase in nesting and breeding compared to the subject site, this argument is biased and unsubstantiated, and does not meet the requirements of CCR Title 24 Section 15384 for fair argument. The GBA identifies mitigation measures that are provided for nesting birds and would fully mitigate the potential impacts identified in the IS/MND. Thus, the comment merely speculates that the Project would lead to a loss of nesting sites and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.15: This comment states that the Project would have a significant impact on wildlife movement.

As described in Response to Comment 2.16 through 2.18 above, due to the fact that the site is general flat, disturbed, dominated by non-native ruderal vegetation, and is surrounded in all directions by commercial and industrial uses, the GBA determined that the site lacked functionality as a wildlife corridor which is typically defined by habitat linkages, mountain canyons, or riparian corridors. The Project site is disturbed, fragmented, and does not support wildlife movement, due to the lack of presence of wildlife as confirmed through the Project site survey.

A limited number of wildlife was observed on the site, including two bird species, and no wildlife movement was evident or recorded. As mentioned in the IS/MND on page 62, the Project site was determined to contain areas with shrubs that can be used by nesting songbirds during the nesting bird season of February 1 to September 15. Based on the findings in the GBA, the IS/MND identified MM BIO-1 and MM BIO-2, consistent

with the MBTA, to avoid potential impacts to volant wildlife and nesting songbirds. Thus, the analysis of wildlife movement in the GBA and IS/MND was supported by substantial evidence, based on facts and expert opinion, and adequately mitigated potentially significant impacts to a less than significant level. Finally, the Project would include the revegetation of the Project site following Project construction, as described in the Project Description on page 20 of the ISMND. Proposed landscaping would include 36-inch and 24-inch box trees, 5-gallon trees, various shrubs and groundcover, which would provide replacement habitat for nesting birds.

This comment merely speculates that the Project would have a significant impact on wildlife movement and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts that rise to the level of substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.16: This comment states that Project-related traffic would endanger wildlife. Additionally, this comment sates that VMT is useful for predicting wildlife mortality because Dr. Smallwood was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates. This comment is introductory in nature and does not raise a specific issue with the adequacy of the IS/MND or raise any other CEQA issue. Therefore, no further response is required or provided.

Response to comment 2b.17: This comment asserts that impacts to wildlife due to Project traffic generation were not adequately addressed. The comment claims that based on the predicted annual VMT of the proposed Project, it would also assume 915 wildlife fatalities per year. The comment concludes that given the predicted level of Project-generated traffic-caused mortality and the lack of any proposed mitigation impacts would be potentially significant.

As described in Response to Comment 2.4, the Project site is located within a heavily urbanized area, surrounded by existing commercial and industrial development. The GBA found that no state or federal listed rare, threatened, or endangered species were determined to have the potential to occur on the site. Further, a limited number of wildlife (two bird species) were recorded on the site and no wildlife movement was evident. As described in Response to Comment 2.7, the general characterization of the Project site within the GBA is consistent with the findings provided by the commenter: the Project site is disturbed and supports avian species. Avian species, as opposed to other vertebrate species, are unlikely to be involved in traffic related mortality. Additionally, as specified in the IS/MND on page 134, the Project site would be fully located within a Transit Priority Area (TPA). The adjacent roadways of Hardt Street and East Brier Drive are already used by adjacent development and the addition of traffic from implementation of the proposed Project would be nominal. Therefore, wildlife is not utilizing the site or adjacent roadways for movement, and the prediction that traffic related mortality would occur due to implementation of the proposed Project is speculative.

In addition, increased traffic generation, as well as increased traffic related wildlife mortality, associated with implementation of the Project would be considered an indirect physical change in the environment, consistent with the definition provided under CEQA Guidelines Section 15064 (2). As stated in CEQA Guidelines Section 15064 (3), "An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable". Therefore, there are no anticipated significant impacts due to an indirect physical change to the environment as traffic related mortality is not a reasonably foreseeable impact and is speculative.

Furthermore, as described in Response to Comment 2.19 above and defined in CCR Title 14, Section 15126.4 "Mitigation measures are not required for effects which are not found to be significant". The proposed Project does not result in significant effect to wildlife mortality due project-generated automobile traffic. Furthermore, in *Dolan v. City of Tigard,*512 U.S. 374 (1994) the Court held that there must be an "essential nexus" between a legitimate state interest and the actual conditions of the permit being issued. Additionally, according to Cal. Code Regs. tit. 14 § 15126.4 "the mitigation measure must be "roughly proportional" to the impacts of the project". The compensatory mitigation listed in the comment letter does not provide a nexus between potential impacts and proposed mitigation measures and is not roughly proportional to the Project impacts identified in the comment letter.

Therefore, the prediction of an increase of 915 wildlife mortalities per year due to implementation of the proposed Project does not rise to substantial evidence, as described in Response to Comment 2.5, and is not required to be analyzed or mitigated as part of the IS/MND. The comment does not contain any information requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.18: This comment states that the IS/MND presented flawed analysis for cumulative impacts, specifically regarding traffic related wildlife mortality. The comment states that at least a fair argument can be made for the need to prepare a new EIR to appropriately analyze potential Project contributions to cumulative impacts to wildlife in the City. The comment continues to state that ongoing development in the City needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region and also needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

As described in Response to Comment 2.4, the Project site is disturbed and isolated, surrounded by developed, urbanized areas on all sides. The Project site is not located near any open space areas, wildlife areas, or protected habitat. The Project site is also not located in an area of regional importance to biological resources. The cumulative analysis within the IS/MND, Page 149, determined that the Project would not result in impacts that would be cumulatively considerable when evaluated with the impacts of other current projects, or the effects of probable future projects. As the site is surrounded completely by development and there are no open space or vacant sites near the Project, there are no cumulative potential Projects to consider when determining the cumulative setting for biological resources. Additionally, as described above in Response to Comment 2b.17, there are no anticipated impacts due to traffic related wildlife mortality. Traffic related wildlife mortality is not a reasonably foreseeable impact and is speculative, thus no cumulative discussion of traffic related wildlife mortality would be required. This comment merely speculates that the Project does not adequately address cumulative impacts and it does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts that rise to substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

Response to comment 2b.19: This comment states that Mitigation Measure BIO-1 and BIO-2 are not sufficient to reduce impacts to a less than significant level and that additional mitigation measures are needed in order to reduce impacts to biological resources on the Project site.

The comment states that based on prior survey efforts performed by Dr. Smallwood, ground nesters are difficult to locate and that the preconstruction nesting bird surveys (MM BIO-1) provide unsubstantiated evidence that preconstruction surveys would reduce impacts to a less than significant level in the IS/MND. Additionally, the comment states that MM BIO-2 is subjective as it allows a single individual to determine the buffer area for any given species and is therefore unenforceable.

MM BIO-1 and BIO-2 recommend pre-construction nesting bird surveys and buffers, consistent with the standard recommended measures provided by CDFW, in order to avoid and minimize impacts to nesting birds. The commenter fails to recognize the inclusion of MM BIO-2 to mitigate impacts to ground nesting birds. Although pre-construction surveys may not identify all ground nests prior to construction, MM BIO-2 has been included to ensure that ground nests encountered during construction are protected in place.

Additionally, the buffer area is not a subjective and unenforceable measure. As it states in the IS/MND MM BIO-1, "At a minimum, construction activities will stay outside of a 300-foot buffer around the active nests" (page 63). According to CDFW's C*onservation Measures for Biological Resources*, factors to be considered when determining buffer size should include: the presence of natural buffers provided by vegetation or topography; nest height; locations of foraging territory; and baseline levels of noise and human activity. For raptor species, the buffer is to be expanded to 500 feet. Therefore, the measure allows discretion to the qualified biologist to increase the buffer size, if deemed appropriate after considering the relevant factors as listed above. Buffer areas would be fenced off by a qualified biologist to indicate the appropriate distance around any nests that are found to ensure nests are not disturbed. Therefore, the IS/MND provides ample evidence that MM BIO-1 and MM BIO-2 would mitigate any potential impacts to nesting birds, as protected by the MBTA, to a less than significant level.

The commentor's recommended mitigation includes measures to address road mortality, fund wildlife rehabilitation facilities, and to include native plants in landscaping. Therefore, the comment states a DEIR should be prepared.

As defined in CCR Title 14, Section 15126.4 "Mitigation measures are not required for effects which are not found to be significant". As explained in response to comments 2.19 the proposed Project does not result in significant effects to wildlife mortality due Project-generated automobile traffic. Furthermore, in *Dolan v. City of Tigard,*512 U.S. 374 (1994) the Court held that there must be an "essential nexus" between a legitimate state interest and the actual conditions of the permit being issued. Additionally, according to Cal. Code Regs. tit. 14 § 15126.4 "the mitigation measure must be "roughly proportional" to the impacts of the Project". The compensatory mitigation listed in the comment letter does not provide a nexus between impacts and proposed mitigation measures and is not roughly proportional to the Project impacts. Thus, Mitigation Measures BIO-1 and BIO-2 adequately and accurately mitigate the Project's potential impacts to nesting and migratory birds, including ground nesting birds. As discussed above, additional potentially significant impacts were not identified through the GBA or IS/MND analysis.

This comment merely speculates that the Project does not adequately address impacts to biological resources and does not contain any facts, reasonable assumptions predicated upon facts, or expert opinion supported by facts to substantiate substantial evidence requiring changes to the IS/MND or preparation of a DEIR. No further response is warranted.

This response to comments was prepared by Hernandez Environmental Services. The teams' qualifications are included as part of the original biological study prepared and are included within Appendix B, General Biological Assessment.

3. Hardt and Brier Business Park Project MND

This section contains revisions to the Public Review Draft MND based upon: (1) clarifications required to prepare a response to a specific comment; and/or (2) typographical errors. These revisions do not alter any impact significance conclusions as disclosed in the MND. Changes made to the MND are identified here in ~~strikeout~~ text to indicate deletions and in **bold underlined** text to signify additions.

Revisions in Response to Written Comments

The following text, organized by MND Chapters and Sections, has been revised in response to comments received on the MND and corrections identified by the City.

The following text revision was made to Section 5.4, Biological Resources, page 60 of the Public Review Draft MND:

Sensitive Plant Species

According to the CNDDB and the California Native Plant Society (CNPS), a total of 14 species are listed as state and/or federally Threatened, Endangered, Candidate, Rare, or as 1B.1 in the CNPS Rare Plant Inventory; or have been recorded within the vicinity of the Project site. No special-status plant species were observed on-site during the field investigation. Table BIO-1 shows survey results for listed and potential plant species.

As described in the General Biological Assessment, the Project site has been previously disced, contains ruderal habitat, and is surrounded by development. Thus, the suitability of the habitat to support special-status plant species known to occur in the general vicinity of the Project site has been greatly reduced. Additionally, the proposed Project site is not located within any designated federal critical habitat. Based on habitat requirements for specific special-status plant species and the availability and quality of habitats needed by each species, the Project site does not provide suitable habitat for any of the special-status plant species known to occur in the area.

However, historic data from the CNDDB found a past sighting of smooth tarplant within the Project boundary from 2003. This species was not found during the on-site field investigation; however, focused botanical surveys were conducted and completed on May 20, 2023, during the plants bloom period and found approximately 300 individuals of smooth tarplant, with the majority concentrated in the northern three parcels (Appendix E of the General Biological Assessment, included as Appendix B of this document). Smooth tarplant **is considered a rare special-status species according to CEQA Guidelines Section 15380 as it is** ranked as a 1.B1 CNPS species. **However, smooth tarplant** ~~and~~ is not state or federally listed as Threatened or Endangered or listed under Section 670.2, Title 14, of the California Code of Regulations and is thereby not declared to be endangered~~,~~ **or** threatened (as defined by section 2067 of the Fish and Game Code) ~~or rare (as defined by section 1901 of the Fish and Game Code)~~. Additionally, there are no local or regional protections, policies, or removal requirements for this species. Since smooth tarplant is not listed or protected by a local, state, federal, or any outside agency, and no removal requirements currently exist, determination on the significance of the smooth tarplant individuals identified on the Project site is deferred to the certified biologist.

The onsite location that the smooth tarplant individuals were found in is disturbed and fragmented. Smooth tarplant is not considered to be part of suitable habitat supporting other potential special status species onsite, as habitat for all other potential plant and wildlife species was considered absent from the Project site as described above and within Appendix B. Thus, removal of the onsite smooth tarplant during Project construction would not constitute as a significant direct or indirect impact through habitat modifications, on any species identified as a candidate, sensitive, or special status, and no mitigation would be required.

The following text revision was made to Section 5.1, Air Quality, page 56 and 58 of the Public Review Draft MND:

Construction Health Risk Analysis
A construction HRA, which evaluates construction-period health risk to off-site receptors, was performed for the proposed Project. Table AQ-6, below, identifies the results of the analysis assuming the use of Tier 4 construction equipment **(PDF-1),** as proposed by the Project, at the Maximum Exposed Individual (MEI), which is the nearest sensitive receptor.

Plans, Programs, or Policies (PPPs)
PPP AQ-1: Rule 402. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 402. The Project shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

PPP AQ-2: Rule 403. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 403, which includes the following:

- All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.
- The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the project are watered, with complete coverage of disturbed areas, at least 3 times daily during dry weather; preferably in the mid-morning, afternoon, and after work is done for the day.
- The contractor shall ensure that traffic speeds on unpaved roads and project site areas are reduced to 15 miles per hour or less.

PPP AQ-3: Rule 1113. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule (SCAQMD) Rule 1113. Only "Low-Volatile Organic Compounds" paints (no more than 50 gram/liter of VOC) and/or High Pressure Low Volume (HPLV) applications shall be used.

PDF AQ-1: Tier 4 Equipment. As designed, the Project would commit to only utilizing Tier 4 construction equipment (or electric) as well as Tier 4 Final engines. Off road construction equipment would be consistent with and meet Tier 4 standards as specified in Title 40 of the Code of Federal Regulations Part 1039.

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Chapter 4. Mitigation Monitoring and Reporting Program

Introduction

The California Environmental Quality Act (CEQA) requires a lead or public agency that approves or carries out a project for which an Mitigated Negative Declaration has been certified which identifies one or more significant adverse environmental effects and where findings with respect to changes or alterations in the project have been made, to adopt a "…reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment" (CEQA, Public Resources Code Sections 21081, 21081.6).

A Mitigation Monitoring and Reporting Program (MMRP) is required to ensure that adopted mitigation measures are successfully implemented for the Hardt and Brier Business Park Project (Project). The City of San Bernardino is the Lead Agency for the project and is responsible for implementation of the MMRP. This report describes the MMRP for the Project and identifies the parties that will be responsible for monitoring implementation of the individual mitigation measures in the MMRP.

Mitigation Monitoring and Reporting Program

The MMRP for the Project will be active through all phases of the Project, including design, construction, and operation. The attached table identifies the mitigation program required to be implemented by the City for the Project. The table identifies mitigation measures required by the City to mitigate or avoid significant impacts associated with the implementation of the Project, the timing of implementation, and the responsible party or parties for monitoring compliance.

The MMRP also includes a column that will be used by the compliance monitor (individual responsible for monitoring compliance) to document when implementation of the measure is completed. As individual Plan, Program, Policies; and mitigation measures are completed, the compliance monitor will sign and date the MMRP, indicating that the required actions have been completed.

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TABLE 1: MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Action and Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
AESTHETICS			
PPP AES-1: Outdoor Lighting. All outdoor luminaires installed shall be appropriately located and adequately shielded and directed such that no direct light falls outside the parcel of origin, or onto the public right-of-way. In addition, outdoor luminaires shall not blink, flash, or rotate and shall be shown on electrical plans submitted to the Department of Building and Safety for plan check approval and shall comply with the requirements of Municipal Code Section 19.20.030	Submission of electrical plans prior to plan check approval.	Department of Building and Safety.	
AIR QUALITY			
PPP AQ-1: Rule 402. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 402. The Project shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.	In construction plans and specifications. During Project operation. Prior to grading and building permits.	Department of Building and Safety.	
PPP AQ-2: Rule 403. The Project is required to comply with the provisions of South Coast Air Quality Management District (SCAQMD) Rule 403, which includes the following: • All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions. • The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the project are watered, with complete coverage of disturbed areas, at least 3 times daily during dry weather; preferably in the mid-morning, afternoon, and after work is done for the day.	In construction plans and specifications. Prior to building permits.	Department of Building and Safety.	

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The contractor shall ensure that traffic speeds on unpaved roads and project site areas are reduced to 15 miles per hour or less.			
PPP AQ-3: Rule 1113. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule (SCAQMD) Rule 1113. Only "Low-Volatile Organic Compounds" paints (no more than 50 gram/liter of VOC) and/or High Pressure Low Volume (HPLV) applications shall be used.	Compliance with Rule 1113.	Department of Building and Safety and SCAQMD.	
PDF AQ-1: Tier 4 Equipment. As designed, the Project would commit to only utilizing Tier 4 construction equipment (or electric) as well as Tier 4 Final engines. Offroad construction equipment would be consistent with and meet Tier 4 standards as specified in Title 40 of the Code of Federal Regulations Part 1039.	Compliance with Tier 4 Final construction equipment standards	Department of Building and Safety	
BIOLOGICAL RESOURCES			
Mitigation Measure BIO-1: Nesting Bird Survey. Vegetation removal should occur outside of the nesting bird season (generally between February 1 and September 15). If vegetation removal is required during the nesting bird season, the applicant must conduct take avoidance surveys for nesting birds prior to initiating vegetation removal/clearing. Surveys will be conducted by a qualified biologist(s) within three days of vegetation removal. If active nests are observed, a qualified biologist will determine appropriate minimum disturbance buffers and other adaptive mitigation techniques (e.g., biological monitoring of active nests during construction-related activities, staggered schedules, etc.) to ensure that impacts to nesting birds are avoided until the nest is no longer active. At a minimum, construction activities will stay outside of a 300-foot buffer around the active nests. For raptor species, the buffer is to be expanded to 500 feet. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist and City of San Bernardino Planning Division verify that the nests are no longer occupied, and the juvenile birds can survive independently from the nests. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities may occur.	Conduct take avoidance surveys for nesting birds if vegetation removal occurs during nesting bird season. Submittal of pre-activity nesting bird field survey results report (during Feb 1 – Aug 31). Three days prior to initiating vegetation removal/clearing.	Qualified biologist and City of San Bernardino Planning Division.	

Mitigation Measures	Action and Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
Mitigation Measure BIO-2: Nesting Bird Buffer. If nesting birds are encountered, a qualified biologist must establish an avoidance buffer zone around the nest (buffer zones vary according to species involved and shall be determined by the qualified biologist). No activities that would adversely affect the nest shall occur within the buffer zone until the qualified biologist has determined the nest is no longer active and the young are no longer dependent on the nest.	Establish an avoidance buffer zone around nests, if identified through Mitigation Measure BIO-1. Prior to and during construction activities.	Qualified biologist and City of San Bernardino Planning Division	
CULTURAL RESOURCES			
PPP CUL-1: Human Remains. Should human remains or funerary objects be discovered during project construction, the project would be required to comply with State Health and Safety Code Section 7050.5, which states that no further disturbance may occur in the vicinity of the body (within a 100-foot buffer of the find) until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission, which will determine the identity of and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD must complete the inspection within 48 hours of being granted access to the site.	In construction plans and specifications. During construction activities. Compliance with State Health and Safety Code Section 7050.5 and 5097.98. Notify NAHC and MLD.	County Coroner and City of San Bernardino Planning Division	
GEOLOGY AND SOILS			
PPP WQ-1: SWPPP. Prior to grading permit issuance, the project developer shall have a Stormwater Pollution Prevention Plan (SWPPP) prepared by a QSD (Qualified SWPPP Developer) pursuant to the Municipal Code Chapter 13.54. The SWPPP shall incorporate all necessary Best Management Practices (BMPs) and other City requirements to comply with the National Pollutant Discharge Elimination System (NPDES) requirements to limit the potential of polluted runoff during construction activities. Project contractors shall be required to ensure compliance with the SWPPP and permit periodic inspection of the construction site by City of San Bernardino staff or its designee to confirm compliance.	In construction plans and specifications. Prior to grading and building permits.	City of San Bernardino Planning Division	

Mitigation Measures	Action and Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
PPP WQ-2: WQMP. Prior to grading permit issuance, the project developer shall have a Water Quality Management Plan (WQMP) approved by the City for implementation. The project shall comply with the City's Municipal Code Section 13.54 and the Municipal Separate Storm Sewer System (MS4) permit requirements in effect for the Regional Water Quality Control Board (RWQCB) at the time of grading permit to control discharges of sediments and other pollutants during operations of the Project.	In construction plans and specifications. Prior to grading and building permits.	City of San Bernardino Planning Division	
HYDROLOGY AND WATER QUALITY			
PPP WQ-1: SWPPP. As described above.	As described above.	As described above.	
PPP WQ-2: WQMP. As described above.	As described above.	As described above.	
HAZARDS AND HAZARDOUS MATERIALS			
Mitigation Measure HAZ-1: Disposal of Illegally Dumped Materials. The Project applicant is responsible for ensuring the proper disposal of any and all illegally dumped materials currently on the Project site, in compliance with the City of San Bernardino Municipal Code Chapter 8.24. Proper disposal of all illegally dumped materials onsite must be completed before any construction activities begin. Signs or fences shall be installed onsite to assist in preventing future onsite dumping of potentially hazardous materials prior to construction.	Disposal of all illegally dumped materials currently on the Project site. Prior to start of construction activities.	City of San Bernardino Planning Division	
TRIBAL CULTURAL RESOURCES			
Mitigation Measure TCR-1: Retain a Native American Monitor Prior to Commencement of Ground-Disturbing Activities. A. The project applicant/lead agency shall retain a Native American Monitor from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation. The monitor shall be retained prior to the commencement of any "ground-disturbing activity" for the subject project at all project locations (i.e., both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). "Ground-disturbing activity" shall include, but is not	In construction plans and specifications. Retain a Native American Monitor from or approved by the Gabrieleño Band of Mission Indians – Kizh Nation. Prior to the commencement of any ground-disturbing activity or the issuance of any	City of San Bernardino Planning Division and Native American Monitor.	

Mitigation Measures	Action and Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching. B. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity. C. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/lead agency upon written request to the Tribe. D. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant/lead agency that no future, planned construction activity and/or development/construction phase at the project site possesses the potential to impact Kizh TCRs.	permit necessary to commence a ground-disturbing activity. On-site tribal monitoring during ground-disturbing activities.		
Mitigation Measure TCR-2: Unanticipated Discovery of Tribal Cultural Resource Objects (Non-Funerary/Non-Ceremonial). Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Kizh monitor and/or Kizh archaeologist. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe's sole discretion, and	In construction plans and specifications. Upon discovery of any TCRs halt construction activities until resources are assessed and retained by Kizh Nation.	Qualified Professional Archeologist/ City of San Bernardino Planning Division.	

Mitigation Measures	Action and Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.			
Mitigation Measure TCR-3: Unanticipated Discovery of Human Remains and Associated Funerary or Ceremonial Objects. A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute. B. If Native American human remains and/or grave goods are discovered or recognized on the project site, then Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5 shall be followed. C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). D. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. E. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.	In construction plans and specifications. Upon discovery of human remains during construction activities, follow Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5.	Qualified Professional Archeologist/ City of San Bernardino Planning Division.	
PPP CUL-1: Human Remains. As described above.	As described above.	As described above.	
UTILITIES AND SERVICE SYSTEMS			
PPP WQ-1: WQMP. As described previously.	As described above.	As described above.	