



**ROB BONTA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**

1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 210-7808  
Facsimile: (916) 327-2319  
E-Mail: Robert.Swanson@doj.ca.gov

May 25, 2021

Ms. Brandi Jones  
Senior Planner  
City of Irwindale, Planning Division  
5050 North Irwindale Avenue  
Irwindale, CA 91706

RE: Comments on the Draft Environmental Impact Report for the 5175 Vincent Avenue Project (SCH #2018121056)

Dear Ms. Jones:

Thank you for the opportunity to provide comments on the City of Irwindale's Draft Environmental Impact Report (DEIR) for the 5175 Vincent Avenue Project (the Project). The Project would site a 545,000 square-foot warehouse with about 580 daily truck trips adjacent to residents in one of the most heavily-polluted areas in the state. The DEIR found that the Project would have significant and unavoidable impacts to air quality. While our discussions with the City and De Novo Consulting Group have yielded improvements to the DEIR, the DEIR still does not include critical, feasible measures to mitigate the Project's impacts. We respectfully urge the City to adopt all feasible mitigation measures as required by the California Environmental Quality Act, including consideration of the multi-building alternative analyzed in the DEIR.<sup>1</sup>

**I. THE PROJECT WOULD SITE A LARGE WAREHOUSE ON A RESIDENTIAL STREET IN A HIGHLY-POLLUTED LOW INCOME MINORITY COMMUNITY.**

The Project consists of an approximately 545,000 square-foot high-cube warehouse with 181 truck docks and 199 standard parking stalls.<sup>2</sup> The DEIR predicts that the Project would

---

<sup>1</sup> 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, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.).

<sup>2</sup> DEIR at 2.0-6 to -7.

May 25, 2021

Page 2

generate 580 truck trips and 2,128 passenger car trips daily.<sup>3</sup> The Project site totals 26.05 acres across two vacant parcels.<sup>4</sup> While all of the site is zoned Heavy Manufacturing and much of the site is already designated Industrial/Business Park by the City's General Plan, a seven-acre portion of one of the parcels, comprising just over a quarter of the total Project area, is currently designated Residential under Irwindale's General Plan.<sup>5</sup> The Project would therefore re-designate that parcel Industrial/Business Park.<sup>6</sup>

The Project is located on Vincent Avenue at the boundary of southeastern Irwindale and Vincent, an unincorporated community in Los Angeles County.<sup>7</sup> Vincent Avenue is a busy residential street with single-family homes across from the Project.<sup>8</sup> Additional single-family homes are to the west, along with Irwindale Park, Irwindale City Hall, and a public library.<sup>9</sup> Alice M. Ellington Elementary School is less than 1,000 feet to the east. The Project design places the truck docks on the western and eastern edges of the site, facing these sensitive receptors. North of the site is a largely industrial area.<sup>10</sup> The land directly south is a vacant, former quarry site, with more single-family homes further south.<sup>11</sup>

The surrounding community, which is overwhelmingly Hispanic, is already highly burdened by pollution. According to CalEnviroScreen 4.0, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability,<sup>12</sup> the Project's census tract ranks worse than 85% of the rest of the state overall. The Project's census tract is also in the 100th percentile for pollution burden, meaning it is among the most polluted areas in

---

<sup>3</sup> DEIR, Appendix D, at 21 Table 2.

<sup>4</sup> DEIR at 2.0-5.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* The Project's re-designation of land designated for residential use without accompanying re-designation of other parcels to ensure no net loss in residential capacity may violate the Housing Crisis Act of 2019. *See* Gov. Code § 66300(b)(1)(A) (prohibiting changing a general plan residential land use designation to a use that "lessen[s] the intensity of housing"); Gov. Code § 66300(i)(1) (creating an exemption for actions that "concurrently change[] the [restrictions] applicable to other parcels ... to ensure that there is no net loss in residential capacity").

<sup>7</sup> *Id.* at 2.0-13 Fig. 2.0-2.

<sup>8</sup> *Id.* at 2.0-15 Fig. 2.0-3.

<sup>9</sup> *Id.* at 2.0-13 Fig. 2.0-2.

<sup>10</sup> *Id.* at 2.0-15 Fig. 2.0-3.

<sup>11</sup> *Id.* at 2.0-21 Fig. 2.0-6.

<sup>12</sup> CalEnviroScreen 4.0, available at <https://oehha.ca.gov/calenviroscreen/report/draft-calenviroscreen-40> (as of May 3, 2021). 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. A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. Office of Environmental Health Hazard Assessment, CalEnviroScreen 4.0 Report (February 2021), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/document/calenviroscreen40reportd12021.pdf>.

the entire state. Irwindale residents, including some directly west of the Project site, live alongside extensive industry. The residents of neighboring Vincent likewise bear a higher pollution burden than 82% of the rest of the state, according to CalEnviroScreen.

## **II. THE DEIR FAILS TO JUSTIFY ITS REJECTION OF THE MULTI-BUILDING ALTERNATIVE.**

CEQA requires an EIR to identify alternatives to the proposed project.<sup>13</sup> “Evaluation of project alternatives and mitigation measures is the core of an EIR.”<sup>14</sup> Discussion of alternatives allow governmental agencies to consider alternatives to proposed actions affecting the environment.<sup>15</sup> To that end, the EIR must “describe a range of reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”<sup>16</sup>

The DEIR includes an alternative—the multi-building alternative—that would substantially reduce the Project’s environmental impacts while still meeting the Project’s stated objectives. The multi-building alternative is an alternative site design consisting of three warehouse buildings instead of a single, larger building.<sup>17</sup> This site design would place all of the dock doors at the interior of the site, facing away from sensitive receptors.<sup>18</sup> It would also involve a longer interior driveway, lessening the risk that trucks could queue on Vincent Avenue.<sup>19</sup>

The DEIR recognized that these alternative design features would reduce air quality and noise impacts on sensitive receptors.<sup>20</sup> The noise contour analysis, reproduced as Figures A and B at the end of this letter, is particularly illustrative. In the primary design, noise from dock doors radiates outward toward residents, but in the multi-building alternative, noise from onsite operations is mostly contained within the Project site.<sup>21</sup>

As analyzed in the table below, the multi-building alternative would also meet the Project’s objectives:<sup>22</sup>

---

<sup>13</sup> Pub. Resources Code § 21002.1, subd. (a).

<sup>14</sup> *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 937 (alterations omitted).

<sup>15</sup> *Laurel Heights Improvement Ass’n. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 400 (en banc) (citing Pub. Resources Code § 21001, subd. (g)).

<sup>16</sup> CEQA Guidelines § 15126.6, subd. (a).

<sup>17</sup> DEIR at 5.0-4.

<sup>18</sup> *Id.* at 5.0-23 Fig. 5.0-1. See Section III.A. below for discussion of this issue.

<sup>19</sup> *Id.* See Section III.A. below for discussion of this issue.

<sup>20</sup> *Id.* at 5.0-10 to -11, -13 to -14.

<sup>21</sup> Compare *id.* at 3.7-25 Fig. 3.7-3, with *id.* at 5.0-33 Fig. 5.0-4.

<sup>22</sup> *Id.* at 5.0-1 to -2.

Objective	Analysis
Quantified Development	The multi-building alternative would develop the Project site with total warehouse space only 1,252 square feet smaller than the Project. <sup>23</sup>
Economic Contribution	As it includes essentially the same square footage as the Project, the multi-building alternative would likely provide a similar amount of total jobs and development investment. By having three buildings instead of one, the multi-building alternative could have multiple tenants, giving the City more robust protection against a downturn in any one tenant's business.
Employment Opportunities	See above. Employment opportunities would likely be similar.
Public Facilities and Services	The multi-building alternative and Project contain no noted differences in public facilities and services.
Marketable High Cube Warehouse	The multi-building alternative and Project would both involve construction of marketable high-cube warehouse facilities that could attract a variety of end users.
End User Restrictions	The multi-building alternative and Project would have the same end user restrictions.
Buffer Surrounding Uses	The multi-building alternative would buffer surrounding uses better than the Project because its design would direct the environmental impacts toward the interior of the site and away from sensitive receptors. The multi-building alternative unnecessarily includes a smaller vegetative buffer than the Project. <sup>24</sup> There is little reason the multi-building alternative cannot be revised to include a similar vegetative buffer to the Project, as the square footage lost would be small in comparison to the benefits for surrounding uses.
Redevelopment of the Manning Pit	Both the multi-building alternative and Project would redevelop the former Manning Pit site.

The multi-building alternative would therefore be environmentally superior while also meeting the Project's objectives.

---

<sup>23</sup> *Id.* at 5.0-4.

<sup>24</sup> *Id.* at 5.0-25 Fig. 5.0-2a.

The DEIR identifies the multi-building alternative as the environmentally-superior alternative, but it asserts that the alternative would not meet the Project's objectives.<sup>25</sup> The DEIR's entire analysis of the multi-building alternative's ability to meet the Project's objectives is limited to a single sentence with no explanation: "However, the Multiple Building Alternative would not fully meet all of the Project objectives." This is insufficient. The DEIR should explain which Project objectives the multi-building alternative would not meet (if any), and why. In so doing, the City "may not give a project's purpose an artificially narrow definition" to limit the scope of acceptable alternatives.<sup>26</sup>

Ultimately, if the City decides to approve a warehouse at this location, it should consider the multi-building alternative or another design that locates dock doors away from sensitive receptors. In that event, the City should ensure that the alternative site design includes other mitigation measures mentioned in the following section.

### **III. THE DEIR DOES NOT INCLUDE ALL FEASIBLE MITIGATION MEASURES.**

An EIR must describe and adopt all feasible mitigation measures that minimize the significant environmental impacts of a project.<sup>27</sup> "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified."<sup>28</sup> The lead agency is expected to develop mitigation measures in an open process and consider measures proposed by other interested agencies and the public.<sup>29</sup> Shortly after the DEIR was released, the Attorney General's Office published a document entitled "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act," to help lead agencies comply with these requirements.<sup>30</sup> We provided this document to the City as part of our engagement prior to submitting this comment letter.

Primarily due to the substantial emissions generated by the Project's vehicle traffic, the DEIR found significant and unavoidable air quality impacts.<sup>31</sup> Specifically, the DEIR determined that the Project's operational nitrogen oxide emissions would exceed the significance threshold established by the local air district.<sup>32</sup> Nitrogen oxide is a primary precursor to smog formation and a significant factor in the development of respiratory problems like asthma, bronchitis, and lung irritation.<sup>33</sup> Nonetheless, the DEIR fails to incorporate feasible mitigation to reduce sensitive receptors' exposure to the Project's emissions.

---

<sup>25</sup> *Id.* at 5.0-21.

<sup>26</sup> *N. Coast Rivers All. v. Kawamura* (2015) 243 Cal. App. 4th 647, 668.

<sup>27</sup> Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.4(a)(1).

<sup>28</sup> CEQA Guidelines, § 15126.4(a)(1)(B).

<sup>29</sup> *Communities for a Better Environment v. City of Richmond*, (2010) 184 Cal.App.4th 70, 93.

<sup>30</sup> <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf> ("Warehouse Best Practices document").

<sup>31</sup> DEIR at 3.2-24 to -31, -41 to -45.

<sup>32</sup> *Id.* at 3.2-28.

<sup>33</sup> California Air Resources Board, Nitrogen Dioxide & Health, <https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health> (NOx).

**A. The Project’s Site Design Exacerbates its Environmental Impacts on Nearby Residents.**

Most fundamentally, the Project’s site design maximizes nearby sensitive receptors’ exposure to the Project’s environmental impacts. As the Warehouse Best Practices document explains,

The most important consideration when planning a logistics facility is its location. Warehouses located in residential neighborhoods or near other sensitive receptors expose community residents and those using or visiting sensitive receptor sites to the air pollution, noise, traffic, and other environmental impacts they generate. Therefore, placing facilities away from sensitive receptors significantly reduces their environmental and quality of life harms on local communities.<sup>34</sup>

This Project is located adjacent to residences to the east and nearby residences, City Hall, a library, and a park to the west.<sup>35</sup> We also understand that the City intends to designate the currently-vacant strip of land between the Project and the sensitive receptors to the west for further residential development in its pending Housing Element update. The Project would therefore cause a severe land use conflict between the proposed industrial warehouse and adjacent sensitive receptors.<sup>36</sup>

In these cases, the Warehouse Best Practices document recommends several feasible measures to mitigate the land use conflict. First, projects should “[l]ocat[e] warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors.”<sup>37</sup> Second, projects should “[p]rovid[e] adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets.”<sup>38</sup> Third, projects should “[p]lac[e] facility entry and exit points from the public

---

<sup>34</sup> Warehouse Best Practices document, at 4-5.

<sup>35</sup> DEIR at 2.0-13 Fig. 2.0-2, 2.0-15 Fig. 2.0-3.

<sup>36</sup> Note that the land use conflict presented by this Project and its site design is far greater than in the three other warehouse projects the City has approved in recent years (The Park @ Live Oak Specific Plan, 13131 Los Angeles Street Industrial Project, and Irwindale Industrial Center Project)—projects on which the Attorney General’s Office declined to comment. The Park @ Live Oak Specific Plan DEIR, [https://files.ceqanet.opr.ca.gov/216361-2/attachment/tJxSyKoC7IWnQRtoCm9u-yszfEiYXhVTZGZWHDFzRdpbTtKF9y89Pq4F5\\_XmQonkDhQZ6VxkiNi9Hea4U0](https://files.ceqanet.opr.ca.gov/216361-2/attachment/tJxSyKoC7IWnQRtoCm9u-yszfEiYXhVTZGZWHDFzRdpbTtKF9y89Pq4F5_XmQonkDhQZ6VxkiNi9Hea4U0), at 2-4 Fig. 2-3; 13131 Los Angeles Street Industrial Project DEIR, [https://files.ceqanet.opr.ca.gov/254608-3/attachment/eZqHV6bPniK2vW0BenM79UOBZfuWt\\_b1WIXz7kpwak1EudZzmSpcRHPWbtB1YSzXpKtACxnl7sGjkfxQ0](https://files.ceqanet.opr.ca.gov/254608-3/attachment/eZqHV6bPniK2vW0BenM79UOBZfuWt_b1WIXz7kpwak1EudZzmSpcRHPWbtB1YSzXpKtACxnl7sGjkfxQ0), at 2-7 Fig. 2.0-3; Irwindale Industrial Center Project Initial Study, [https://files.ceqanet.opr.ca.gov/255475-2/attachment/0db\\_x4P2jEelPnGG0i0NzcBwbFoO53O71FallekAqHvXN6DI3S6YVn6c1CuNBFw-ISSt2NVB\\_-piQ\\_Mt0](https://files.ceqanet.opr.ca.gov/255475-2/attachment/0db_x4P2jEelPnGG0i0NzcBwbFoO53O71FallekAqHvXN6DI3S6YVn6c1CuNBFw-ISSt2NVB_-piQ_Mt0), at Fig. 2.0-3.

<sup>37</sup> *Id.* at 5.

<sup>38</sup> *Id.*

street away from sensitive receptors.”<sup>39</sup> Fourth, projects should “[c]reat[e] physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present.”<sup>40</sup> Individually and collectively, these measures would reduce the Project’s land use conflict with sensitive receptors by directing the Project’s environmental impacts away from homes and other uses that are most sensitive to the air emissions, noise, and other impacts caused by trucking and loading activities. These measures are also common for warehouse projects in the Los Angeles and Inland Empire regions.<sup>41</sup>

The Project fails to incorporate these best practices. The Project’s dock doors and internal roads are located on the west and east sides, the same sides where sensitive receptors are located.<sup>42</sup> The Project also provides minimal space for trucks to queue and check in, particularly on the Project’s east side, where the Vincent Avenue entry points are situated close to the dock doors.<sup>43</sup> When multiple trucks arrive at the same time, trucks may queue and idle on Vincent Avenue, in front of homes. Even if trucks do not queue on Vincent Avenue, Vincent Avenue is the only entry or exit point from the Project, ensuring that all 580 daily truck trips—or nearly one truck every other minute, 24 hours a day—pass by these homes.<sup>44</sup> Finally, while the Project does include physical and vegetative buffers, they are relatively small given the Project’s proximity to sensitive receptors.<sup>45</sup>

---

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *See, e.g.*, Riverside County Good Neighbor Policy for Logistics and Warehouse/Distribution Uses, <https://www.rivcocob.org/wp-content/uploads/2020/01/Good-Neighbor-Policy-F-3-Final-Adopted.pdf>, at 3.2, 3.3, 3.5, 3.7; Agua Mansa Commerce Park Specific Plan DEIR, [https://files.ceqanet.opr.ca.gov/4286-2/attachment/CYVKlx3k3GGLV5H134HOMoEK5yCPyRk1jc7ttwqoRnSaCyNhMxzwv7f-Z6\\_ONiMw38BCWhFfcEBsFQIP0](https://files.ceqanet.opr.ca.gov/4286-2/attachment/CYVKlx3k3GGLV5H134HOMoEK5yCPyRk1jc7ttwqoRnSaCyNhMxzwv7f-Z6_ONiMw38BCWhFfcEBsFQIP0), at 3.0-11 Fig. 3-5; Slover Distribution Center DEIR, <http://www.sbcounty.gov/uploads/lus/environmental/00%20Draft%20EIR.pdf>, at 3.0-17 Ex. 3.0-6; Sierra Avenue and Casa Grande Avenue Warehouse Project DEIR, [https://files.ceqanet.opr.ca.gov/252740-5/attachment/knzDQFe8BS8Q2q1J3yAlSUnvVkHI4SDIpnfYi2\\_QFeL5RDARok0KYjg-Wb413A7N4uYnz8H8krFc-pnf0](https://files.ceqanet.opr.ca.gov/252740-5/attachment/knzDQFe8BS8Q2q1J3yAlSUnvVkHI4SDIpnfYi2_QFeL5RDARok0KYjg-Wb413A7N4uYnz8H8krFc-pnf0), at 3.0-37 Fig. 3-9; Bridgepoint South Bay II Initial Study, [https://files.ceqanet.opr.ca.gov/255728-2/attachment/61-xIHD6ivC7ADYMNCEBcXN6lOu0wKHr6N6AvsdGX9TJsc\\_cflxglAnBvWuhusObXyaY5biUAiu9xTeR0](https://files.ceqanet.opr.ca.gov/255728-2/attachment/61-xIHD6ivC7ADYMNCEBcXN6lOu0wKHr6N6AvsdGX9TJsc_cflxglAnBvWuhusObXyaY5biUAiu9xTeR0), at 21 Fig. 4. While the Attorney General’s Office submitted comment letters on some of these projects, each of these projects nonetheless included the aforementioned best practices for shielding nearby sensitive receptors from truck docks and related impacts, demonstrating the degree to which those practices are basic elements of any warehouse site plan in the region.

<sup>42</sup> DEIR at 2.0-19 Fig. 2.0-5.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Compare, e.g., id.* at 3.1-13 Fig. 3.1-1b, with Agua Mansa Commerce Park Specific Plan, <https://files.ceqanet.opr.ca.gov/4286-2/attachment/kukfxJsZdLS2U->

The Project should be revised to incorporate the basic, feasible design measures discussed above, which would reduce the Project's significant air quality impacts.

**B. The DEIR Omits Necessary Measures to Ensure Truck Traffic Does Not Travel on Residential Streets.**

The DEIR also fails to sufficiently mitigate the impacts of trucks traveling to and from the Project. The DEIR stated that the Project would generate 580 daily truck trips. As the DEIR acknowledged,<sup>46</sup> heavy trucks emit diesel particulate matter, nitrogen oxide, and other air pollution.<sup>47</sup> In addition, the Warehouse Best Practices document explains that “[t]ruck traffic can present substantial safety issues. Collisions with heavy-duty trucks are especially dangerous for passenger cars, motorcycles, bicycles, and pedestrians. These concerns can be even greater if truck traffic passes through residential areas, school zones, or other places where pedestrians are common and extra caution is warranted.”<sup>48</sup>

The DEIR's analysis showed that the Project could create significant conflicts between trucks and sensitive receptors. The DEIR's traffic modeling predicted that nearly half of all trucks visiting the Project would traverse residential streets and a quarter of all trucks would travel on residential streets where trucks are currently not permitted.<sup>49</sup> As illustrated by Figure 12 of the DEIR's Appendix D (at page 23), fifteen percent of trucks are projected to travel south on Vincent Avenue until reaching Interstate-10, and another ten percent are projected to cut north on Vernon Avenue from Gladstone Street. Those two paths are not along truck routes in the Cities of Azusa and West Covina, respectively.<sup>50</sup> Thus, without additional mitigation, the Project presents significant risk that a large volume of trucks will travel off truck routes and through residential areas.<sup>51</sup>

The Warehouse Best Practices document recommends the following measures to mitigate these impacts:

- Designing, clearly marking, and enforcing truck routes that keep trucks out of residential neighborhoods and away from other sensitive receptors.<sup>52</sup>

---

[XYrV1Jx2PhRmymZNixwaKCdmYJOI33Hci8D6efK1jusiNh8-uq\\_1giGt-JkS4RbQP40](#), at 4-35 to -45.

<sup>46</sup> *Id.* at 3.2-85.

<sup>47</sup> Warehouse Best Practices document at 2.

<sup>48</sup> *Id.* at 9-10.

<sup>49</sup> DEIR, Appendix D, at 23 Fig. 12.

<sup>50</sup> Azusa Municipal Code § 74-277; West Covina Municipal Code § 22-141.

<sup>51</sup> Even if the DEIR's traffic modeling did not account for truck routes when predicting where trucks would travel, it still determined that traveling off truck routes would be the most convenient way for many trucks to access the Project. This demonstrates that additional measures are needed to mitigate this risk.

<sup>52</sup> Warehouse Best Practices document at 10.



- Installing signs in residential areas noting that truck and employee parking is prohibited.<sup>53</sup>
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.<sup>54</sup>
- Posting signs at every truck exit driveway providing directional information to the truck route.<sup>55</sup>

As applied to this Project, the City should consider routing all traffic west on Arrow Highway or north on Irwindale Avenue, routes through industrial areas from which trucks can access major highways. The City should also post signs at Project exit points detailing the truck routes to highways and directing trucks to those routes. If trucks cannot be diverted away from residential areas entirely, the City should require the project applicant to provide signage along those routes clearly marking the truck routes and prohibiting parking and idling. In addition, as a condition of approval, the City should require end user contracts (e.g., a lease) to include a provision making the end user liable to the City for specified fines if the City determines trucks from the Project are regularly violating truck route ordinances in Irwindale or nearby jurisdictions. These feasible measures would mitigate the Project's significant air quality impacts and reduce the risk that trucks visiting the Project violate truck route ordinances.

#### **IV. WE UNDERSTAND THAT THE DEIR HAS BEEN REVISED TO ENSURE MITIGATION IS SUFFICIENTLY SPECIFIC AND ENFORCEABLE.**

CEQA requires mitigation measures in an EIR to be enforceable.<sup>56</sup> The DEIR released on February 17, 2021, includes several mitigation measures that are so vague as to be unenforceable. We understand that the City is working to revise the DEIR's mitigation measures to resolve this concern. Examples of the DEIR's unenforceable language are below:

- Measure 3.1-1 requires preparation of a lighting plan "to minimize light spillage onto adjacent properties to the greatest extent feasible," but it does not describe any specific measures to accomplish this goal.<sup>57</sup>
- Measure 3.2-1 states that "warehouse shall be constructed with the appropriate infrastructure to facilitate sufficient electric charging for trucks," but it does not define what or how much infrastructure is "appropriate" or "sufficient."<sup>58</sup>
- Measure 3.2-2 refers generally to "providing the necessary infrastructure (e.g. electrical hookups) to support zero and near-zero equipment and tools" and "the necessary infrastructure to support zero and near-zero emission technology vehicles and equipment that will be operating on-site," but does not specify the type of zero- or near-zero-emission equipment, tools, or vehicles that will operate on-site, what sort of infrastructure

---

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 8.

<sup>56</sup> Pub. Res. Code § 21081.6(b); CEQA Guidelines, § 15126.4(a)(2).

<sup>57</sup> DEIR at ES-5.

<sup>58</sup> *Id.*

will be provided to support them, or how much is “necessary.”<sup>59</sup>

- Measure 3.4-1 requires the Project to “[m]aximize use of solar energy, including solar panels” and “[i]nstall the maximum possible number of solar energy arrays on the building roof and/or on the Project site.” However, it does not define “maximum possible” nor does it set a floor on the wattage the Project’s solar panels must generate. Similarly, the same measure requires the Project to “[m]aximize the planting of trees in landscaping and parking lots,” but again sets no standards by which to judge whether tree planting has been maximized.<sup>60</sup>

Without more specific or concrete requirements, it is not clear how the City and its residents could enforce these measures. As noted above, we understand that the City is working to resolve this concern in the final EIR it is preparing. We appreciate the City’s and De Novo Planning Group’s efforts to improve the DEIR and look forward to confirming these revisions in the final EIR.

## V. CONCLUSION

CEQA promotes public health and thoughtful governance by requiring mitigation of a project’s significant environmental impacts and consideration of alternatives before project approval. The need for mitigation in this Project is particularly acute given the severity of the land use conflict this Project would create. While we appreciate the City’s and De Novo Planning Group’s efforts to improve the DEIR, the Project still fails to incorporate critical, feasible mitigation measures. The City should consider re-designing the Project—and/or consider the DEIR’s multi-building alternative—to direct the Project’s environmental impacts away from adjacent sensitive receptors. The City should also implement clear and specific mitigation to limit the unauthorized travel of trucks from this Project on residential streets off designated truck routes. Please do not hesitate to contact me if you have any questions or would like to discuss.

Sincerely,



ROBERT SWANSON  
Deputy Attorney General

For ROB BONTA  
Attorney General

---

<sup>59</sup> *Id.* at ES-7.

<sup>60</sup> *Id.* at ES-9.

Figure A: Projected Noise Contours for Project (DEIR at 3.7-25 Fig. 3-7.3)

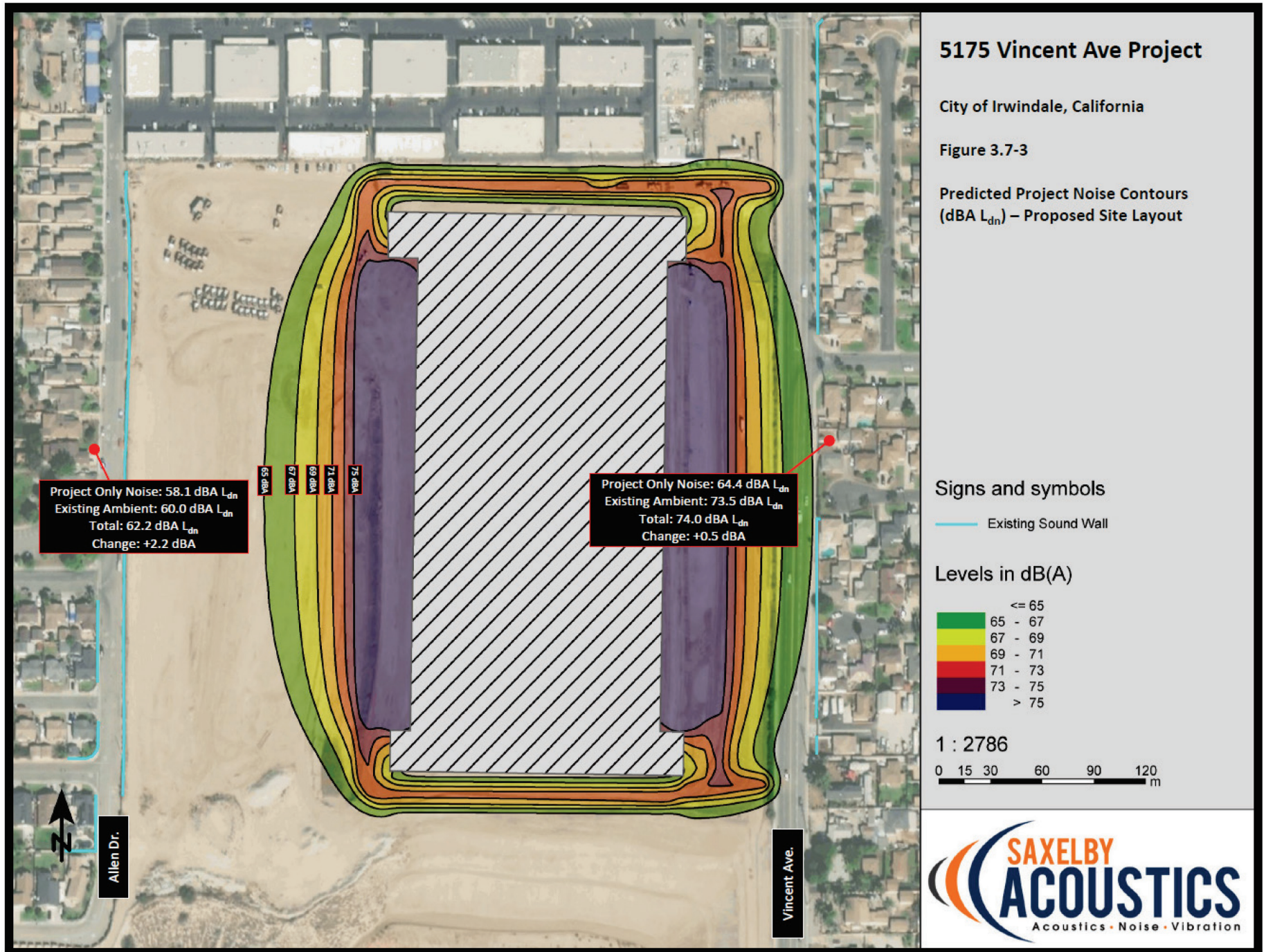




Figure B: Projected Noise Contours for Multi-Building Alternative (DEIR at 5.0-33 Fig. 5.0-4)

