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Via E-mail

July 11, 2022

Monique Guerrero, Commissioner, Ward 1
Amelia S. Lopez, Commissioner, Ward 2
Elizabeth Sanchez, Commissioner, Ward 3
Larry Quiel, Commissioner, Ward 4
Jesus F. Flores, Commissioner, Ward 5
Dolores Armstead, Commissioner, Ward 6
Ronnie E. Lewis III, Commissioner, Ward 7
Harmoni Morales, Commissioner, Mayor's
Appointee

Planning Commission

City of San Bernardino

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**Re: Comment on the Initial Study/ Mitigated Negative Declaration for the
Amazing 34 Distribution Center Project
Planning Commission Hearing, July 12, 2022**

Dear Commissioners Guerrero, Lopez, Sanchez, Quiel, Flores, Armstead, Lewis III, and
Morales, and Mr. Martin,

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 Amazing 34 Distribution Center Project, including all actions related or
referring to the proposed demolition of two onsite warehouse distribution buildings, and
construction of a single new distribution warehouse totaling approximately 89,475
square feet located at 791 South Waterman Avenue in the City of San Bernardino
("Project").

After reviewing the IS/MND, we conclude the IS/MND fails as an informational
document, and that there is a fair argument that the Project may have adverse
environmental impacts. Therefore, we request that the City of San Bernardino ("City")
prepare an environmental impact report ("EIR") for the Project pursuant to the California
Environmental Quality Act ("CEQA"), Public Resources Code section 21000, et seq.

SAFER previously submitted comments to the City regarding the Project on April 28, 2022. SAFER incorporates those comments herein by reference. This comment has been prepared with the assistance of environmental consulting firm Soil Water Air Protection Enterprise (“SWAPE”) and noise and vibration expert Deborah Jue of the firm Wilson Ihrig. SWAPE’s and Ms. Jue’s comments and curriculum vitae are attached as Exhibit A and B hereto and are incorporated herein by reference in their entirety.

I. LEGAL STANDARD

As the Supreme Court held, “If 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 Environment v. South Coast Air Quality Management Dist. (ConocoPhillips)* (2010) 48 Cal. 4th 310, 319-320, citing, *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d at pp. 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal. App. 3d 491, 504–505. “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 Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1214; *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 University of California* (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 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.” Pub. Res. Code § 21080(d) (emphasis added); 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 (CEQA Guidelines § 15371), only if there is not even a “fair argument” that the project will have a significant environmental effect. Pub. Res. Code §§ 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*, 129 Cal.App.3d 436, 440 (1989). CEQA contains a “**preference for resolving doubts in favor of environmental review**.” *Pocket Protectors*, 124 Cal.App.4th at 927 (emphasis in original).

II. DISCUSSION

A. There is Substantial Evidence that the Project Will Have Significant Adverse Impacts Regarding Hazards and Hazardous Materials, Air Quality, Health Risks and Greenhouse Gases.

Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the MND’s analysis of the Project’s impacts on hazards and hazardous materials, air quality, health risks and greenhouse gases. SWAPE’s comment letter and CVs are attached as Exhibit A and their comments are briefly summarized here.

1. The MND Failed to Adequately Disclose the Project’s Potential Hazards and Hazardous Materials Impacts.

It is well-established that CEQA requires analysis of toxic soil contamination that may be disturbed by a Project, and that the effects of this disturbance on human health and the environment must be analyzed. CEQA requires a finding that a project has a “significant effect on the environment” if “the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” PRC §21083(b)(3). As the Court of Appeal has stated, “[a] new project located in an area that will expose its occupants to preexisting dangerous pollutants can be said to have substantial adverse effect on human beings.” *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2016) 2 Cal.App.5th 1067, 1078. The existence of toxic soil contamination at a project site is a significant impact requiring review and mitigation in the EIR. (*McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1149; *Assoc. For A Cleaner Env’t v. Yosemite Comm. College Dist.* (2004) 116 Cal.App.4th 629.)

Here, the MND violates CEQA because it failed to prepare a Phase 1 Environmental Assessment (“ESA”), and therefore the potential for hazards and hazardous materials impacts onsite was not adequately evaluated. Ex. A, p. 1. SWAPE states that the preparation of a Phase 1 ESA is common practice in CEQA matters in order to aid in the City’s determination of whether there are conditions on or near the project site which are indicative of hazardous substances. *Id.* at 2. The Phase 1 ESA includes such actions as reviewing known sites in the vicinity of the project which are undergoing assessment or cleanup activities, an inspection, and interviews with people knowledgeable about the property. *Id.*

An EIR must be prepared for the Project which includes a Phase 1 ESA in order to adequately assess any potential hazards or hazardous materials onsite. Without this additional investigation, the MND is inadequate and cannot be relied upon to determine the Project's potential impacts.

2. The MND Relied on Unsubstantiated Input Parameters to Estimate Project Emissions and Thus the Project May Result in Significant Air Quality Impacts.

SWAPE found that the MND incorrectly estimated the Project's construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project's impacts on local and regional air quality. The MND relies on emissions calculated from the California Emissions Estimator Version CalEEMod 2020.4.0 ("CalEEMod"). MND, p. 34. This model, which is used to generate a project's construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors. Ex. A at 2-3. CEQA requires any changes to the default values to be justified by substantial evidence. *Id.*

SWAPE reviewed the MND's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the MND. Ex. A at 3. As a result, the MND's air quality analysis cannot be relied upon to determine the Project's emissions.

Specifically, SWAPE found that the following values used in the MND's air quality analysis were either inconsistent with information provided in the MND or otherwise unjustified:

1. Failure to Model All Proposed Land Uses. Ex. A, p. 3.
2. Unsubstantiated Operational Off-Road Equipment Input Parameters. Ex. A, p. 3-5.
3. Incorrect Application of Energy-Related Operational Mitigation Measure. Ex. A, p. 5-6.

As a result of these errors in the MND, the Project's construction and operational emissions were underestimated and cannot be relied upon to determine the significance of the Project's air quality impacts.

3. The Project Would Have a Disproportionate Health Risk Impact on Surrounding Communities.

Next, SWAPE determined in its review that the Project would result in "disproportionate health risk impacts on community members living, working, and going to school within the immediate area of the Project site." Ex. A at 6. The South Coast Air Quality Management District ("SCAQMD") has found that "[t]hose living within a half

mile of warehouses are more likely to include communities of color, have health impacts such as higher rates of asthma and heart attacks, and a greater environmental burden.” *Id.*, quoting “South Coast AQMD Governing Board Adopts Warehouse Indirect Source Rule.” SCAQMD, May 2021, available at: <http://www.aqmd.gov/docs/default-source/news-archive/2021/board-adopts-waisr-may7-2021.pdf?sfvrsn=9>. Other expert reports from Metro Freight Center of Excellence and the University of Redlands have made similar findings, concluding that neighborhoods of color and which are lower-income are more likely to contain warehouse facilities. *Id.*

With regard to the City of San Bernardino in particular, SWAPE found that the City has “long borne a disproportionately high pollution burden compared to the rest of California.” *Id.* at 7. SWAPE consulted the California Environmental Protection Agency’s CalEnviroScreen screening tool, which ranks each census tract in the State for pollution and socioeconomic vulnerability. *Id.* According to CalEnviroScreen 4.0, the Project site is in the 97th percentile of the most polluted census tracts in the State. *Id.* SWAPE also consulted SCAQMD’s Data Visualization Tool for Mates V and found that the City exhibits a heightened residential carcinogenic risk from exposure to air toxics. *Id.* at 8. SWAPE therefore concludes that development of the Project would “disproportionately contribute to and exacerbate the health conditions of residents in San Bernardino.” *Id.*

As for San Bernardino County more generally, the Los Angeles Times reported that the County had “130 bad air days for ozone pollution in 2020, violating federal health standards on nearly every summer day.” *Id.* at 8, quoting “Southern California warehouse boon a huge source of pollution. Regulators are fighting back.” Los Angeles Times, May 2021, available at: <https://www.latimes.com/california/story/2021-05-05/air-quality-officials-targetwarehouses-bid-to-curb-health-damaging-truck-pollution>. This is due in large part to ground-level ozone, which is the main component of smog and which the U.S. EPA states can aggravate lung diseases and increase the frequency of asthma attacks, particularly in children. Ex. A at 8. Similarly, the California Air Resources Board has found that children are at greater risk from inhaled pollutants due to factors including tendency to play on the ground with dirt which contains toxicants, and children’s less-developed natural biological defenses. *Id.* at 9.

The MND for the proposed Project states that the nearest sensitive receptors include a single-family home as near as 85 feet to the project site and multi-family homes as near as 115 feet to the north and 135 feet to the south of the project site. *Id.* at 9-10; MND, p. 39. Additionally, the MND states that Monterey Elementary School is located approximately 1.5 miles northeast of the Project site. Ex. A at 10; MND at 63. SWAPE concludes that this poses a significant threat due to children’s vulnerability to air pollution impacts. Ex. A at 10. SWAPE states: “the Project would have detrimental short-term and long-term health impacts on local residents and children if approved.” *Id.*

These findings represent substantial evidence of a fair argument that the Project would have disproportionate and significant air quality impacts on local residents and

children in the Project vicinity. The City must analyze this impact as part of its assessment of whether the Project would expose sensitive receptors to substantial pollutant concentrations. See, CEQA Appendix G. Further, SWAPE states that a Health Risk Assessment (“HRA”) should be prepared to assess the cumulative air quality impacts from the “several warehouse projects proposed or built in a one-mile radius of the Project site.” *Id.* at 10. An EIR must be prepared in order to adequately assess and mitigate these impacts.

4. The MND Failed to Adequately Evaluate Diesel Particulate Matter Emissions from the Project.

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter (“DPM”), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1 micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board (“CARB”), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease.¹

The MND concluded that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk assessment (“HRA”). Ex. A at 10. The MND’s conclusion about health risks was based on its finding that the Project’s limited heavy-duty construction equipment, distance to nearby sensitive receptors, short-term construction schedule, and adherence to State off-road equipment regulations would not result in substantial toxic air contaminant (“TAC”) emissions. MND, p. 40-41. Additionally, the MND concluded that the impacts would be less-than-significant because the proposed Project would not exceed 100 truck deliveries per day, and would therefore not result in substantial diesel particulate matter (“DPM”) emissions. MND, p. 41-42. SWAPE identifies four main reasons for why the MND’s evaluation of health risk impacts and subsequent less-than-significant conclusion is incorrect.

First, the MND states that according to guidance from the California Air Pollution Control Officers Association (CAPCOA), the Project is exempt from preparation of an HRA due to not generating more than 100 truck deliveries per day. Ex. A at 11. However, SWAPE states that this is incorrect because the CAPCOA guideline which the City relies upon has to do with preparation of an HRA for a new receptor, not a new

¹ See CARB Resources - Overview: Diesel Exhaust & Health, available at <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>).

source. *Id.* As the Project site is a source of pollution rather than a receptor, the guidance does not apply and the conclusion that the Project is exempt from preparation of an HRA cannot be relied upon. *Id.* at 11-12.

Second, by failing to prepare a quantified construction-related and operational HRA, the Project failed to substantively connect the Project's air-quality impacts to likely health consequences as required by CEQA. Ex. A at 12. Construction of the Project would produce DPM emissions through exhaust stacks of construction equipment for approximately 14 months. *Id.* The Project is also expected to generate daily vehicle trips which would produce additional exhaust emissions and expose nearby sensitive receptors to DPM emissions. *Id.* In failing to connect TAC emissions to potential health risks to nearby receptors, the Project fails to meet the CEQA requirement that projects correlate increases in project-generated emissions to adverse impacts on human health caused by those emissions. *Id.*; See *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.

Third, the California Department of Justice recommends the preparation of a quantitative HRA for warehouse projects pursuant to the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines. OEHHA released its most recent guidance document in 2015 describing which types of projects warrant preparation of an HRA. See "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at*: https://oehha.ca.gov/media/downloads/cnr/2015guidance_manual.pdf. The OEHHA document recommends that all short-term projects lasting at least 2 months assess cancer risks. Ex. A at 12. Additionally, if a project is expected to last over 6 months, the exposure should be evaluated throughout the project. *Id.* The Project's anticipated construction exceeds both the 2-month and 6-month requirements and should therefore be evaluated for the entire 14-month construction period. *Id.* at 12-13.

Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk of the Maximally Exposed Individual Resident ("MEIR"). *Id.* Based on its extensive experience, SWAPE reasonably assumes that the Project will last at least 30 years, and therefore recommends that the Project be evaluated for the entire 30-year residential exposure duration. *Id.* An EIR is therefore required to analyze these impacts.

Fourth, by failing to complete a quantified constructional or operational HRA for nearby, existing sensitive receptors, the MND also fails to compare the Project's excess cancer risk to the SCAQMD threshold of 10 in one million. *Id.* at 13. This assessment should be completed and the results compared to the relevant threshold.

SWAPE prepared a screening-level HRA to evaluate potential impacts from Project construction using AERSCREEN, a screening-level air quality dispersion model.

Ex. A at 13-18. SWAPE applied a sensitive receptor distance of 75 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance utilizing age sensitivity factors. *Id.*

SWAPE found that the excess cancer risk at a sensitive receptor located approximately 75 meters away over the course of Project construction and operation is approximately 70.1 in one million for infants and 13.6 in one million for children. *Id.* at 17. Moreover, **the excess lifetime cancer risk over the course of Project construction and operation of 30 years is approximately 91.1 in one million.** *Id.* The risks to infants, children, and lifetime residents appreciably exceed SCAQMD's threshold of 10 in one million.

SWAPE's analysis constitutes substantial evidence that the Project may have a significant health impact as a result of diesel particulate emissions. SWAPE recommends that "an EIR [] be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation." Ex. A, p. 17-18.

5. The MND Failed to Adequately Analyze the Project's Greenhouse Gas Impacts and Thus the Project May Result in Significant Greenhouse Gas Emissions.

The MND estimates that the Project would generate net annual GHG emissions of 470.54 metric tons of carbon dioxide equivalent per year ("MT CO₂e/year"). MND, p. 59-60, Table 9. However, SWAPE states that the MND's conclusion about a less-than-significant greenhouse gas impact is incorrect for three reasons:

- (1) The MND's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model;
- (2) The MND's quantitative GHG analysis relies upon an outdated threshold; and
- (3) The MND fails to identify a potentially significant GHG impact.

Ex. A at 18-20. SWAPE's analysis demonstrates potentially significant air quality, health risk and GHG impacts from the project that necessitate mitigation. An EIR should be prepared which includes an updated air quality, health risk and GHG analysis and which proposes feasible measures to mitigate any significant impacts.

B. There is Substantial Evidence that the Project May Have Adverse Noise Impacts that the MND Failed to Address.

Deborah Jue, Principal of Acoustics, Noise, and Vibration consulting firm Wilson Ihrig, reviewed the MND for the Project and found that the MND relies on incorrect thresholds of significance to measure the Project's potential noise impacts. Ms. Jue's

comment letter and CV are attached as Exhibit B and her comments are summarized here.

1. The MND's baseline noise environment is not properly established.

According to CEQA Guidelines, EIRs and MNDs must identify and describe “the physical environmental conditions in the vicinity of the project as they exist at the time the notice of preparation is published.” (14 CCR § 15125(a).) This information is critical to the CEQA document’s impact analysis because it serves as the baseline against which a project’s predicted effects can be described and quantified. (14 CCR § 15125(a); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447 (*Smart Rail*).) Courts have repeatedly held that where an EIR contains an “inadequate description of the environmental setting for the project, a proper analysis of project impacts [i]s impossible.” (*Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1122 [invalidating EIR with only passing references to surrounding viticulture]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873-75.)

The MND failed to provide information as to the existing noise environment of the Project site, therefore failing to provide an adequate baseline by which to measure the Project’s noise impacts. Although the MND states that Project noise levels would increase, the only paragraph in the MND which discusses the noise environment “provides no site-specific data to establish the noise impact assessment, and no discussion is provided to set the context for whether the existing noise environment is compatible with the existing land use.” Ex. B, p. 1.

Ms. Jue notes that the City’s Noise Element includes information on future noise contours along major roadways, but does not clarify the target year by which these contours will be reached. Ex. B at 1; see also San Bernardino General Plan (“SB GP”), p.14-17. The Noise Element also lacks information on noise data from the nearby San Bernardino International Airport (SBIA). Ex. B at 1-2; SB GP at 14-13. The end of the SBIA runways lie only 1.3 miles from the Project site, making it likely that the SBIA’s noise would impact the Project site’s noise environment. Ex. B at 2. Further, the General Plan shows that the Project site falls within the Airport Influence Area. SB GP, Figure LU-4, p. 2-47.

The MND must be revised to include sufficient information regarding the existing noise environment to measure the Project’s impacts against existing conditions, as required under CEQA. An EIR should be prepared which includes this information and appropriate mitigation.

2. The MND fails to consider numerous policies from the City's Noise Element which are applicable to the Project, and its thresholds of significance are therefore not properly developed.

Ms. Jue next points out that there are numerous policies in the City's Noise Element which apply to the Project but which the MND failed to include. Ex. B at 2. These include policies which serve to protect noise levels at sensitive land uses such as residential areas and schools, both of which are present near the Project site. *Id.* The CEQA Appendix G standard for measuring noise impacts requires that a lead agency assess whether the project would "generat[e] [] 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." CEQA Appendix G (emphasis added). The CEQA Guidelines explicitly require an assessment of whether noise impacts exceed standards from the City's General Plan, and the MND is therefore incomplete without this information. An EIR must be prepared to assess how the Project's noise impacts measure against applicable Noise Element policies.

3. The MND's impact analyses with regard to sensitive receptors, construction noise impacts, and operational noise impacts are incomplete.

The MND provides inadequate or incomplete information regarding the Project's potential noise impacts with regard to three key areas: sensitive receptors, construction noise, and operational noise. Ex. B at 3-4.

First, with regard to sensitive receptors, the MND's analysis fails to account for several noise sensitive uses, including but not limited to: (1) homes to the north of the Project site, (2) homes south of East Central Avenue, and (3) the church near the southeast corner of South Waterman Avenue and East Central Avenue. *Id.* at 3. Additionally, the MND does not provide any information about the truck routes which will be used to service the Project, therefore sensitive receptors which may be impacted by the Project's off-site activities cannot be identified. *Id.* These omissions render the MND's noise impacts analysis incomplete, and an EIR must be prepared which includes this information and properly assesses impacts on all sensitive receptors.

Second, the MND's assessment of construction noise impacts is incomplete. Ex. B at 3. The construction noise analysis assesses impacts to only one residence to the East of the Project, failing to give information as to the other nearby uses such as the apartments to the North of the site, and other residential uses to the South of the site. *Id.*, see also MND Section 2.2: "Project Site Location," p. 9. The MND section on construction noise impacts also states that the Project site has high ambient noise levels because it is adjacent to the I-10 freeway and Waterman and Central Avenues. Ex. B at 3; MND p. 74. This conclusion regarding high ambient noise levels is

unsupported by any evidence or noise measurements in the MND. Ex. B at 3. Further, Ms. Jue points out that the I-10 is located 3 miles from the Project, a distance which she would not consider “adjacent.” *Id.*

With regard to impacts from construction equipment, the MND provides a table which presents noise levels from individual pieces of equipment. MND, Table 10, p. 74-75. The table includes a column showing the typical noise level of the pieces of equipment at a distance of 1,000 feet, a measurement which Ms. Jue states has no relevance to the Project. Ex. B at 3. Additionally, although the MND claims that “[a]ll construction equipment was assumed to operate simultaneously at a construction area nearest to sensitive receptors,” there are no calculations demonstrating that construction equipment noise impacts have been combined, and the MND therefore lacks basis for this statement. *Id.*; see MND, p. 75. The MND also states that the City prohibits nighttime operations of certain types of construction equipment “except with the approval of the City.” MND, p. 73. Ms. Jue states that given the proximity of sensitive noise uses, the MND must clarify whether the City will grant such approval. Ex B at 3.

Lastly, the MND completely omits any discussion of operational impacts of the Project, which represents a gaping hole in the noise impacts analysis. It is unclear from the MND whether refrigeration would be provided. Ex. B at 3-4. If the Project does include refrigeration, those units could potentially operate 24 hours a day, 7 days a week, which may violate the City’s Noise Ordinance. *Id.* at 4. Additionally, the warehouse, office, and wholesale components of the Project would presumably require air conditioning. Although the building’s hours of operation begin at 7 am, during winter months, it may be necessary for units to run beginning at 6 am in order to provide a tempered space by 7 am. *Id.* In Ms. Jue’s experience, this may require mechanical units on the rooftop which have the potential to exceed noise level thresholds. *Id.* Finally, the Project is anticipated to generate 44 truck trips, which would add up to 88 trucks on roads adjacent to the Project. *Id.* These trips could impact noise levels at nearby sensitive receptors. *Id.*

The inadequacies pointed out by Ms. Jue render the MND’s noise impact analysis incomplete and preclude the public from understanding the Project’s potential impacts. The City therefore lacks substantial evidence to conclude that Project construction and operation will not result in a significant noise impact. An EIR must be prepared to adequately assess these impacts.

II. CONCLUSION

In light of the above comments, the City must prepare an EIR for the Project and the draft EIR should be circulated for public review and comment in accordance with CEQA. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Amalia Bowley Fuentes", with a stylized, flowing script.

Amalia Bowley Fuentes

LOZEAU DRURY LLP