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SENT VIA E-MAIL: November 20, 2020

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Draft Environmental Impact Report (Draft EIR) for Proposed Merrill Commerce Center Specific Plan (Proposed Project) (SCH No.: 2019049079)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended revisions to the air quality impact analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) that the Lead Agency should include in the Final EIR.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to demolish 54,887 square feet of existing residential structures and construct 6,312,600 square feet of high-cube fulfillment warehouses, 701,400 square feet of high-cube cold storage warehouses, and 1,441,000 square feet of business park uses on 376 acres (Proposed Project). The Proposed Project is located on the southwest corner of Eucalyptus Avenue and Carpenter Avenue in the City of Ontario. Construction is anticipated to start in 2020 and will occur in three phases[1]. Phase A will become operational in 2022 while Phases B and C will be under construction[2]. At full buildout in 2026, the Proposed Project will generate 19,806 average daily vehicular trips, 3,520 of which would be heavy-duty diesel trucks[3]. The nearest sensitive receptors (i.e. residential uses) are located 94 feet east of the Proposed Project[4].

South Coast AQMD Staff's Comments

Based on a review of the Draft EIR and supporting technical appendices, South Coast AQMD staff has six main comments. A summary of these comments is provided as follows with additional details provided in the attachment.

1. CEQA Air Quality Analysis for Regional Construction Air Quality Impacts: In the Draft EIR, the Lead Agency discussed a need to excavate and dispose contaminated soil at the Proposed Project but did not quantify emissions from soil removal and hauling activities. The Lead Agency should quantify those emissions in the Final EIR.

2. Air Dispersion Modeling Parameter: The air dispersion modeling performed in the Draft EIR did not use a uniform Cartesian grid and instead placed 21 discrete receptors within

[1] Draft EIR. Chapter 3. Project Description. Page 3-19.
[2] *Ibid*.
[3] Draft EIR. Section 4.2 Transportation. Page 4.2-10.
[4] Draft EIR. Section 4.3 Air Quality. Page 4.3-56

the modeling domain. The Lead Agency should provide additional information to justify this modeling parameter in the Draft EIR.

3. Mobile Source Health Risk Assessment (HRA): In the Draft EIR, the Lead Agency used the 80th percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years to calculate cancer risk for these two age bins. Since operation of the Proposed Project involves 3,520 daily truck trips, and the nearest sensitive receptors are located within 100 feet of the Proposed Project, South Coast AQMD staff recommends the use of the 95th percentile daily breathing rate to calculate the Proposed Project's cancer risk in the Final EIR.

4. Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2: In the Draft EIR, the Lead Agency assumed the use of Tier 4 construction equipment to quantify the Proposed Project's mitigated regional construction emissions; however, MM 4.3.2 allows for the use of Tier 3 construction equipment. The Proposed Project's construction emissions that can be mitigated by MM 4.3.2 may have been overestimated. The Lead Agency should strengthen MM 4.3.2 to require the use of Tier 4 construction equipment without a step-down to allow the use of Tier 3 construction equipment or re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR.

5. Additional Recommended Mitigation Measures: In the Draft EIR, the Lead Agency requires the use of trucks that comply with the state's Truck and Bus Regulation. Since the Proposed Project involves the use of 3,520 daily truck trips during operation, and to further reduce the Proposed Project's significant operational NOx emissions, the Lead Agency should require or, at a minimum, incentivize the use of zero-emissions or near-zero emissions heavy-duty trucks in the Final EIR.

6. South Coast AQMD Rule 403(e): The Proposed Project is a large operation of approximately 376 acres and is subject to the requirements of South Coast AQMD Rule 403(e) – Additional Requirements for Large Operations. The Lead Agency should discuss Rule 403(e) in the Final EIR.

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, if the Lead Agency makes the findings that the recommended revisions to the existing mitigation measure 4.3.2 and additional recommended air quality mitigation measures are not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Air Quality Specialist, at amullins@aqmd.gov, should you have any questions or wish to discuss the comments.

Sincerely,

Lijin Sun

Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

Attachment
LS:AM
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Control Number

ATTACHMENT

South Coast AQMD Staff's Summary of the Air Quality Analysis and Health Risk Assessment

In the Air Quality Analysis Section of the Draft EIR, the Lead Agency quantified the Proposed Project's regional construction emissions and found that the Proposed Project's regional construction air quality impacts from VOC and NOx emissions would be significant at 108 pounds per day (lbs/day) and 148 lbs/day[5], respectively. The Lead Agency is committed to implementing Mitigation Measure (MM) 4.3.1 and MM 4.3.2. MM 4.3.1 requires the use of super compliant low VOC paints with no more than 10 grams per liter of VOC[6]. MM 4.3.2 requires that large, off-road construction equipment meet Tier 4 engine standards, unless Tier 4 equipment is not available within 50 miles of the Proposed Project, in which case Tier 3 equipment can be used instead[7]. With implementation of MM 4.3.1 and MM 4.3.2, the Proposed Project's regional construction air quality impacts from VOC and NOx emissions would be reduced to less than significant at 29 lbs/day and 81 lbs/day, respectively[8].

The Lead Agency quantified the Proposed Project's regional operational emissions and found that the Proposed Project's regional operational air quality impacts from VOC, NOx, CO, PM10, and PM2.5 emissions would be significant[9]. The Lead Agency is committed to implementing MMs 4.3.3 through 4.3.8. MMs 4.3.3 through 4.3.8 require posting of anti-idling signage, provision of information on funding opportunities for clean trucks, installation of electric vehicle (EV) charging stations, future EV truck charging infrastructure, and electrical hookups for transportation refrigeration units (TRUs), and use of clean trucks that comply with the state's Truck and Bus Regulation[10]. The Lead Agency found that the Proposed Project's operational air quality impacts would remain significant and unavoidable after mitigation[11]. The Lead Agency also analyzed the Proposed Project's air quality impacts from overlapping construction and operational activities, combined the emissions to be compared to South Coast AQMD's CEQA significance thresholds for operation[12], and found that the Proposed Project would result in significant and unavoidable air quality impacts from VOC, NOx, CO, PM10, and PM2.5 emissions even after implementing MMs 4.3.3 through MM 4.3.8[13].

The Lead Agency analyzed the Proposed Project's localized air quality impacts and found them to be less than significant[14]. The Lead Agency also calculated the Proposed Project's cancer risks from construction and operational activities in the Draft EIR. At the maximum exposed individual receptor, the Proposed Project's construction activities would result in a cancer risk of 2.92 in one million[15], and the Proposed Project's operational activities would result in a cancer

[5] *Ibid.* Page 4.3-42
[6] *Ibid*. Page 4.3-43
[7] *Ibid.*
[8] *Ibid*. Page 4.3-44.
[9] *Ibid*. Pages 4.3-45 to 4.3-47.
[10] *Ibid.* Pages 4.3-49 to 4.3-50.
[11] *Ibid*.
[12] *Ibid*. Pages 4.3-51 to 4.3-52.
[13] *Ibid*.
[14] *Ibid.* Pages 4.3-54 to 4.3-64.
[15] *Ibid*. Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Construction Health Risk Assessment Memorandum". Page 13.

risk of 9.34 in one million[16]. Therefore, the Lead Agency found that the Proposed Project's cancer risks would not exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk[17].

South Coast AQMD staff's detailed comments on the CEQA air quality impacts analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) are provided as follows.

1. <u>CEQA Air Quality Analysis for Regional Construction Air Quality Impacts</u>

Based on a review of the Air Quality Section of the Draft EIR, South Coast AQMD staff found that the Lead Agency quantified the Proposed Project's regional construction emissions from demolition and building activities but did not quantify emissions from soil removal and hauling activities. Since "[n]o unusual grading conditions are present and substantial import or export of earth materials is not expected", the regional construction air quality impact analysis did not quantify emissions from any type of soil export or import at this time[18].

In the Hazards and Hazardous Materials Section of the Draft EIR, the Lead Agency explained that based on historical site usage (i.e. agriculture and dairy farming), the Proposed Project site may have soil contamination[19]. According to Mitigation Measure (MM) 4.6.1, the Proposed Project will be required to develop a Soil Management Plan (SMP), which will include soil excavation, handling, monitoring, and disposal protocols[20].

Soil removal and hauling activities will likely involve the use of heavy-duty, diesel-fueled trucks and generate mobile source emissions. The Lead Agency should use good faith, best efforts to provide information on the scope, types, and duration of any reasonably foreseeable soil removal and hauling activities. Therefore, South Coast AQMD staff recommends that the Lead Agency quantify emissions from removing and hauling contaminated soil and include those emissions in the Proposed Project's regional construction emissions profile to be compared to South Coast AQMD's regional air quality CEQA significance thresholds for construction to determine the level of significance in the Final EIR. If those emissions are not included in the Final EIR, the Lead Agency should provide reasons for not including them supported by substantial evidence in the record. If the reason for not including them in the Final EIR is because soil removal and disposal measures in the SMP have not been fully developed or approved prior to the certification of the Final EIR, the Lead Agency should commit to evaluating the air quality impacts from soil removal and hauling activities through a CEQA process when the measures become known and prior to allowing the commencement of any soil removal and hauling activities at the Proposed Project.

[16] Draft EIR. Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Mobile Source Health Risk Assessment". Page 2.

[17] South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk is based on the most current methodology recommended by the California Office of Environmental Health Hazard assessment.

[18] Draft EIR. Executive Summary. Page 1-6.

[19] *Ibid*. Section 4.6 Hazards and Hazardous Materials. Pages 4.6-5 to 4.6-12.

[20] *Ibid.* Page 4.6-55.

2. Air Dispersion Modeling Parameter

To analyze the Proposed Project's localized air quality impacts during operation, the Lead Agency performed project-specific air dispersion modeling in the Draft EIR. South Coast AQMD staff recommends that the Lead Agency revise the modeling parameters based on the following comment.

Receptor Grid

a) Upon review of the air dispersion modeling files, South Coast AQMD staff found that the Lead Agency did not use a uniform Cartesian grid and instead placed 21 discrete receptors within the modeling domain. This placement may not have identified the maximum impacted receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency use a uniform Cartesian grid with a spacing of 100 meters or less for all distances less than 1,000 feet or provide additional information to demonstrate that the maximum off-site concentrations are identified with placement of discrete receptors in the Final EIR.

3. Mobile Source Health Risk Assessment (HRA)

The Proposed Project includes operation of 7,014,000 square feet of warehouses, which are expected to generate 3,520 daily truck trips. Surrounding sensitive receptors to the Proposed Project would be exposed to diesel particulate matter (DPM) from the transportation and idling of trucks visiting the Proposed Project. DPM is a toxic air contaminant and a carcinogen. The Lead Agency performed a mobile source HRA to determine if operation of the Proposed Project would result in a significant incremental increase in potential cancer risk to surrounding sensitive receptors (i.e., residential units within 94 feet of the Proposed Project). As stated above, operation of the Proposed Project would result in a cancer risk of 9.34 in one million.

The Proposed Project's operational health risk impacts may have been underestimated in the Draft EIR. The Lead Agency used the 80th percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years[21]. When there are different daily breathing rates for the same age bin, the most conservative daily breathing rates such as the 95th percentile daily breathing rate may be used to calculate cancer risk to nearby sensitive receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency revise the mobile source HRA to re-calculate the Proposed Project's cancer risk based on the 95th percentile daily breathing rates or provide additional information that the use of 80th percentile daily breathing rate is more appropriate for the age bins 2 to 16 years and 16 to 30 years in the Final EIR.

4. Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2

In the Draft EIR, the Lead Agency is committed to using Tier 4 construction equipment unless Tier 4 construction equipment is not available within 50 miles of the Proposed Project in which case the use of Tier 4 construction equipment can be exempt and Tier 3 construction equipment can be used instead[22]. According to the CalEEMod output files for the Proposed Project, the Lead Agency calculated the Proposed Project's mitigated construction emissions based on the

[21] Draft EIR. Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Mobile Source Health Risk Assessment: Appendix 2.2 Risk Calculations". PDF Pages 3956 to 3960.

[22] Draft EIR. Section 4.3 Air Quality. Page 4.3-43.

use of Tier 4 Final construction equipment with no exemption provision. This is not appropriate. The Lead Agency likely over-estimated the Proposed Project's construction NOx emissions that can be mitigated by relying on emission reductions from Tier 4 Final construction equipment when the Proposed Project can be exempt from being required to use such equipment. Therefore, South Coast AQMD staff recommends that the Lead Agency remove the exemption provision from MM 4.3.2 to strengthen the mitigation requirement for off-road construction equipment as follows. Alternatively, the Lead Agency may re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR to be consistent with the exemption provision in MM 4.3.2.

Mitigation Measure 4.3.2

> Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Final Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short-term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off-road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written construction documents by construction contractor(s) to ensure compliance and conduct regular inspections to the maximum extent feasible to ensure compliance.

5. Additional Recommended Mitigation Measures

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the Proposed Project will result in significant and unavoidable emissions, particularly from NOx emissions at 870 lbs/day after mitigation, and to further reduce the Proposed Project's operational air quality impacts, South Coast AQMD staff recommends that the Lead Agency require the use of cleaner trucks and incorporate the following additional operational mitigation measures in the Final EIR.

a) Require the use of zero-emissions (ZE) or near-zero emissions (NZE) trucks during operation, such as trucks with natural gas engines that meet the CARB's adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. Include environmental analyses to evaluate and identify sufficient electricity and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the Final EIR, where appropriate. Include the use of cleaner trucks as a requirement in applicable bid documents, purchase orders, contracts, and sale or leasing agreements. To monitor and ensure that cleaner trucks are used at the Proposed Project, the Lead Agency should require that operators maintain records of all trucks and equipment associated with

the Proposed Project's operation and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by warehouse owners or operators and conduct regular inspections of the records to the maximum extent feasible and practicable.

Technology is transforming the transportation sector at a rapid pace. Cleaner trucks such as ZE or NZE trucks are increasingly more feasible and commercially available as technology advances. Given the state's clean truck rules and regulations aiming to accelerate the utilization and market penetration of ZE and NZE trucks such as the Advanced Clean Trucks Rule[23] and the Heavy-Duty Low NOx Omnibus Regulation[24], ZE and NZE trucks will become increasingly more available to use.

If using ZE or NZE trucks as a mitigation measure to reduce the Proposed Project's operational air quality impacts is not feasible at the time that the Final EIR is certified or the Proposed Project is approved, cleaner trucks could become feasible in a reasonable period of time within the operational lifetime of the Proposed Project, which starts in 2026 (CEQA Guidelines Section 15364). Therefore, the Lead Agency should require a phase-in schedule to incentive the use of these cleaner operating trucks to reduce any significant adverse air quality impacts and develop a process with performance standards to deploy the lowest emission technologies and incentivize the use of ZE or NZE heavy-duty trucks during operation (CEQA Guidelines Section 15126.4(a)). The Lead Agency can and should develop the performance standards as follows or any other comparable standards in the Final EIR. South Coast AQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency.

- Develop a minimum amount of ZE or NZE heavy-duty trucks that the Proposed Project must use during each year of the operation to ensure adequate progress. Include this requirement in the Proposed Project's tenant selection and operation management bid documents and business agreement.

- Establish a tenant/truck operator(s) selection policy that prefers tenant/truck operator(s) who can supply the use of ZE or NZE heavy-duty trucks at the Proposed Project. Include this policy in the bid documents and business agreement.

- Develop a target-focused and performance-based process and timeline to review the feasibility of implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and timeline in the Proposed Project's tenant selection and operation management bid documents and business agreement.

[23] CARB. June 25, 2020. *Advanced Clean Trucks Rule*. Accessed at: https://ww2.arb.ca.gov/our-work/programs/advanced-clean-trucks.

[24] CARB has recently passed a variety of new regulations that require new, cleaner heavy-duty truck technology to be sold and used in state. For example, on August 27, 2020, CARB approved the Heavy-Duty Low NOx Omnibus Regulation, which will require all trucks to meet the adopted emission standard of 0.05 g/hp-hr starting with engine model year 2024. Accessed at: https://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox.

- Develop a project-specific process and criteria for periodically assessing progress in implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and criteria in the Proposed Project's tenant selection and operation management bid documents and business agreement.

b) Limit the daily number of truck trips allowed at the Proposed Project to the level that was used to analyze the Proposed Project's air quality and health risk impacts in the Final EIR (e.g., 3,520 daily truck trips during operation). If it is reasonably foreseeable before the Final EIR is certified that the Proposed Project would generate more than 3,520 daily truck trips, the Lead Agency should take into account additional daily truck trips and re-evaluate the Proposed Project's air quality and health risk impacts (CEQA Guidelines Section 15088.5). If information becomes available, after the Proposed Project is approved, suggesting that the Proposed Project will generate more than 3,520 daily truck trips during operation, the Lead Agency should evaluate if a Subsequent EIR is required under CEQA Guidelines Section 15162.

Design considerations for the Proposed Project that the Lead Agency should consider to further reduce air quality and health risk impacts include the following:

c) Design the Proposed Project such that truck entrances and exits are not facing sensitive receptors and trucks will not traversing through sensitive land uses to enter or leave the Proposed Project site.

d) Design the Proposed Project to ensure that truck traffic within the Proposed Project site is located as far away as feasible from sensitive receptors.

e) Restrict overnight parking in sensitive land uses by providing overnight parking within the Proposed Project site.

6. <u>South Coast AQMD Rule 403(e)</u>

Since the Proposed Project is a large operation of approximately 376 acres[25] (50-acre sites or more of disturbed surface area; or daily earth-moving operations of 3,850 cubic yards or more on three days in any year) in the South Coast Air Basin, the Lead Agency is required to comply with Rule 403(e) – Additional Requirements for Large Operations[26]. Additional requirements may include, but are not limited to, Large Operation Notification (Form 403 N), appropriate signage, additional dust control measures, and employment of a dust control supervisor that has successfully completed the Dust Control in the South Coast Air Basin training class[27]. Therefore, the Lead Agency should include a discussion to demonstrate specific compliance with South Coast AQMD Rule 403(e) in the Final EIR. Compliance with South Coast Rule 403(e) will further reduce regional and localized emissions from particulate matters during construction.

[25] Draft EIR. Executive Summary. Page 1-1.

[26] South Coast AQMD. Rule 403. Last amended June 3, 2005. Accessed at: http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403.pdf.

[27] South Coast AQMD Compliance and Enforcement Staff's contact information for Rule 403(e) Large Operations is (909) 396-2608 or by e-mail at dustcontrol@aqmd.gov.