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January 27, 2020

Ms. Erica Gutiérrez
Senior Regional Planner
County of Los Angeles, Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

RE: Mitigated Negative Declaration for the Bridge Point South Bay II – Warehouse Project
(SCH # 2019099067)

Dear Ms. Gutiérrez:

Thank you for the opportunity to provide comments on the County of Los Angeles's Mitigated Negative Declaration (MND) for the Bridge Point South Bay II Warehouse Project ("the Project") in the unincorporated community of West Carson. The MND uses a flawed emissions model and proposes insufficient mitigation for the Project's potentially significant impacts. We respectfully submit these comments urging the County to conduct further environmental analysis pursuant to the California Environmental Quality Act (CEQA) to ensure the Project's environmental impacts are understood, disclosed, and mitigated to the maximum feasible extent.¹

I. THE PROJECT SEEKS TO CONSTRUCT A WAREHOUSE IN A HIGHLY POLLUTED COMMUNITY OF COLOR.

The Project is a 203,877-square-foot concrete warehouse building planned within 15 feet of a residential community of color. The warehouse will have 21 dock doors and expects 74 daily truck trips to and from the Project, along with 283 passenger vehicle trips by on-site employees. It is expected to operate 24 hours a day, seven days a week. While the MND provides that the Project will not be a cold storage warehouse, it foresees that some diesel transport refrigeration units (TRUs) may utilize the Project site. Trucks with TRUs emit

¹ The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600–12; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14–15.)

significantly higher levels of toxic diesel particulate matter (PM), nitrogen oxides (NO_x), and greenhouse gas emissions than trucks without TRUs.

The Project is located on the southeast corner of Normandie Avenue and Torrance Boulevard in a dense residential area. The site borders existing homes to the north, west, and east—some as close as 15 feet from the site boundary. According to the 2017 American Community Survey, 2,249 individuals live within approximately 1,000 feet of the site, 84 percent of whom are people of color.² In addition to residents, there are multiple sensitive receptors within a mile of the site, including two elementary schools,³ an Early Head Start Center, and the Harbor-UCLA Medical Center.

The local community is dealing with increased air pollution, traffic, and noise as logistics facilities proliferate in the area. North of the Project site, the Farmer Brothers coffee roasting facility was replaced with a 512,000-square-foot industrial warehouse in 2017, intensifying truck traffic in the immediate area.⁴ The surrounding area is subject to heavy truck volume and truck-related collisions, notwithstanding its residential character.⁵ The site is in the South Coast Air Basin, which is currently designated as a non-attainment area for ozone and PM_{2.5} by the U.S. Environmental Protection Agency and as a non-attainment area for ozone, PM₁₀, and PM_{2.5} by the California Air Resources Board (CARB).

The neighborhoods around the Project already face high levels of pollution. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, the Project's census tract, which includes the residential area to the north, south and east of the site, ranks worse than 96 percent of the rest of the state for pollution burden.⁶ Directly across Normandie Avenue to the west is a residential neighborhood that ranks

² EPA EJ Screen <<https://ejscreen.epa.gov/mapper/>> (as of Jan. 10, 2020).

³ Van Deene Avenue Elementary's 357 students are 96.6% people of color, 80.6% free/reduced lunch eligible and Halldale Elementary's 502 students are 95.2% people of color, 83.4% free/reduced lunch eligible. (*National Center for Education Statistics*, <<https://nces.ed.gov/ccd/schoolsearch/>> [as of Dec. 9, 2019]).

⁴ Claran McEvoy, *South Bay Industrial Space Sells for \$103 Million*, *Los Angeles Business Journal* (April 20, 2018) <<https://labusinessjournal.com/news/2018/apr/20/south-bay-industrial-space-sells-103-million/>> (as of January 10, 2020).

⁵ Los Angeles County Metropolitan Transportation Authority, *Countywide Strategic Truck Arterial Network (CSTAN), Appendix C STAN Maps of Supporting Data* <http://media.metro.net/projects_studies/call_projects/images/15_Appendix_C_data_maps.pdf> (as of Jan. 10, 2020).

⁶ CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. (*CalEnviroScreen 3.0*, Cal. Off. Environmental Health Hazard Assessment <<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>> [as of Jan. 10, 2020].) A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. (Faust et al., *Update to the California Communities Environmental Health Screening Tool, CalEnviroScreen 3.0* (Jan. 2017) Cal. Off. Environmental

in the 99th percentile for pollution burden and 84th percentile for population vulnerability. These neighborhoods have high pollution burdens attributable to contaminated sites and solid waste and hazardous waste facilities in the area. The Project's census tract is in the 99th percentile for cleanups, the 97th percentile for solid waste, the 91st percentile for toxic releases, the 88th percentile for hazardous waste, and the 82nd percentile for groundwater threats. Air pollution is also a problem for the community, which scores high on PM_{2.5} (82nd percentile), traffic density (84th percentile), and diesel particulate matter (73rd percentile). The tract west of Normandie Avenue scores above the 90th percentile in nearly every metric of pollution: cleanups (99th percentile), hazardous waste (98th percentile), traffic density (95th percentile), toxic releases (94th percentile), impaired water (94th percentile), groundwater threats (91st percentile), solid waste (90th percentile), and PM_{2.5} (82nd percentile). The western neighborhood also faces challenges from poverty, unemployment, and housing burden.

The Project threatens to generate further air and noise pollution, as well as traffic, in this community of color.

II. THE MND UTILIZES AN OUTDATED EMISSIONS MODEL.

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects.⁷ To comply with CEQA, the lead agency must make "a reasoned and good faith effort to inform decision makers and the public" about a project's potential impacts.⁸ Using scientifically outdated data or models does not comply with CEQA's requirement that agencies make "a good faith effort at full disclosure."⁹

As other commenters have noted, the MND used an outdated model to calculate emissions from mobile sources. The MND relies upon CARB's 2014 Emission Factors model (EMFAC2014), rather than the current model (EMFAC2017). EMFAC2017 includes important differences from the EMFAC2014 in projections relevant to the Project.¹⁰ For instance, NO_x emissions from heavy-duty trucks are significantly higher in the new model. Similarly, PM emissions are higher for heavy-duty trucks and the idling emissions rate is higher.

Given the cumulative impact of air pollution from existing stationary and mobile sources in this community, it is even more essential that the MND provide accurate estimates of how the

Health Hazard Assessment <<https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>> [as of Jan. 10, 2020].)

⁷ Pub. Resources Code, §§ 21000–21002.1.

⁸ *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs* (2001) 91 Cal. App. 4th 1344, 1367, as modified on denial of reh'g (Sept. 26, 2001).

⁹ CEQA Guidelines, § 15151; see also *Berkeley Keep*, 91 Cal. App. 4th at 1367.

¹⁰ Cal. Air Resources Bd., *EMFAC2017: An Update to California On-road Mobile Source Emission Inventory* (June 1, 2017) <https://ww3.arb.ca.gov/msei/downloads/emfac2017_workshop_june_1_2017_final.pdf> (as of Ja. 10, 2020).

Project will contribute to air pollution. Without accurate projections, it is not possible for the Project to ensure full mitigation of potentially significant impacts. The County should use the EMFAC2017 model to project the Project's mobile source emissions to comply with CEQA's good faith disclosure requirements.

III. THE MND FAILS TO INCLUDE ALL FEASIBLE MITIGATION MEASURES.

CEQA requires a lead agency to adopt all feasible mitigation measures that minimize the significant environmental impacts of a project.¹¹ An MND's mitigation measures must be specific, binding, and enforceable.¹² Here, the Project's MND lists potential impacts to more than a dozen categories, but finds that mitigation measures will make those impacts less than significant. Review of the proposed mitigation measures, however, reveals that they will be insufficient to protect the community from significant environmental impacts and that additional mitigation is feasible.

A. Mitigation of Air Emissions from Construction

The MND predicts that the Project's demolition phase will exceed the PM₁₀ threshold without mitigation. Additionally, its grading phase is close to surpassing the PM₁₀ and PM_{2.5} thresholds. Especially given the proximity of the nearest sensitive receptor, it is imperative that the Project mitigate the risk of additional particulate matter emissions on the nearby residents to the extent feasible.

The MND includes only one air quality mitigation measure during construction, Mitigation Measure 3-1, which requires the construction contractor to take various protective measures to help reduce construction dust. However, the Draft Mitigation Monitoring and Reporting Program (MMRP) requires implementation of this measure only in the grading phase of construction, and not the demolition phase. Thus, the MND fails to mitigate any particulate matter emissions from the demolition phase of construction, the phase that the County estimates will produce emissions over the significance threshold. The County should apply this measure to all phases of construction.

Another mitigation measure meant to target the significant greenhouse gas emissions from construction, Greenhouse Gas Emissions Mitigation Measure 8-4, is not binding and unenforceable. This measure suggests the construction contractor must use electric-powered construction equipment, but only if he or she feels it accomplishes the same work as gasoline- or diesel-powered equipment, at a similar level of efficiency, when available. Given these loopholes, it is unlikely any mitigation pursuant to this measure will occur.

To remedy this lack of enforceability, the Project should require that the Project utilize

¹¹ Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4, subd. (a)(1).

¹² Cal. Code Regs., tit. 14, § 15071, subd. (e); Pub. Resources Code, § 21081.6, subd. (b); Cal. Code Regs., tit. 14, § 15126.4, subd. (a)(2).

electric-powered, battery-powered, or hybrid construction equipment where commercially available,¹³ and incorporate this requirement into the contract or contract specifications, which shall be submitted to the Los Angeles County Department of Public Works for review and approval.

Furthermore, there are additional feasible mitigation measures that the County could include to mitigate air emissions during construction. For example, the Project could adopt CARB's recommended construction measures, including requiring off-road equipment with a power rating below 19 kilowatts be battery-powered and limiting site access during construction phases to only allow heavy-duty trucks manufactured in model year 2014 or later.

B. Mitigation of Impacts from Operation

In addition to improving the construction mitigation, further mitigation is warranted to address the Project's impacts to air quality, greenhouse gas emissions, noise, and traffic.

First, although the MND assumes that the Project will not be a cold storage warehouse, the mitigation measures do nothing to prohibit TRUs from using the space. As mentioned above, cold storage warehouses and trucks with refrigeration emit significantly higher levels of air pollution. The County should include a restrictive covenant that prohibits the use of TRUs within the site boundaries. Without this restriction, there is not an enforceable mechanism to prevent the facility from operating in a more polluting manner not disclosed in the CEQA process.

Second, the MND finds that minimal mitigation will eliminate the Project's significant greenhouse gas emissions impacts. For instance, the MND states that the Project is consistent with green building development measures because it will have a "cool roof," pre-wiring for electric charging stations, and a "solar ready" roof that lacks solar panels. While these measures would allow for future improvements to the Project that could mitigate greenhouse gas emissions, they would not provide any mitigation for the Project's impacts without such future action. The County instead should require specific, enforceable measures to mitigate its climate impact in accordance with regional policies. For instance, the Project could follow through on commitments made to the Department of Toxic Substances Control (DTSC) by the Project applicant in September 2017,¹⁴ including a commitment to construct the warehouse to Leadership in Energy and Environmental Design (LEED) standards. Constructing the building to LEED standards would involve taking a variety of specific and enforceable measures to

¹³ Holian & Pyeon, *Analyzing the Potential of Hybrid and Electric Off-Road Equipment in Reducing Carbon Emissions from Construction Industries* (2017) Mineta Transportation Institute, <https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1233&context=mti_publications> (as of Jan. 21, 2020).

¹⁴ Letter from Bridge to DTSC (Sept. 7, 2017) <https://www.envirostor.dtsc.ca.gov/public/deliverable_documents/5706785440/Bridge%20Request%20for%20Oversight%20Ltr.%209.1.17.pdf> (as of Jan. 21, 2020).

reduce the climate impact of the Project.

Third, the Project's Noise Property Design Feature 13-1 is too vague to qualify as enforceable mitigation. Noise Property Design Feature 13-1 states that "[n]o outdoor operations shall be permitted within 74 feet of the eastern property line during night and early morning hours, which are to be determined." The MND defines "outdoor operations" narrowly to mean employee parking or driving, but it does not include outdoor trucking activity, such as trucks accessing and traversing the site. Furthermore, the MND does not specify which hours qualify as "night and early morning hours." The County should strengthen this mitigation measure to make it clear, specific, and enforceable in order to prevent noise impacts to the residents living in close proximity to the Project.

Fourth, the Project's traffic mitigation measures may not prevent potential harm to nearby residents. Air Quality Property Design Feature 3-3 states that trucks will be limited to use of the Normandie Avenue driveway during the Project's operations. However, based on the renderings in the MND, the Torrance Boulevard entrances lack any structural design features or barriers that would prevent entrance by trucks, who could then drive or idle within roughly 50 feet of nearby homes. Furthermore, the MND does not require that trucks accessing the Project adhere to authorized truck routes, nor prohibit them from using streets in the nearby residential communities. This is a further commitment made by the Project applicant to DTSC in September 2017.

Given the increase in warehouse facilities and truck emissions exposing the already vulnerable surrounding community to excessive air pollution, it is critical that the County adopt all feasible measures to mitigate the Project's potentially significant environmental impacts. The Attorney General's Office would be happy to provide any assistance it can as the County considers how best to mitigate the Project's impacts.

C. The Project Will Have the Significant Impact of Conflicting with Adopted Land Use Plans and Therefore the County Should Prepare an EIR

Conflict with applicable land use plans, policies, or regulations, adopted to avoid or mitigate environmental effects, qualifies as an environmental impact under CEQA.¹⁵ Furthermore, whenever there is a fair argument of significant environmental impact, such as an inconsistency with a local land use plan, the lead agency should prepare an environmental impact report.¹⁶ The Project conflicts with several provisions of the Los Angeles County General Plan and Climate Action Plan. The County General Plan has several policies that require a buffer between incompatible land uses, including Policy N 1.11, Policy ED 2.2, and Policy LU 7.1. Yet, as planned, the Project will construct an industrial warehouse on a site located 15 feet from residential homes. CARB recommends a 300-meter (1,000-foot) buffer between sensitive receptor locations and sources of truck traffic emissions, like distribution centers. A more

¹⁵ *Friends of Riverside's Hills v. City of Riverside* (2018) 26 Cal.App.5th 1137, 1150.

¹⁶ *Id.* at p. 1151.

substantial buffer is necessary to mitigate many of the Project's impacts on the surrounding community and to comply with General Plan policies.

If the size of the Project were reduced, it would be possible to create a larger buffer between the warehouse and surrounding sensitive receptors. For instance, the Project could install a vegetative buffer of at least 13 feet in height and 16.4 to 32 feet in width on the east and west sides, in addition to a solid barrier, to effectively lower concentrations of ultrafine particulates.¹⁷

Furthermore, the Project is inconsistent with several measures of the Los Angeles County's Climate Action Plan. The County's Climate Action Plan requires encouragement of ride- and bike-sharing programs and employer-sponsored vanpools and shuttles. Yet the MND does not address this requirement. The Project is also inconsistent with the Climate Action Plan's policy of promoting sustainability in land use design. The MND suggests that siting an industrial warehouse within feet of residences is an example of compliance with this policy. However, this is an example of incompatible land use development rather than a diversity of urban and suburban developments that would further sustainability.

The County should study and address the Project's conflict with the County's General Plan and Climate Action Plan in a full environmental impact report.

IV. CONCLUSION

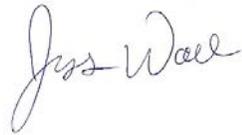
CEQA provides the opportunity for transparent, thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant environmental impacts prior to project approval. Further, "CEQA requires an agency to prepare an EIR for a project 'whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact.'"¹⁸ In evaluating the Project's impacts, the County should consider the surrounding community's already-high pollution burden and the cumulative impact of siting another industrial warehouse close to residences, schools, childcare facilities, and a medical center. The County needs to revise existing mitigation measures to make them binding and enforceable. In addition, further mitigation is necessary and feasible to address the Project's potentially significant impacts. Finally, given the Project's inconsistencies with General Plan and Climate Action Plan policies, there is a fair argument that the Project may have a significant environmental impact and warrant preparation of an EIR.

The Attorney General's Office is available to provide assistance to the County as it works on CEQA compliance. Please do not hesitate to contact me if you have any questions or would like to discuss these issues further.

¹⁷ University of Michigan & Great Lakes Environmental Law Center, *Vegetative Buffers and Tree Canopy: Promoting the Use of Trees to Improve Local Air Quality with Local Policy* (2018) <<http://sustainability.umich.edu/media/files/dow/VegetativeBuffersTeam1-2018-Report.pdf>> (as of Jan. 21, 2020).

¹⁸ *Friends of Riverside's Hills v. City of Riverside* (2018) 26 Cal.App.5th 1137, 1150.

Sincerely,

A handwritten signature in cursive script that reads "Jess Wall". The signature is written in black ink and is positioned above the printed name.

JESSICA WALL
Deputy Attorney General

For XAVIER BECERRA
Attorney General



Image of the proposed Project and adjacent land uses, with residential uses highlighted in green.