

November 25, 2019

Erica Gutierrez  
Department of Regional Planning  
County of Los Angeles  
320 West Temple Street  
Los Angeles, California 90012

Dear Erica Gutierrez:

Thank you for providing California Air Resources Board (CARB) staff with the opportunity to comment on the Bridge Point South Bay II Project (Project) Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2019099067. The Project consists of the construction and operation of a 203,877 square-foot warehouse building, which includes 10,000 square feet of office space. Once in operation, the Project is projected to introduce an additional 357 total vehicle trips daily, including 283 daily passenger vehicle trips, and 74 daily heavy-duty truck trips. The Project is located within an unincorporated area of Los Angeles County (County), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Freight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts, yard tractors, etc.) that emit toxic diesel emissions and contribute to regional air pollution and global climate change. CARB staff has reviewed the IS/MND and is concerned about the air pollution impacts that would result should the County approve the Project.

**I. The Project Would Expose Disadvantaged Communities to Elevated Air Pollution**

The Project, if approved, will expose nearby disadvantaged communities to elevated air pollution. Residences are located north, south, east, and west of the Project. The closest residences are located approximately 70 feet from the Project's southern boundary. In addition to residences, two schools (Van Deene Avenue Elementary School and Halldale Elementary School) and four daycare centers (Zhou Family Daycare, Learn N' Play Daycare, Night and Weekend Child Care, and Harbor-UCLA KinderCare) are located within 1 mile of the Project. The community is surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include existing warehouses and vehicular traffic along Interstate 110 (I-110) and Interstate 405 (I-405). Due to the Project's proximity to residences, schools, and daycare centers already disproportionately burdened by multiple sources of air pollution, CARB staff is

concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

The State of California has placed additional emphasis on protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017). AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. Diesel PM emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from existing freight facilities and vehicular traffic along I-110 and I-405.

Through its authority under Health and Safety Code, section 39711, the California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)). In this capacity, CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 1 percent for Pollution Burden<sup>1</sup> and is therefore considered a disadvantaged community. CARB staff urges the County to ensure that the Project does not adversely impact neighboring disadvantaged communities.

## **II. The IS/MND Did Not Model Mobile Air Pollutant Emissions Using CARB's 2017 Emission Factor Model (EMFAC2017)**

The Project's air quality and health impacts were modeled using mobile emission factors obtained from CARB's 2014 Emission Factors model (EMFAC2014). Project-related air pollutant emissions from mobile sources should be modeled using CARB's latest EMFAC2017. One of the many updates made to EMFAC included an update to the model's heavy-duty emission rates and idling emission factors, which results in higher PM emissions as compared to EMFAC2014. Since EMFAC2017 generally shows higher emissions of particulate matter from trucks than EMFAC2014, the Project's mobile source NO<sub>x</sub> and diesel PM emissions are likely underestimated. CARB staff urges the applicant and County to model and report the Project's air pollution emissions from mobile sources using emission factors found in CARB's latest EMFAC2017.

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<sup>1</sup> Pollution Burden represents the potential exposures to pollutants and the adverse environmental conditions caused by pollution.

### **III. It is Unclear Whether the Proposed Warehouse Building would be Used for Cold Storage**

The Project's description explicitly states that the proposed warehouse will not include cold storage. However, according to the Project's health risk assessment (HRA) (see Appendix B of the IS/MND), 20 percent of the total trucks visiting the Project would have operational transport refrigeration units (TRU).<sup>2</sup> This seems to imply that refrigerated goods can be stored on-site.

CARB staff urges the applicant and County to revise the IS/MND to clearly define the use of the proposed warehouse. The Project's description should clearly define the Project so the public can fully understand the potential environmental effects of the Project on their communities.

If the Project will not be used for cold storage, as presently stated in the Project's description, CARB staff urges the County to either include in the IS/MND:

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

If the County does allow TRUs within the Project site, CARB staff urges the County to incorporate in the Final EIR and associated HRA the operational emission reduction measures outlined in Attachment A.

### **IV. The IS/MND Does Not Adequately Analyze Potential Air Quality Impacts from the Project's Transport Refrigeration Units**

Although the stand-alone HRA prepared for the Project evaluated cancer risks from on-site TRUs, the applicant and County did not model and report air pollutant emissions from TRUs in the IS/MND. The air pollutant emission estimates, found in Table 3-6 (Operational Regional Criteria Pollutant Emissions) of the IS/MND, were modeled using the California Emission Estimator Model (CalEEMod). Although CalEEMod can estimate air pollutant emissions from area, energy, and mobile sources, the current version of CalEEMod does not account for air pollutant emissions from TRUs. If the Project will be used for cold storage, which is unclear in the current draft of the IS/MND, CARB staff urges the applicant and County to model and report the Project's air pollution emissions from TRUs in a recirculated IS/MND. Air pollutant emissions from TRUs should reflect CARB's latest emission factors assuming a conservative

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<sup>2</sup> TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

percentage of the Project's truck fleet is equipped with TRUs, as well as a conservative idling duration for each TRU.

#### **V. The Health Risk Assessment Used Inappropriate Assumptions when Modeling the Project's Health Risk Impacts from On-Site Transport Refrigeration Units**

CARB staff has reviewed the Project's HRA and has concerns regarding the emission factors and idling duration assumptions used to estimate the Project's health impacts. In the HRA, the applicant and County assumed that all TRUs visiting the Project site would be 34-horsepower (hp) units and would not idle longer than 30 minutes. TRUs with a power rating of less than 25 hp have a higher air pollutant emission rate (0.3 grams per brake horsepower-hour (g/bhp-hr)) than those greater than 25 hp (0.02 g/bhp-hr). Data obtained by CARB staff indicates that TRUs can operate for as long as two hours per visit, which is well above the 30-minute duration assumed in the HRA. Unless the applicant and County prohibit TRUs with a power rating of less than 25 hp from accessing the site or restrict idling times to less than 30 minutes, the Project's HRA should be revised. The revised HRA should assume a conservative percentage of the TRUs entering the Project site have a power rating of less than 25 hp and a TRU idling duration legitimized by substantial evidence. If the results of the revised HRA show new significant health impacts, the IS/MND should be revised and recirculated for public review.

#### **VI. Conclusion**

Lead agencies may only adopt mitigated negative declarations if the "initial study shows that 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" (14 CCR section 15070(b)(2)). Based on the comments provided above, CARB staff is concerned that the County's current IS/MND does not meet this threshold.

As it stands, the IS/MND does not meet the bare legal minimum of serving as an adequate informational document relative to informing decision makers and the public that there is no substantial evidence<sup>3</sup> in the record that the Project, as revised, may have a significant effect on the environment (see *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 520). CARB staff believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment if the air quality and health impact analysis: 1) used EMFAC2017 to better estimate the Project's mobile source diesel PM and NO<sub>x</sub> emissions; 2) clearly defined the use of the proposed warehouse in the Project's description; and 3) adequately analyzed potential air quality impacts from the Project's TRUs. In this event, the County

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<sup>3</sup> "Substantial evidence" is defined, in part, as "enough relevant information and reasonable information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

would be required to prepare a full Environmental Impact Report (EIR) for the Project under the “fair argument” standard (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83).<sup>4</sup>

CARB staff recommends that the County revise the air quality section and the HRA for the Project, and recirculate the IS/MND for public review. Should the updated and recirculated IS/MND find, after adequately addressing informational deficiencies noted in this letter, that there is substantial evidence in the record to support a fair argument that the Project may have a significant effect on the environment, the County must prepare and circulate a draft EIR for public review, as required under CEQA.

In addition to the concerns listed above, CARB staff encourages the applicant and County to implement the measures listed in Attachment A of this comment letter in order to reduce the Project’s construction and operational air pollution emissions. CARB staff appreciates the opportunity to comment on the IS/MND for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Richard Boyd, Chief  
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Attachment

cc: See next page.

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<sup>4</sup> The adequacy of an IS/MND is judicially reviewed under the “fair argument” standard should a party challenge the lead agencies CEQA determination. Under this standard, a negative declaration is invalid if there is substantial evidence in the record supporting a fair argument that a project may have a significant effect on the environment. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4<sup>th</sup> 1359, 1399.) This is the case “even though [the lead agency] may also be presented with other substantial evidence that the project will not have a significant effect.” (CEQA Guidelines, Title 14 CCR section 15064(f)(1).)

The California Environmental Quality Act (CEQA) places the burden of environmental investigation on the public agency rather than on the public. If a lead agency does not fully evaluate a project’s environmental consequences, it cannot support a decision to adopt a negative declaration by asserting that the record contains no substantial evidence of a significant adverse environmental impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) If a lead agency does not study a potential environmental impact, a reviewing court may find the existence of a fair argument of a significant impact based on limited facts in the record that might otherwise not be sufficient to support a fair argument of a significant impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.)

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## ATTACHMENT A

### Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

California Air Resources Board (CARB) staff recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommend by CARB staff, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

#### Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO<sub>x</sub> standard starting in the year 2022.<sup>1</sup>

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<sup>1</sup> In 2013, CARB adopted optional low-NO<sub>x</sub> emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NO<sub>x</sub> emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NO<sub>x</sub> emission standard is available at: <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB staff is available to assist in implementing this recommendation.

### **Recommended Operation Measures**

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included lease agreements.<sup>2</sup>
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.
6. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available.
7. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2014 or later today, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

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<sup>2</sup> CARB's Technology Assessment for Transport Refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at: [https://www.arb.ca.gov/msprog/tech/techreport/tru\\_07292015.pdf](https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf).

8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,<sup>3</sup> Periodic Smoke Inspection Program (PSIP),<sup>4</sup> and the Statewide Truck and Bus Regulation.<sup>5</sup>
9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while on site.
10. Include contractual language in tenant lease agreements that limits on-site TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts fully mitigated.
11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

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<sup>3</sup> In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at: <https://www.arb.ca.gov/cc/hdghg/hdghg.htm>.

<sup>4</sup> The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at: <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

<sup>5</sup> The regulation requires newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.