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May 10, 2017

Dominick Perez, Associate Planner
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

Re: Santa Anita Warehouse Project

Dear Mr. Perez:

As you know this law firm represents **Laborers International Union of North America, Local Union 783 ("LIUNA")**. By way of two separate letters dated December 8, 2016 and December 13, 2016 ("Comment Letters"), LIUNA previously submitted comments on DRC 2015-00797, otherwise known as the Santa Anita Warehouse: Oakmont Industrial Group Initial Study and Mitigated Negative Declaration.

In our Comment Letters, LIUNA raised a number of issues related to the Mitigated Negative Declaration ("MND") including, but not limited to, issues pertaining to air quality, streambed, and biological resources. Following the receipt of LIUNA's comments, the applicant's representative reached out to us in an effort to respond to and ameliorate our expressed concerns. As a result of our positive dialogue with the applicant's representatives, we now understand that the applicant has already performed and/or agreed to the following new measures:

1. Applicant has undertaken an additional San Bernardino Kangaroo Rat survey which has yielded negative results;
2. Applicant has agreed to undertake one more additional Delhi Sands Flower-loving Fly survey (which is in addition to the three prior studies which all yielded negative results and will be included in the MND). If the survey returns positive results, the Applicant would then have to mitigate any impacts to DSF pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1536.);
3. Applicant has confirmed that recent surveys show an absence of Parry's spineflower, mesa horkelia, and Brand's star phacelia;

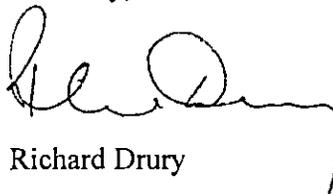
4. The previous MND identified that Applicant has agreed to implement various identified measures to mitigate impacts to the Los Angeles Pocket Mouse, San Bernardino Kangaroo Rat, and San Diego Black-Tailed Jackrabbit.
5. The previous MND identified that Applicant has agreed to implement various identified measures to mitigate potential impacts to Burrowing Owl & Coastal California Gnatcatcher.

In light of the newly agreed upon measures above, and in light of the measures already imposed as part of the original MND, **the purpose of this letter is to inform the City that LIUNA no longer opposes the project and instead now supports the prompt approval of the project. To this end, LIUNA unconditionally withdraws all of the comments made in its Comment Letters.** LIUNA urges the City to move forward and promptly approve the Project.

Finally, LIUNA does not believe that the additional analysis and measures agreed upon by the project applicant requires re-circulation of the MND. For example, under CEQA Guideline section 15073.5(b), recirculation may be required where (i) a new significant impact is identified and (ii) mitigation measures must be added to avoid the impact. Here, that Guideline does not apply for two separate reasons. First, the MND and the underlying studies have not identified any new "impact" with respect to DSF. To the contrary, all three of the underlying site specific focused surveys have all determined that no part of the Project site has ever been occupied by DSF. Simply stated, the revisions to the MND do not identify any new impact. Second, while the City has fashioned the request by the U.S. Fish and Wildlife Service ("Service") that the applicant conduct one more pre-construction survey, having been requested by the Service, this is a stand-alone and self-executing requirement of federal law (16 U.S.C. 1536) which the applicant would have to comply with regardless of what the City's MND says or does not say with respect to this issue. Thus, we believe the requirements of CEQA Guideline section 15073.5(b) have demonstrably not been satisfied and that circulation may not be required. **In fact the courts have made clear that recirculation is not required merely because the lead agency added mitigation measures requiring compliance with background and pre-existing environmental laws.** (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1356.)

We therefore request that the City do not recirculate the MND and instead request that the City schedule the project for hearing at the earliest available Planning Commission hearing. Please contact us if you have any questions or concerns. Thank you for your attention to this matter.

Sincerely,



Richard Drury